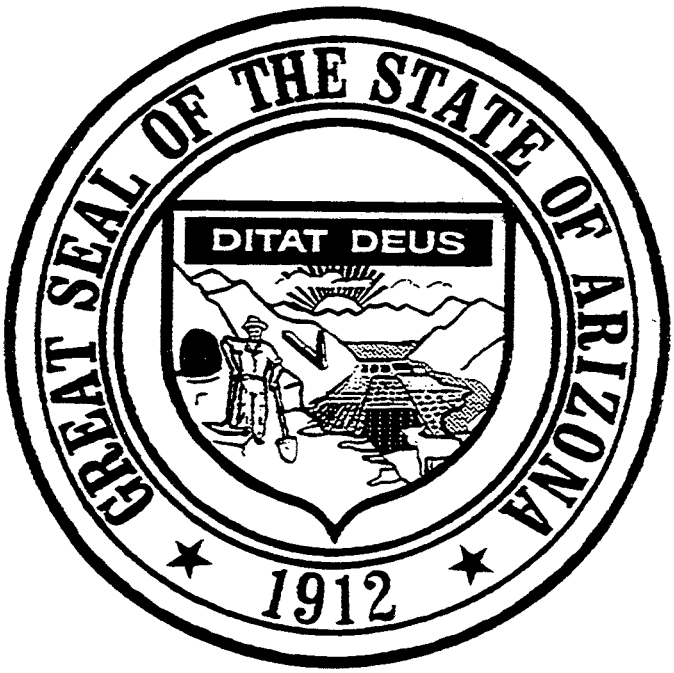
2011
BLENDS



Arizona Legislative Council

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June 20, 2011

Pursuant to authority of section 41-1304.03, Arizona Revised Statutes, the attached sections are presented as blends or combination sections of law. The blends are based on multiple amendment activity that occurred in the Second Special Session and First Regular Session.

For each blend the publisher will be instructed to indicate each of the Laws 2011 chapter versions in the source note and to include a reviser's note to explain the blend.

The following blend sections are included:

1.	3-108	(Ch. 44 and Ch. 281, sec. 1)
2.	3-108	(Ch. 44 and Ch. 281, sec. 50) Effective 1/1/13
3.	5-113	(Ch. 35 and Ch. 281, sec. 49)
4.	5-113	(Ch. 35 and Ch. 281, sec. 98) Effective 1/1/13
5.	5-505	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 343)
6.	5-507	(Chs. 18 and 83)
7.	5-555	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 343) Effective 7/1/12
8.	11-251 (L10, Ch. 238, sec. 1)	(Chs. 89 and 238) Effective 10/1/11
9.	13-105	(Chs. 90 and 114)
10.	13-805	(Chs. 99 and 263)
11.	13-2308.01	(Chs. 90 and 326)
12.	13-2314.01	(Chs. 18 and 83)
13.	13-2314.03	(Chs. 18 and 83)
14.	13-3102	(Chs. 85 and 211)
15.	14-5303	(Chs. 225 and 354) Effective 1/1/12
16.	14-5312.01	(Chs. 257 and 262)
17.	14-5401	(Chs. 225 and 354) Effective 1/1/12

18.	14-5405	(Chs. 225 and 354) Effective 1/1/12
19.	14-5407	(Chs. 225 and 354) Effective 1/1/12
20.	15-185 (L10, 7SS, Ch. 8, sec. 1 & L10, Ch. 17, sec. 2, Ch. 306, sec. 1, Ch. 332, sec. 4 & Ch. 333, sec. 2)	(Chs. 29, 238, 310 and 344)
21.	15-241 (L10, Ch. 333, sec. 3)	(Chs. 49, 221 and 238)
22.	15-241	(Ch. 49, sec. 3, Ch. 221, sec. 3 and Ch. 238, sec. 8) Effective 9/1/11
23.	15-341	(Chs. 167, 196 and 344)
24.	15-393	(Chs. 29, 83, 238 and 258)
25.	15-761	(Chs. 89 and 306)
26.	15-802	(Chs. 19, 205 and 306)
27.	15-901	(Chs. 29, 89, 238 and 306)
28.	15-943	(Chs. 29 and 89)
29.	15-977	(Chs. 29 and 344)
30.	15-1021	(Chs. 238, 306 and 344)
31.	15-1472	(Chs. 30, 248 and 249) Effective 10/1/11
32.	15-1626	(Chs. 19 and 30)
33.	16-168	(Chs. 331 and 339)
34.	16-411	(Chs. 273, 331, 332 and 339)
35.	16-502	(Chs. 299 and 332)
36.	16-542	(Chs. 332 and 339)
37.	16-544	(Chs. 332 and 339)
38.	16-547	(Chs. 105 and 166)
39.	16-602	(Chs. 331 and 332)
40.	16-801	(Chs. 166 and 332)
41.	16-912	(Chs. 332 and 339)
42.	16-918	(Chs. 117 and 332)
43.	16-1019	(Chs. 154 and 318)
44.	23-901	(Chs. 27 and 157) Effective 1/1/13
45.	23-1070	(Chs. 93 and 157) Effective 1/1/13
46.	26-263 (L10, Ch. 208, sec. 4)	(Chs. 34 and 238) Effective 10/1/11
47.	28-1383	(Chs. 33 and 341) Effective 7/1/12
48.	28-1387	(Chs. 90 and 91)
49.	28-2351	(Chs. 81, 320, 323 and 324)
50.	28-2403	(Chs. 81, 320, 323 and 324)
51.	28-2430	(Chs. 320 and 323)
52.	28-2437	(Chs. 320 and 324)
53.	28-2438	(Chs. 320 and 324)
54.	28-2440	(Chs. 320 and 324)
55.	28-2441	(Chs. 320 and 324)
56.	28-2442	(Chs. 320 and 324)

57.	28-2443	(Chs. 320 and 324)
58.	28-2444	(Chs. 320 and 324)
59.	28-2445	(Chs. 320 and 324)
60.	28-2446	(Chs. 320 and 324)
61.	28-6501	(Chs. 81, 320, 323 and 324)
62.	28-6991	(Chs. 81, 190, 320, 323 and 324)
63.	28-6993	(Chs. 81, 320, 323 and 324)
64.	32-1236	(Chs. 86 and 87)
65.	32-1287	(Chs. 86 and 87)
66.	32-1297.06	(Chs. 86 and 87)
67.	32-2183	(Chs. 238 and 328) Effective 10/1/11
	(L10, Ch. 144, sec. 2)	
68.	32-2931	(Chs. 186 and 235)
69.	33-1248	(Chs. 50 and 156)
70.	33-1261	(Chs. 152, 154, 156 and 292)
71.	33-1261	(Chs. 65, 152 and 154) Effective 1/1/12
72.	33-1804	(Chs. 50 and 156)
73.	33-1808	(Chs. 152 and 154)
74.	33-1808	(Chs. 152 and 156)
75.	33-1808	(Chs. 152 and 292)
76.	33-1808	(Chs. 65 and 152) Effective 1/1/12
77.	35-142	(Chs. 27, 83 and 194)
78.	35-323	(Chs. 108 and 187)
79.	36-120	(Chs. 320 and 324)
80.	36-121	(Chs. 320 and 324)
81.	36-261	(Chs. 31 and 89)
82.	36-274	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 27)
83.	36-501	(Chs. 89 and 219)
84.	36-509	(Chs. 262 and 268)
85.	36-2907	(Chs. 13 and 31)
86.	38-711	(Chs. 277 and 357)
87.	38-744	(Chs. 277 and 357)
88.	38-745	(Chs. 277 and 357)
89.	38-842	(Chs. 27, 347 and 357)
90.	38-847	(Chs. 27 and 347)
91.	38-849	(Chs. 99, 347 and 357)
	(L10, Ch. 118, sec. 10)	
92.	38-891	(Chs. 298, 347 and 357)
93.	38-912	(Chs. 99 and 357)
94.	38-1101	(Chs. 198 and 230)
95.	38-1104	(Chs. 208 and 244)
96.	41-110	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 83)
97.	41-191.09	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 33)

98.	41-545	(Chs. 83 and 110)
99.	41-608.04	(Chs. 126 and 307)
100.	41-611	(Chs. 306 and 307)
101.	41-619.51	(Chs. 113, 190 and 203)
102.	41-790	(Chs. 27 and 34)
103.	41-791	(Chs. 27 and 157) Effective 1/1/13
104.	41-792.01	(Chs. 27 and 83)
105.	41-1005	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 77)
106.	41-1304.05	(Chs. 18 and 27)
107.	41-1723	(Chs. 33 and 308)
108.	41-1758	(Chs. 177 and 203)
109.	41-1758.01	(Chs. 113, 177 and 203)
110.	41-2501	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 157) Effective 1/1/13
111.	41-3504	(Chs. 27 and 343)
112.	41-3508	(Chs. 18 and 27)
113.	41-3542	(Chs. 27 and 83)
114.	42-5029	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Chs. 248 and 249) Effective 10/1/11
115.	42-5159	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 300)
116.	42-12004	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 232)
117.	43-1088	(Chs. 31 and 55) Effective 1/1/12
118.	44-1843	(2nd Spec. Sess. Ch. 1 and 1st Reg. Sess. Ch. 106)
119.	44-7041	(Chs. 18 and 27)
120.	48-853	(Chs. 162 and 269)
121.	48-3603	(Chs. 133 and 322)

EXPLANATION OF BLEND
SECTION 3-108

Laws 2011, Chapters 44 and 281

Laws 2011, Ch. 44, section 1 — Effective July 20

Laws 2011, Ch. 281, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 44 and Ch. 281, sec. 1 text changes to section 3-108 are blended in the form on the following page.

BLEND OF SECTION 3-108
Laws 2011, Chapter 44 and Chapter 281, section 1

3-108. Administrative support fund; use; exemption

A. A department of agriculture administrative support fund is established. All monies collected pursuant to any interagency agreement with the department pursuant to ~~section 3-554, subsection A,~~ section 3-588, subsection A and section 3-1084, subsection ~~A~~ C shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.

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B. All monies collected pursuant to any interagency agreement with the department in accordance with section 3-468.03, subsection A and section 3-526.03, subsection A shall be deposited in the ADMINISTRATIVE SUPPORT fund or deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund established by section 3-447 pursuant to the terms of the interagency agreement. Deposits IN THE ADMINISTRATIVE SUPPORT FUND shall be made pursuant to sections 35-146 and 35-147.

Ch. 281 —

C. Monies in the fund are continuously appropriated and exempt from the provisions of section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 3-108

Laws 2011, Chapters 44 and 281

Laws 2011, Ch. 44, section 1 — Effective July 20, 2011

Laws 2011, Ch. 281, section 50 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 44 and Ch. 281, sec. 50 text changes to section 3-108 are blended effective from and after December 31, 2012 in the form shown on the following page. However, both this blend version and the Ch. 44 and Ch. 281, sec. 1 blend version of section 3-108 will be published since the Ch. 44 and Ch. 281, sec. 1 blend version becomes effective before the Ch. 281, sec. 50 version. The publisher will automatically delete the Ch. 44 and Ch. 281, sec. 1 blend version on publication of the appropriate pocket part.

In subsection A, the Laws 2011, Ch. 44 version struck "section 3-554, subsection A,". Since the Laws 2011, Ch. 281, sec. 1 version made the identical change, this blend version does not include that change.

BLEND OF SECTION 3-108
Laws 2011, Chapters 44 and Chapter 281, section 50

3-108. Administrative support fund; use; exemption

A. A department of agriculture administrative support fund is established. All monies collected pursuant to any interagency agreement with the department pursuant to section 3-588, subsection A and section 3-1084, subsection ~~A~~ C shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.

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B. All monies collected pursuant to any interagency agreement with the department in accordance with section 3-468.03, subsection A and section 3-526.03, subsection A shall be deposited in the ~~administrative support~~ fund or deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund established by section 3-447 pursuant to the terms of the interagency agreement. Deposits ~~in the administrative support fund~~ shall be made pursuant to sections 35-146 and 35-147.

Ch. 281

C. Monies in the fund are continuously appropriated and exempt from the provisions of section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 5-113

Laws 2011, Chapters 35 and 281

Laws 2011, Ch. 35, section 3	Effective July 20
Laws 2011, Ch. 281, section 49	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 35 and Ch. 281, sec. 49 text changes to section 5-113 are blended in the form shown on the following pages.

BLEND OF SECTION 5-113
Laws 2011, Chapter 35 and Chapter 281, section 49

5-113. Disposition of revenues and monies; funds; committee

Ch. 35 — A. EXCEPT AS PROVIDED IN SECTION 5-113.01, all revenues derived from permittees, permits and licenses as provided by this article shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

B. The Arizona county fairs racing betterment fund is established under the jurisdiction of the department. The department shall distribute monies from the fund to the county fair association or county fair racing association of each county conducting a county fair racing meeting in such proportion as the department deems necessary for the promotion and betterment of county fair racing meetings. All expenditures from the fund shall be made

Ch. 281 — ~~upon~~ ON claims approved by the department. In order to be eligible for distributions from the fund, a county fair association must provide the department with an annual certification in the form required by the department supporting expenditures made from the fund. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund.

C. The county fairs livestock and agriculture promotion fund is established under the control of the governor and shall be used for the purpose of promoting the livestock and agricultural resources of the state and for the purpose of conducting an annual Arizona national livestock fair by the Arizona exposition and state fair board to further promote livestock resources. The direct expenses less receipts of the livestock fair shall be paid from this fund, but such payment shall not exceed thirty per cent of the receipts of the fund for the preceding fiscal year. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. All expenditures from the fund shall be made upon claims approved by the governor, as recommended by the livestock and agriculture committee, for the promotion and betterment of the livestock and agricultural resources of this state. The livestock and agriculture committee is established and shall be composed of the following members, at least three of whom are from counties that have a population of less than five hundred thousand persons, appointed by the governor:

1. Three members representing county fairs.
2. One member representing Arizona livestock fairs.
3. One member representing the university of Arizona college of agriculture.
4. One member representing the livestock industry.
5. One member representing the farming industry.
6. One member representing the governor's office.
7. One member representing the Arizona state fair conducted by the Arizona exposition and state fair board.
8. One member representing the general public.

D. The governor shall appoint a chairman from the members. Terms of members shall be four years.

E. Members of the committee are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.

F. The Arizona breeders' award fund is established under the jurisdiction of the department. The department shall distribute monies from the fund to the breeder, or the breeder's heirs, devisees or successors, of every winning horse or greyhound foaled or whelped in this state, as defined by section 5-114, in a manner and in an amount established by rules of the commission to protect the integrity of the racing industry and promote, improve and advance the quality of race horse and greyhound breeding within this state. The department may contract with a breeders' association to provide data, statistics and other information necessary to enable the department to carry out the purposes of this subsection. Persons who are not eligible to be licensed under section 5-107.01 or persons who have been refused licenses under section 5-108 are not eligible to participate in the Arizona greyhound breeders' award fund. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. For the purposes of this subsection, "breeder" means the owner or lessee of the dam of the animal at the time the animal was foaled or whelped.

G. The Arizona stallion award fund is established under the jurisdiction of the department to promote, improve and advance the quality of stallions in this state. The department shall distribute monies from the fund to the owner or lessee, or the owner's or lessee's heirs, devisees or successors, of every Arizona stallion whose certified Arizona bred offspring, as prescribed in section 5-114, finishes first, second or third in an eligible race in this state. The department may contract with a breeders' association to provide data, statistics and other information necessary to enable the department to carry out the purposes of this subsection. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. The commission shall adopt rules pursuant to title 41, chapter 6 to carry out the purposes of this subsection. The rules shall prescribe at a minimum:

1. The manner and procedure for distribution from the fund, including eligibility requirements for owners and lessees.

2. Subject to availability of monies in the fund, the amount to be awarded.

3. The requirements for a stallion registered with the jockey club, Lexington, Kentucky or with the American quarter horse association, Amarillo, Texas to be certified as an Arizona stallion.

4. The types and requirements of races for which an award may be made.

H. The greyhound and retired racehorse adoption fund is established. The department shall administer the fund and maintain separate accounts for greyhound adoptions and retired racehorse adoptions. All revenues derived from license fees collected from dog breeders, racing kennels and other

Ch. 35 — operations WHERE GREYHOUNDS ARE RAISED FOR THE PURPOSE OF DOG RACING pursuant to section 5-104, subsection F~~, paragraphs 7, 8 and 9~~ shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound adoption account of the fund. All revenues derived from retired racehorse adoption surcharges collected pursuant to section 5-104, subsection G shall be deposited, pursuant to sections 35-146 and 35-147, in the retired racehorse adoption

account of the fund. The department shall distribute monies from the fund to provide financial assistance to nonprofit enterprises approved by the commission to promote the adoption of former racing greyhounds as domestic pets and to promote the adoption of retired racehorses pursuant to section 5-104, subsection G in a manner and in an amount established by rules of the commission. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund.

I. The county fair racing fund is established. The department shall administer the fund. Monies in the fund are continuously appropriated. The department shall use fund monies for the administration of county fair racing. Any monies remaining unexpended in the fund at the end of the fiscal year in excess of seventy-five thousand dollars shall revert to the state general fund.

J. The agricultural consulting and training TRUST fund is established FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING~~. Monies in the fund are continuously appropriated. The Arizona department of agriculture shall use monies in the fund for~~ the agricultural consulting and training program established by section 3-109.01. The DIRECTOR OF THE Arizona department of agriculture shall administer the TRUST fund AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST FUND. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL CONSULTING AND TRAINING PROGRAM ESTABLISHED BY SECTION 3-109.01. SURPLUS MONIES, INCLUDING balances remaining in the TRUST fund at the end of a fiscal year do not revert to the state general fund.

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EXPLANATION OF BLEND
SECTION 5-113

Laws 2011, Chapters 35 and 281

Laws 2011, Ch. 35, section 3 — Effective July 20, 2011

Laws 2011, Ch. 281, section 98 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 35 and Ch. 281, sec. 98 text changes to section 5-113 are blended effective from and after December 31, 2012 in the form shown on the following pages. However, both this blend version and the Ch. 35 and Ch. 281, sec. 49 blend version of section 5-113 will be published since the Ch. 35 and Ch. 281, sec. 49 blend version becomes effective before the Ch. 281, sec. 98 version. The publisher will automatically delete the Ch. 35 and Ch. 281, sec. 49 blend version on publication of the appropriate pocket part.

BLEND OF SECTION 5-113
Laws 2011, Chapters 35 and Chapter 281, section 98

5-113. Disposition of revenues and monies; funds; committee

Ch. 35 A. EXCEPT AS PROVIDED IN SECTION 5-113.01, all revenues derived from permittees, permits and licenses as provided by this article shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

B. The Arizona county fairs racing betterment fund is established under the jurisdiction of the department. The department shall distribute monies from the fund to the county fair association or county fair racing association of each county conducting a county fair racing meeting in such proportion as the department deems necessary for the promotion and betterment of county fair racing meetings. All expenditures from the fund shall be made upon claims approved by the department. In order to be eligible for distributions from the fund, a county fair association must provide the department with an annual certification in the form required by the department supporting expenditures made from the fund. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund.

C. The county fairs livestock and agriculture promotion fund is established under the control of the governor and shall be used for the purpose of promoting the livestock and agricultural resources of the state and for the purpose of conducting an annual Arizona national livestock fair by the Arizona exposition and state fair board to further promote livestock resources. The direct expenses less receipts of the livestock fair shall be paid from this fund, but such payment shall not exceed thirty per cent of the receipts of the fund for the preceding fiscal year. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. All expenditures from the fund shall be made upon claims approved by the governor, as recommended by the livestock and agriculture committee, for the promotion and betterment of the livestock and agricultural resources of this state. The livestock and agriculture committee is established and shall be composed of the following members, at least three of whom are from counties that have a population of less than five hundred thousand persons, appointed by the governor:

1. Three members representing county fairs.
2. One member representing Arizona livestock fairs.
3. One member representing the university of Arizona college of agriculture.
4. One member representing the livestock industry.
5. One member representing the farming industry.
6. One member representing the governor's office.
7. One member representing the Arizona state fair conducted by the Arizona exposition and state fair board.
8. One member representing the general public.

D. The governor shall appoint a chairman from the members. Terms of members shall be four years.

E. Members of the committee are not eligible to receive compensation but are eligible to receive reimbursement for expenses pursuant to title 38, chapter 4, article 2.

F. The Arizona breeders' award fund is established under the jurisdiction of the department. The department shall distribute monies from the fund to the breeder, or the breeder's heirs, devisees or successors, of every winning horse or greyhound foaled or whelped in this state, as defined by section 5-114, in a manner and in an amount established by rules of the commission to protect the integrity of the racing industry and promote, improve and advance the quality of race horse and greyhound breeding within this state. The department may contract with a breeders' association to provide data, statistics and other information necessary to enable the department to carry out the purposes of this subsection. Persons who are not eligible to be licensed under section 5-107.01 or persons who have been refused licenses under section 5-108 are not eligible to participate in the Arizona greyhound breeders' award fund. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. For the purposes of this subsection, "breeder" means the owner or lessee of the dam of the animal at the time the animal was foaled or whelped.

G. The Arizona stallion award fund is established under the jurisdiction of the department to promote, improve and advance the quality of stallions in this state. The department shall distribute monies from the fund to the owner or lessee, or the owner's or lessee's heirs, devisees or successors, of every Arizona stallion whose certified Arizona bred offspring, as prescribed in section 5-114, finishes first, second or third in an eligible race in this state. The department may contract with a breeders' association to provide data, statistics and other information necessary to enable the department to carry out the purposes of this subsection. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund. The commission shall adopt rules pursuant to title 41, chapter 6 to carry out the purposes of this subsection. The rules shall prescribe at a minimum:

1. The manner and procedure for distribution from the fund, including eligibility requirements for owners and lessees.

2. Subject to availability of monies in the fund, the amount to be awarded.

3. The requirements for a stallion registered with the jockey club, Lexington, Kentucky or with the American quarter horse association, Amarillo, Texas to be certified as an Arizona stallion.

4. The types and requirements of races for which an award may be made.

H. The greyhound and retired racehorse adoption fund is established. The department shall administer the fund and maintain separate accounts for greyhound adoptions and retired racehorse adoptions. All revenues derived from license fees collected from dog breeders, racing kennels and other operations WHERE GREYHOUNDS ARE RAISED FOR THE PURPOSE OF DOG RACING pursuant to section 5-104, subsection F~~, paragraphs 7, 8 and 9~~ shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound adoption account of the fund. All revenues derived from retired racehorse adoption surcharges collected pursuant to section 5-104, subsection G shall be deposited, pursuant to sections 35-146 and 35-147, in the retired racehorse adoption

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account of the fund. The department shall distribute monies from the fund to provide financial assistance to nonprofit enterprises approved by the commission to promote the adoption of former racing greyhounds as domestic pets and to promote the adoption of retired racehorses pursuant to section 5-104, subsection G in a manner and in an amount established by rules of the commission. Balances remaining in the fund at the end of a fiscal year do not revert to the state general fund.

I. The county fair racing fund is established. The department shall administer the fund. Monies in the fund are continuously appropriated. The department shall use fund monies for the administration of county fair racing. Any monies remaining unexpended in the fund at the end of the fiscal year in excess of seventy-five thousand dollars shall revert to the state general fund.

J. The agricultural consulting and training ~~trust~~ fund is established ~~for the exclusive purpose of implementing, continuing and supporting~~. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE ARIZONA DEPARTMENT OF AGRICULTURE SHALL USE MONIES IN THE FUND FOR the agricultural consulting and training program established by section 3-109.01. The director of the Arizona department of agriculture shall administer the ~~trust~~ fund ~~as trustee. The state treasurer shall accept, separately account for and hold in trust any monies deposited in the state treasury, which are considered to be trust monies as defined in section 35-310 and which shall not be commingled with any other monies in the state treasury except for investment purposes. On notice from the director, the state treasurer shall invest and divest any trust fund monies deposited in the state treasury as provided by sections 35-313 and 35-314.03, and monies earned from investment shall be credited to the trust fund. The beneficiary of the trust is the agricultural consulting and training program established by section 3-109.01. Surplus monies, including~~ Balances remaining in the ~~trust~~ fund at the end of a fiscal year do not revert to the state general fund.

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EXPLANATION OF BLEND
SECTION 5-505

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 343

Laws 2011, Second Special Session, Ch. 1, section 2 — Effective July 1

Laws 2011, First Regular Session, Ch. 343, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 343 text changes to section 5-505 are blended in the form shown on the following page.

BLEND OF SECTION 5-505
Laws 2011, Second Special Session, Chapter 1 and
Laws 2011, First Regular Session, Chapter 343

5-505. Apportionment of revenue

A. Not more than eighteen and one-half per cent of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources and not more than ~~fifteen~~ THIRTY-FIVE per cent of the total annual revenues from the sale of special instant games authorized under section 5-504, subsection I shall be deposited in the state lottery fund established by section 5-521 to be expended for the following:

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1. The payment of costs incurred in the operation and administration of the lottery, including the expenses of the commission and the costs resulting from any contract or contracts entered into for consulting or operational services.

2. Independent audits, which shall be performed annually in addition to the audits required by section 5-524.

3. Incentive programs for lottery sales agents and lottery employees.

4. Payment of compensation to licensed sales agents necessary to provide for the adequate availability of tickets or services to prospective buyers and for the convenience of the public. Except as otherwise provided in this ~~paragraph~~ SUBSECTION, compensation of licensed sales agents shall be at least five and one-half per cent but not more than eight per cent of the price of each ticket or share that a retail sales agent sells in instant games and online games, less the price of any tickets or shares that are voided. ~~Compensation of a licensed sales agent who is designated as a charitable organization as defined in section 5-504 shall be twenty per cent of the price of each special instant game authorized under section 5-504, subsection I.~~

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5. The payment of reasonable fees to redemption agents as authorized by section 5-519.

6. The purchase or lease of lottery equipment, tickets and materials.

7. COMPENSATION OF A LICENSED SALES AGENT WHO IS DESIGNATED AS A CHARITABLE ORGANIZATION AS DEFINED IN SECTION 5-504. COMPENSATION SHALL BE TWENTY PER CENT OF THE PRICE OF EACH TICKET FROM A SPECIAL INSTANT GAME AUTHORIZED UNDER SECTION 5-504, SUBSECTION I AND SHALL BE AN OFFSET AGAINST THE SALE OF THE TICKET.

B. Not less than fifty per cent of the total annual revenues accruing from the sale of lottery tickets or shares shall be deposited in the state lottery prize fund established by section 5-523 for payment of prizes to the holders of winning tickets or shares or for other purposes provided for in section 5-518.

C. All other revenues accruing from the sale of lottery tickets or shares in online games or instant games shall be deposited in the state lottery fund established by section 5-521 to be used as prescribed by section 5-522.

D. Except for monies for prizes expended as provided in section 5-504, subsection G and section ~~41-1505.10~~ 41-1545.01, monies expended under subsection A of this section shall be subject to legislative appropriation.

Ch. 1

EXPLANATION OF BLEND
SECTION 5-507

Laws 2011, Chapters 18 and 83

Laws 2011, Ch. 18, section 3 — Effective July 20

Laws 2011, Ch. 83, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 18 and Ch. 83 text changes to section 5-507 are blended in the form shown on the following page.

BLEND OF SECTION 5-507
Laws 2011, Chapters 18 and 83

5-507. Monthly reports; annual reports

A. The director shall make a monthly report to the commission, the governor, the speaker of the house of representatives and the president of the senate. The monthly report shall include the total lottery revenue, prize disbursements and other expenses for the preceding month.

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~~B. The director shall make a report on or before August 15 of each year to the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting containing:~~

~~1. A summary of the criteria used to evaluate employee performance and distribution of any appropriation for the preceding fiscal year as performance pay.~~

~~2. An accounting of total distributions of that appropriation.~~

~~3. The percentages of that distribution that were based on individual employee performance and on lottery sales goals.~~

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~~C.~~ B. The commission shall make an annual report to the governor, the speaker of the house of representatives and the president of the senate AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE. The annual report shall include a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding years, and recommendations for amendments to this chapter as the commission deems necessary or desirable.

EXPLANATION OF BLEND
SECTION 5-555

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 343

Laws 2011, Second Special Session, Ch. 1, section 5 — Effective July 1, 2012

Laws 2011, First Regular Session, Ch. 343, section 2 — Effective July 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 343 text changes to section 5-555 are blended in the form shown on the following page.

BLEND OF SECTION 5-555
Laws 2011, Second Special Session, Chapters 1 and
Laws 2011, First Regular Session, Chapter 343

5-555. Apportionment of revenue

A. Not more than eighteen and one-half per cent of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources and not more than ~~fifteen~~ THIRTY-FIVE per cent of the total annual revenues from the sale of special instant games authorized under section 5-554, subsection I shall be deposited in the state lottery fund established by section 5-571 to be expended for the following:

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1. The payment of costs incurred in the operation and administration of the lottery, including the expenses of the commission and the costs resulting from any contract or contracts entered into for consulting or operational services.

2. Independent audits, which shall be performed annually in addition to the audits required by section 5-574.

3. Incentive programs for lottery sales agents and lottery employees.

4. Payment of compensation to licensed sales agents necessary to provide for the adequate availability of tickets or services to prospective buyers and for the convenience of the public. Except as otherwise provided in this ~~paragraph~~ SUBSECTION, compensation of licensed sales agents shall be at least five and one-half per cent but not more than eight per cent of the price of each ticket or share that a retail sales agent sells in instant games and online games, less the price of any tickets or shares that are voided. ~~Compensation of a licensed sales agent who is designated as a charitable organization as defined in section 5-554 shall be twenty per cent of the price of each special instant game authorized under section 5-554, subsection I.~~

Ch. 343

5. The payment of reasonable fees to redemption agents as authorized by section 5-569.

6. The purchase or lease of lottery equipment, tickets and materials.

7. COMPENSATION OF A LICENSED SALES AGENT WHO IS DESIGNATED AS A CHARITABLE ORGANIZATION AS DEFINED IN SECTION 5-554. COMPENSATION SHALL BE TWENTY PER CENT OF THE PRICE OF EACH TICKET FROM A SPECIAL INSTANT GAME AUTHORIZED UNDER SECTION 5-554, SUBSECTION I AND SHALL BE AN OFFSET AGAINST THE SALE OF THE TICKET.

B. Not less than fifty per cent of the total annual revenues accruing from the sale of lottery tickets or shares shall be deposited in the state lottery prize fund established by section 5-573 for payment of prizes to the holders of winning tickets or shares or for other purposes provided for in section 5-568.

C. All other revenues accruing from the sale of lottery tickets or shares in online games or instant games shall be deposited in the state lottery fund established by section 5-571 to be used as prescribed by section 5-572.

D. Except for monies for prizes expended as provided in section 5-554, subsection G and section ~~41-1505.10~~ 41-1545.01, monies expended under subsection A of this section shall be subject to legislative appropriation.

Ch. 1

EXPLANATION OF BLEND
SECTION 11-251 (as amended by Laws 2010, Ch. 238, section 1)

Laws 2011, Chapters 89 and 238

Laws 2011, Ch. 89, section 3 — Effective October 1

Laws 2011, Ch. 238, section 2 — Effective October 1

Explanation

Since the Ch. 89 version includes all of the changes made by the Ch. 238 version, the Laws 2011, Ch. 89 amendment of section 11-251 (as amended by Laws 2010, Ch. 238, sec. 1) is the blend of both the Laws 2011, Ch. 89 and Ch. 238 versions.

BLEND OF SECTION 11-251 (as amended by Laws 2010, Ch. 238, section 1)
Laws 2011, Chapters 89 and 238

11-251. Powers of board

The board of supervisors, under such limitations and restrictions as are prescribed by law, may:

1. Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues, see that such officers faithfully perform their duties and direct prosecutions for delinquencies, and, when necessary, require the officers to renew their official bonds, make reports and present their books and accounts for inspection.

2. Divide the counties into such districts or precincts as required by law, change them and create others as convenience requires.

3. Establish, abolish and change election precincts, appoint inspectors and judges of elections, canvass election returns, declare the result and issue certificates thereof.

4. Lay out, maintain, control and manage public roads, ferries and bridges within the county and levy such tax for that purpose as may be authorized by law.

5. Provide for the care and maintenance of the sick of the county, erect and maintain hospitals for that purpose and, in its discretion, provide a farm in connection with the county hospital and adopt ordinances for working the farm.

6. Provide suitable rooms for county purposes.

7. Purchase, receive by donation or lease real or personal property necessary for the use of the county prison and take care of, manage and control the property, but no purchase of real property shall be made unless the value has been previously estimated by three disinterested citizens of the county, appointed by the board for that purpose, and no more than the appraised value shall be paid for the property.

8. Cause to be erected and furnished a courthouse, jail and hospital and such other buildings as necessary, and construct and establish a branch jail, when necessary, at a point distant from the county seat.

9. Sell at public auction, after thirty days' previous notice given by publication in a newspaper of the county, stating the time and place of the auction, and convey to the highest bidder, for cash or contract of purchase extending not more than ten years from the date of sale and ~~upon~~ ON such terms ~~and conditions~~ and for such consideration as the board shall prescribe, any property belonging to the county that the board deems advantageous for the county to sell, or that the board deems unnecessary for use by the county, and shall pay the proceeds thereof into the county treasury for use of the county, except that personal property need not be sold but may be used as a trade-in on the purchase of personal property when the board deems this disposition of the personal property to be in the best interests of the county. When the property for sale is real property, the board shall have such property appraised by a qualified independent fee appraiser who has an office located in this state. The appraiser shall establish a minimum price,

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which shall not be less than ninety per cent of the appraised value. The notice regarding the sale of real property shall be published in the county where the property is situated and may be published in one or more other counties, and shall contain, among other things, the appraised value, the minimum acceptable sale price, and the common and legal description of the real property. Notwithstanding the requirement for a sale at public auction prescribed in this paragraph, a county, ~~and~~ with unanimous consent of the board~~,~~ AND without a public auction, may sell or lease any county property to any other duly constituted governmental entity, including the state, cities, towns and other counties. A county, ~~and~~ with unanimous consent of the board~~,~~ AND without public auction, may grant an easement on county property for public purposes to a utility as defined in section 40-491. A county, ~~and~~ with unanimous consent of the board~~,~~ AND without public auction, may sell or lease any county property for a specific use to any solely charitable, social or benevolent nonprofit organization incorporated or operating in this state. A county may dispose of surplus equipment and materials that have little or no value or that are unauctionable in any manner authorized by the board.

Ch. 89

Chs. 89 and 238

Ch. 89

10. Examine and exhibit the accounts and performance of all officers having the care, management, collection or disbursement of monies belonging to the county or appropriated by law or otherwise for the use and benefit of the county. The working papers and other audit files in an examination and audit of the accounts and performance of a county officer are not public records and are exempt from title 39, chapter 1. The information contained in the working papers and audit files prepared pursuant to a specific examination or audit is not subject to disclosure, except to the county attorney and the attorney general in connection with an investigation or action taken in the course of their official duties.

11. Examine, settle and allow all accounts legally chargeable against the county, order warrants to be drawn on the county treasurer for that purpose and provide for issuing the warrants.

12. Levy such tax annually on the taxable property of the county as may be necessary to defray the general current expenses thereof, including salaries otherwise unprovided for, and levy such other taxes as are required to be levied by law.

13. Equalize assessments.

14. Direct and control the prosecution and defense of all actions to which the county is a party, and compromise them.

15. Insure the county buildings in the name of and for the benefit of the county.

16. Fill by appointment all vacancies occurring in county or precinct offices.

17. Adopt provisions necessary to preserve the health of the county, and provide for the expenses thereof.

18. With the approval of the department of health services, contract with any qualified person to provide all or part of the health services, funded through the department of health services with federal or state monies, that the board in its discretion extends to residents of the county.

19. Contract for county printing and advertising, and provide books and stationery for county officers.

20. Provide for rebinding county records, or, if necessary, the transcribing of county records.

21. Make and enforce necessary rules and regulations for the government of its body, the preservation of order and the transaction of business.

22. Adopt a seal for the board, a description and impression of which shall be filed by the clerk in the office of the county recorder and the secretary of state.

23. Establish, maintain and conduct or aid in establishing, maintaining and conducting public aviation fields, purchase, receive by donation or lease any property necessary for that purpose, lease, at a nominal rental if desired, sell such aviation fields or property to the United States or any department, or sell or lease such aviation fields to a city, exchange lands acquired pursuant to this section for other lands, or act in conjunction with the United States in maintaining, managing and conducting all such property. If any such property or part of that property is not needed for these purposes, it shall be sold by the board and the proceeds shall be paid into the general fund of the county.

24. Acquire and hold property for the use of county fairs, and conduct, take care of and manage them.

25. Authorize the sheriff to offer a reward, not exceeding ten thousand dollars in one case, for information leading to the arrest and conviction of persons charged with crime.

26. Contract for the transportation of insane persons to the state hospital or direct the sheriff to transport such persons. The county is responsible for such expense to the extent the expense is not covered by any third party payor.

27. Provide for the reasonable expenses of burial for deceased indigents as provided in section 36-831 and maintain a permanent register of deceased indigents, including name, age and date of death, and when burial occurs, the board shall mark the grave with a permanent marker giving the name, age, and date of birth, if known.

28. Sell or grant to the United States the title or interest of the county in any toll road or toll train in or partly within a national park, Ch. 89 — ~~upon~~ ON such terms ~~and consideration~~ as may be agreed ~~upon~~ ON by the board and the secretary of the interior of the United States.

29. Enter into agreements for acquiring rights-of-way, construction, reconstruction or maintenance of highways in their respective counties, including highways that pass through Indian reservations, with the government of the United States, acting through its duly authorized officers or agents pursuant to any act of Congress, except that the governing body of any Indian tribe whose lands are affected must consent to the use of its land, and any such agreements entered into before June 26, 1952 are validated and confirmed.

30. Do and perform all other acts and things necessary to the full discharge of its duties as the legislative authority of the county government, including receiving and accepting payment of monies by credit card or debit card, or both. Any fees or costs incurred by the use of the credit or debit card shall be paid by the person tendering payment unless the charging entity determines that the financial benefits of accepting credit cards or debit cards exceeds the additional processing fees.

31. Make and enforce all local, police, sanitary and other regulations not in conflict with general law.

Ch. 89 — 32. Budget for funds for foster home care during the school week for ~~mentally retarded~~ CHILDREN WITH INTELLECTUAL DISABILITIES and otherwise handicapped children who reside within the county and attend a school for the handicapped in a city or town within such county.

33. Do and perform all acts necessary to enable the county to participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat. 508), as amended.

34. Provide a plan or plans for its employees that provide tax deferred annuity and deferred compensation plans as authorized pursuant to title 26, United States Code. Such plans shall allow voluntary participation by all employees of the county. Participating employees shall authorize the board to make reductions in their remuneration as provided in an executed deferred compensation agreement.

35. Adopt and enforce standards for shielding and filtration of commercial or public outdoor portable or permanent light fixtures in proximity to astronomical or meteorological laboratories.

Chs. 89 and 238 — 36. Subject to the prohibitions, restrictions and limitations as set forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation, landfill and grading to prevent unnecessary loss from erosion, flooding and landslides.

37. Make and enforce necessary ordinances for the operation and licensing of any establishment not in the limits of an incorporated city or town in which is carried on the business of providing baths, showers or other forms of hydrotherapy or any service of manual massage of the human body.

38. Provide pecuniary compensation as salary or wages for overtime work performed by county employees, including those employees covered by title 23, chapter 2, article 9. In so providing, the board may establish salary and wage plans incorporating classifications and conditions prescribed by the federal fair labor standards act.

39. Establish, maintain and operate facilities that provide for physical evaluation, diagnosis and treatment of patients and that do not keep patients overnight as bed patients or treat patients under general anesthesia.

40. Enact ordinances under its police authority prescribing reasonable curfews in the entire unincorporated area or any area less than the entire unincorporated area of the county for minors and fines not to exceed the fine for a petty offense for violation of such ordinances. Nothing in this paragraph shall be construed to require a request from an association or a majority of the residents of an area before the board may enact an ordinance applicable to the entire or any portion of the unincorporated area. An ordinance enacted pursuant to this paragraph shall provide that a minor is not violating a curfew if the minor is accompanied by a parent, a guardian or an adult having supervisorial custody, is on an emergency errand or has been specifically directed to the location on reasonable, legitimate business or some other activity by the parent, guardian or adult having supervisorial custody. If no curfew ordinance is applicable to a particular unincorporated area of the county, the board may adopt a curfew ordinance on the request or petition of either:

(a) A homeowners' association that represents a majority of the homeowners in the area covered by the association and to which the curfew would apply.

(b) A majority of the residents of the area to which the curfew would apply.

41. Lease or sublease personal property owned by the county to other political subdivisions of this state to be used for a public purpose.

42. In addition to the agreements authorized by section 11-651, enter into long-term agreements for the purchase of personal property, provided that the board may cancel any such agreement at the end of a fiscal year, at which time the seller may repossess the property and the agreement shall be deemed terminated.

43. Make and enforce necessary ordinances not in conflict with the laws of this state to regulate off-road recreational motor vehicles that are operated within the county on public lands without lawful authority or on private lands without the consent of the lawful owner or that generate air pollution. For the purposes of this paragraph, "off-road recreational motor vehicle" means three and four wheel vehicles manufactured for recreational nonhighway all terrain travel.

44. Acquire land for roads, drainage ways and other public purposes by exchange without public auction, except that notice shall be published thirty days before the exchange, listing the property ownership and descriptions.

45. Purchase real property for public purposes, provided that final payment shall be made not later than five years after the date of purchase.

46. Lease-purchase real property and improvements for real property for public purposes, provided that final payment shall be made not later than twenty-five years after the date of purchase. Any increase in the final payment date from fifteen years up to the maximum of twenty-five years shall be made only on unanimous approval by the board of supervisors.

47. Make and enforce ordinances for the protection and disposition of domestic animals subject to inhumane, unhealthful or dangerous conditions or circumstances provided that nothing in this paragraph limits or restricts the authority granted to incorporated cities and towns or counties pursuant to section 13-2910. An ordinance enacted pursuant to this paragraph shall not restrict or limit the authority of the game and fish commission to regulate the taking of wildlife. For the purposes of this paragraph, "domestic animal" means an animal kept as a pet and not primarily for economic purposes.

48. If a part of a parcel of land is to be taken for roads, drainage, flood control or other public purposes and the board and the affected property owner determine that the remainder will be left in such a condition as to give rise to a claim or litigation concerning severance or other damage, acquire the whole parcel by purchase, donation, dedication, exchange, condemnation or other lawful means, and the remainder may be sold or exchanged for other properties needed for any public purpose.

49. Make and enforce necessary rules providing for the reimbursement of travel and subsistence expenses of members of county boards, commissions and advisory committees when acting in the performance of their duties, if the board, commission or advisory committee is authorized or required by federal or state law or county ordinance, and the members serve without compensation.

50. Provide a plan or plans for county employee benefits that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

51. Provide for fringe benefits for county employees, including sick leave, personal leave, vacation and holiday pay and jury duty pay.

52. Make and enforce ordinances that are more restrictive than state requirements to reduce or encourage the reduction of carbon monoxide and ozone levels, provided an ordinance does not establish a standard for vehicular emissions, including ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is in unincorporated areas of the county.

53. Make and enforce ordinances to provide for the reimbursement of up to one hundred per cent of the cost to county employees of public bus or van pool transportation to and from their place of employment.

54. Lease for public purposes any real property, improvements for real property and personal property under the same terms and conditions, to the extent applicable, as are specified in sections 11-651 and 11-653 for lease-purchases.

55. Enact ordinances prescribing regulation of alarm systems and providing for civil penalties to reduce the incidence of false alarms at business and residential structures relating to burglary, robbery, fire and other emergencies not within the limits of an incorporated city or town.

56. In addition to paragraph 9 of this section, and notwithstanding section 23-504, sell or dispose of, at no less than fair market value, county personal property that the board deems no longer useful or necessary through a retail outlet or to another government entity if the personal property has a fair market value of no more than one thousand dollars, or by retail sale or private bid, if the personal property has a fair market value of no more than fifteen thousand dollars. Notice of sales in excess of one thousand dollars shall include a description and sale price of each item and shall be published in a newspaper of general circulation in the county, and for thirty days after notice other bids may be submitted that exceed the sale price by at least five per cent. The county shall select the highest bid received at the end of the thirty day period.

57. Sell services, souvenirs, sundry items or informational publications that are uniquely prepared for use by the public and by employees and license and sell information systems and intellectual property developed from county resources that the county is not obligated to provide as a public record.

58. On unanimous consent of the board of supervisors, license, lease or sell any county property pursuant to paragraphs 56 and 57 of this section at less than fair market value to any other governmental entity, including this state, cities, towns, public improvement districts or other counties within or outside of this state, or for a specific purpose to any charitable, social or benevolent nonprofit organization incorporated or operating in this state.

59. On unanimous consent of the board of supervisors, provide technical assistance and related services to a fire district pursuant to an intergovernmental agreement.

60. Adopt contracting procedures for the operation of a county health system pursuant to section 11-291. Before the adoption of contracting procedures the board shall hold a public hearing. The board shall publish one notification in a newspaper of general circulation in the county seat at least fifteen days before the hearing.

61. Enter into an intergovernmental agreement pursuant to chapter 7, article 3 of this title for a city or town to provide emergency fire or emergency medical services pursuant to section 9-500.23 to a county island as defined in section 11-251.12. The board may charge the owners of record in the county island a fee to cover the cost of an intergovernmental agreement that provides fire and emergency medical services.

62. In counties that employ or have designated an animal control county enforcement agent pursuant to section 11-1005, enter into agreements with foundations or charitable organizations to solicit donations, property or services, excluding enforcement or inspection services, for use by the county enforcement agent solely to perform nonmandated services and to fund capital improvements for county animal control, subject to annual financial and performance audits by an independent party as designated by the county board of supervisors. For the purposes of this paragraph, nonmandated services are limited to low cost spay and neuter services, public education and outreach efforts, pet adoption efforts, care for pets that are victims of cruelty or neglect and support for volunteer programs.

63. Adopt and provide for the enforcement of ordinances prohibiting open fires and campfires on designated lands in the unincorporated areas of the county when a determination of emergency is issued by the county emergency management officer and the board deems it necessary to protect public health and safety on those lands.

64. Fix the amount of license fees to be paid by any person, firm, corporation or association for carrying on any game or amusement business in unincorporated areas of the county and prescribe the method of collection or payment of those fees, for a stated period in advance, and fix penalties for failure to comply by fine. Nothing in this article shall be construed as authorizing any county to require an occupational license or fee for any activity if state law precludes requiring such a license or fee.

65. Adopt and enforce ordinances for the prevention, abatement and removal of graffiti, providing that any restrictions on the retail display of potential graffiti tools be limited to any of the following, as determined by the retail business:

(a) In a place that is in the line of sight of a cashier or in the line of sight from a work station normally continuously occupied during business hours.

(b) In a manner that makes the product accessible to a patron of the business establishment only with the assistance of an employee of the establishment.

(c) In an area electronically protected, or viewed by surveillance equipment that is monitored, during business hours.

66. Adopt ordinances and fees related to the implementation of a local stormwater quality program pursuant to title 49, chapter 2, article 11.

EXPLANATION OF BLEND
SECTION 13-105

Laws 2011, Chapters 90 and 114

Laws 2011, Ch. 90, section 1 — Effective July 20

Laws 2011, Ch. 114, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 90 and Ch. 114 text changes to section 13-105 are blended in the form shown on the following pages.

BLEND OF SECTION 13-105
Laws 2011, Chapters 90 and 114

13-105. Definitions

In this title, unless the context otherwise requires:

1. "Absconder" means a probationer who has moved from the probationer's primary residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer's whereabouts are unknown. A probationer is no longer deemed an absconder when the probationer is voluntarily or involuntarily returned to probation service.

2. "Act" means a bodily movement.

3. "Benefit" means anything of value or advantage, present or prospective.

4. "Calendar year" means three hundred sixty-five days' actual time served without release, suspension or commutation of sentence, probation, pardon or parole, work furlough or release from confinement on any other basis.

5. "Community supervision" means that portion of a felony sentence that is imposed by the court pursuant to section 13-603, subsection I and that is served in the community after completing a period of imprisonment or served in prison in accordance with section 41-1604.07.

6. "Conduct" means an act or omission and its accompanying culpable mental state.

7. "Crime" means a misdemeanor or a felony.

8. "Criminal street gang" means an ongoing formal or informal association of persons in which members or associates individually or collectively engage in the commission, attempted commission, facilitation or solicitation of any felony act and that has at least one individual who is a criminal street gang member.

9. "Criminal street gang member" means an individual to whom at least two of the following seven criteria that indicate criminal street gang membership apply:

(a) Self-proclamation.
(b) Witness testimony or official statement.
(c) Written or electronic correspondence.
(d) Paraphernalia or photographs.
(e) Tattoos.
(f) Clothing or colors.
(g) Any other indicia of street gang membership.

10. "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as those terms are defined in this paragraph:

(a) "Intentionally" or "with the intent to" means, with respect to a result or to conduct described by a statute defining an offense, that a person's objective is to cause that result or to engage in that conduct.

(b) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

(c) "Recklessly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but who is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

(d) "Criminal negligence" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

11. "Dangerous drug" means dangerous drug as defined in section 13-3401.

12. "Dangerous instrument" means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.

13. "Dangerous offense" means an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another person.

14. "Deadly physical force" means force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.

15. "Deadly weapon" means anything designed for lethal use, including a firearm.

16. "Economic loss" means any loss incurred by a person as a result of the commission of an offense. Economic loss includes lost interest, lost earnings and other losses that would not have been incurred but for the offense. Economic loss does not include losses incurred by the convicted person, damages for pain and suffering, punitive damages or consequential damages.

17. "Enterprise" includes any corporation, association, labor union or other legal entity.

18. "Felony" means an offense for which a sentence to a term of imprisonment in the custody of the state department of corrections is authorized by any law of this state.

19. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon that will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, except that it does not include a firearm in permanently inoperable condition.

20. "Government" means the state, any political subdivision of the state or any department, agency, board, commission, institution or governmental instrumentality of or within the state or political subdivision.

21. "Government function" means any activity that a public servant is legally authorized to undertake on behalf of a government.

22. "Historical prior felony conviction" means:

(a) Any prior felony conviction for which the offense of conviction either:

(i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount.

~~(ii) Involved the intentional or knowing infliction of serious physical injury.~~

Ch. 90 ~~(iii) Involved the use or exhibition of a deadly weapon or dangerous instrument.~~

(ii) INVOLVED A DANGEROUS OFFENSE.

~~(iv)~~ (iii) Involved the illegal control of a criminal enterprise.

~~(v)~~ (iv) Involved aggravated driving under the influence of intoxicating liquor or drugs.

~~(vi)~~ (v) Involved any dangerous crime against children as defined in section 13-705.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent on absconder status while on probation, on escape status or incarcerated is excluded in calculating if the offense was committed within the preceding ten years. If a court determines a person was not on absconder status while on probation or escape status, that time is not excluded. For the purposes of this subdivision, "escape" means:

(i) A departure from custody or from a juvenile secure care facility, a juvenile detention facility or an adult correctional facility in which the person is held or detained, with knowledge that the departure is not permitted, or the failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period.

(ii) A failure to report as ordered to custody or detention to begin serving a term of incarceration.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the five years immediately preceding the date of the present offense. Any time spent on absconder status while on probation, on escape status or incarcerated is excluded in calculating if the offense was committed within the preceding five years. If a court determines a person was not on absconder status while on probation or escape status, that time is not excluded. For the purposes of this subdivision, "escape" has the same meaning prescribed in subdivision (b) of this paragraph.

(d) Any felony conviction that is a third or more prior felony conviction.

~h. 114 23. "HUMAN SMUGGLING ORGANIZATION" MEANS AN ONGOING FORMAL OR INFORMAL ASSOCIATION OF PERSONS IN WHICH MEMBERS OR ASSOCIATES INDIVIDUALLY OR COLLECTIVELY ENGAGE IN THE SMUGGLING OF HUMAN BEINGS.

~~23.~~ 24. "Intoxication" means any mental or physical incapacity resulting from use of drugs, toxic vapors or intoxicating liquors.

~~24.~~ 25. "Misdemeanor" means an offense for which a sentence to a term of imprisonment other than to the custody of the state department of corrections is authorized by any law of this state.

~~25.~~ 26. "Narcotic drug" means narcotic drugs as defined in section 13-3401.

~~26.~~ 27. "Offense" or "public offense" means conduct for which a sentence to a term of imprisonment or of a fine is provided by any law of the state in which it occurred or by any law, regulation or ordinance of a political subdivision of that state and, if the act occurred in a state other than this state, it would be so punishable under the laws, regulations or ordinances of this state or of a political subdivision of this state if the act had occurred in this state.

~~27.~~ 28. "Omission" means the failure to perform an act as to which a duty of performance is imposed by law.

~~28.~~ 29. "Peace officer" means any person vested by law with a duty to maintain public order and make arrests and includes a constable.

~~29.~~ 30. "Person" means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.

~~30.~~ 31. "Petty offense" means an offense for which a sentence of a fine only is authorized by law.

~~31.~~ 32. "Physical force" means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force.

~~32.~~ 33. "Physical injury" means the impairment of physical condition.

~~33.~~ 34. "Possess" means knowingly to have physical possession or otherwise to exercise dominion or control over property.

~~34.~~ 35. "Possession" means a voluntary act if the defendant knowingly exercised dominion or control over property.

~~35.~~ 36. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.

~~36.~~ 37. "Property" means anything of value, tangible or intangible.

~~37.~~ 38. "Public servant":

(a) Means any officer or employee of any branch of government, whether elected, appointed or otherwise employed, including a peace officer, and any person participating as an advisor or consultant or otherwise in performing a governmental function.

(b) Does not include jurors or witnesses.

(c) Includes those who have been elected, appointed, employed or designated to become a public servant although not yet occupying that position.

~~38.~~ 39. "Serious physical injury" includes physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

~~39.~~ 40. "Unlawful" means contrary to law or, where the context so requires, not permitted by law.

~~40.~~ 41. "Vehicle" means a device in, upon or by which any person or property is, may be or could have been transported or drawn upon a highway, waterway or airway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

~~41.~~ 42. "Voluntary act" means a bodily movement performed consciously and as a result of effort and determination.

~~42.~~ 43. "Voluntary intoxication" means intoxication caused by the knowing use of drugs, toxic vapors or intoxicating liquors by a person, the tendency of which to cause intoxication the person knows or ought to know, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to an offense.

EXPLANATION OF BLEND
SECTION 13-805

Laws 2011, Chapters 99 and 263

Laws 2011, Ch. 99, section 4 — Effective July 20

Laws 2011, Ch. 263, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 99 and Ch. 263 text changes to section 13-805 are blended in the form shown on the following page.

BLEND OF SECTION 13-805
Laws 2011, Chapters 99 and 263

13-805. Jurisdiction

A. The trial court shall retain jurisdiction of the case for purposes of modifying the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires. At the time the defendant completes the defendant's period of probation or the defendant's sentence OR THE DEFENDANT ABSCONDS FROM PROBATION OR THE DEFENDANT'S SENTENCE, the court shall enter both:

Ch. 263

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered.

B. The clerk of the court shall notify each person who is entitled to restitution of the criminal restitution order.

C. A criminal restitution order may be recorded and enforced as any civil judgment, except that a criminal restitution order does not require renewal pursuant to section 12-1611 or 12-1612. Enforcement of a criminal restitution order by any person who is entitled to restitution or by the state includes the collection of interest that accrues ~~pursuant to section 44-1201 in the same manner as any civil judgment~~ AT A RATE OF TEN PER CENT PER ANNUM. A criminal restitution order does not expire until paid in full.

Ch. 99

D. A criminal restitution order is a criminal penalty for the purposes of a federal bankruptcy involving the defendant.

EXPLANATION OF BLEND
SECTION 13-2308.01

Laws 2011, Chapters 90 and 326

Laws 2011, Ch. 90, section 12 — Effective July 20

Laws 2011, Ch. 326, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 90 and Ch. 326 text changes to section 13-2308.01 are blended in the form shown on the following pages.

BLEND OF SECTION 13-2308.01
Laws 2011, Chapters 90 and 326

13-2308.01. Terrorism; classification; definitions

A. It is unlawful for a person to intentionally or knowingly do any of the following:

1. Engage in an act of terrorism.

2. Organize, manage, direct, supervise or finance an act of terrorism.

3. Solicit, incite or induce others to promote or further an act of terrorism.

4. Without lawful authority or when exceeding lawful authority, manufacture, sell, deliver, display, use, make accessible to others, possess or exercise control over a weapon of mass destruction knowing or having reason to know that the device or object involved is a weapon of mass destruction.

5. Make property available to another, by transaction, transportation or otherwise, knowing or having reason to know that the property is intended to facilitate an act of terrorism.

6. Provide advice, assistance or direction in the conduct, financing or management of an act of terrorism knowing or having reason to know that an act of terrorism has occurred or may result by:

(a) Harboring or concealing any person or property.

(b) Warning any person of impending discovery, apprehension, prosecution or conviction. This subdivision does not apply to a warning that is given in connection with an effort to bring another person into compliance with the law.

(c) Providing any person with material support or resources or any other means of avoiding discovery, apprehension, prosecution or conviction.

(d) Concealing or disguising the nature, location, source, ownership or control of material support or resources.

(e) Preventing or obstructing by means of force, deception or intimidation anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.

(f) Suppressing by any act of concealment, alteration or destruction any physical evidence that might aid in the discovery, apprehension, prosecution or conviction of any person or that might aid in the prevention of an act of terrorism.

(g) Concealing the identity of any person.

7. POSSESS, WITH THE INTENT TO INJURE ANOTHER PERSON, AN INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT.

Ch. 326

8. DESTROY OR DAMAGE OR ATTEMPT TO DESTROY OR DAMAGE ANY FACILITY, EQUIPMENT OR MATERIAL INVOLVED IN THE SALE, MANUFACTURE, STORAGE OR DISTRIBUTION OF AN INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT WITH THE INTENT TO INJURE ANOTHER BY THE RELEASE OF THE SUBSTANCE OR AGENT.

9. MANUFACTURE, SELL, GIVE, DISTRIBUTE OR USE AN INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT WITH THE INTENT TO INJURE ANOTHER PERSON.

10. CAUSE INJURY TO ANOTHER PERSON BY MEANS OF AN INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT.

11. GIVE OR SEND TO ANOTHER PERSON OR PLACE IN A PUBLIC OR PRIVATE PLACE A SIMULATED INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT WITH THE INTENT TO TERRIFY, INTIMIDATE, THREATEN OR HARASS. THE PLACING OR SENDING OF A SIMULATED INFECTIOUS BIOLOGICAL SUBSTANCE OR RADIOLOGICAL AGENT WITHOUT WRITTEN NOTICE ATTACHED TO THE SUBSTANCE OR AGENT IN A CONSPICUOUS PLACE THAT THE SUBSTANCE OR DEVICE HAS BEEN RENDERED INERT AND IS POSSESSED FOR A CURIO OR RELIC COLLECTION, DISPLAY OR OTHER SIMILAR PURPOSE IS PRIMA FACIE EVIDENCE OF AN INTENT TO TERRIFY, INTIMIDATE, THREATEN OR HARASS.

12. TRANSPORT ANY RADIOLOGICAL ISOTOPE OR AGENT FOR THE PURPOSE OF COMMITTING ANOTHER ACT IN VIOLATION OF THIS SECTION.

13. ADULTERATE OR MISBRAND ANY RADIOLOGICAL ISOTOPE.

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14. MANUFACTURE, HOLD, SELL OR OFFER TO SELL ANY RADIOLOGICAL ISOTOPE THAT IS ADULTERATED OR MISBRANDED.

15. ALTER, MUTILATE, DESTRUCT, OBLITERATE OR REMOVE ANY PART OF THE LABELING OF A RADIOLOGICAL ISOTOPE.

16. ANY OTHER ACT WITH RESPECT TO A RADIOLOGICAL ISOTOPE IF THE ACT IS DONE WHEN THE ARTICLE IS POSSESSED, TRANSFERRED, TRANSPORTED OR HELD FOR SALE AND RESULTS IN THE ARTICLE BEING ADULTERATED OR MISBRANDED.

B. THE POSSESSION OF ANY INFECTIOUS BIOLOGICAL SUBSTANCE OR A RADIOLOGICAL AGENT, UNLESS SATISFACTORILY EXPLAINED, MAY GIVE RISE TO AN INFERENCE THAT THE PERSON WHO IS IN POSSESSION OF THE SUBSTANCE OR AGENT IS AWARE OF THE RISK THAT THE SUBSTANCE OR AGENT MAY BE USED TO COMMIT AN ACT IN VIOLATION OF THIS SECTION.

~~B.~~ C. This section does not apply to any person who is PERMITTED OR LICENSED PURSUANT TO TITLE 30, CHAPTER 4 AND 10 CODE OF FEDERAL REGULATIONS PART 30, a member or employee of the armed forces of the United States, a federal or state governmental agency or any political subdivision of a state, a charitable, scientific or educational institution or a private entity if both of the following apply:

1. The person is engaged in lawful activity within the scope of the person's employment and the person is otherwise duly authorized or licensed to manufacture, possess, sell, deliver, display, use, exercise control over

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or make accessible to others any weapon of mass destruction, INFECTIOUS BIOLOGICAL SUBSTANCE OR RADIOLOGICAL AGENT or to otherwise engage in any activity described in this paragraph.

2. The person is in compliance with all applicable federal and state laws in doing so.

~~C.~~ D. A violation of subsection A of this section is a class 2 felony, except that if the court finds that at least one of the aggravating circumstances listed in section 13-701, subsection D applies, the ~~defendant shall be sentenced pursuant to section 13-709.02, subsection A~~ COURT MAY IMPOSE A LIFE SENTENCE. IF THE COURT IMPOSES A LIFE SENTENCE, THE COURT MAY

Ch. 90

ORDER THAT THE DEFENDANT NOT BE RELEASED ON ANY BASIS FOR THE REMAINDER OF THE DEFENDANT'S NATURAL LIFE. IF THE COURT DOES NOT SENTENCE THE DEFENDANT TO NATURAL LIFE, THE DEFENDANT SHALL NOT BE RELEASED ON ANY BASIS UNTIL THE PERSON HAS SERVED TWENTY-FIVE CALENDAR YEARS.

E. FOR THE PURPOSES OF THIS SECTION:

1. "INFECTIOUS BIOLOGICAL SUBSTANCE" INCLUDES ANY BACTERIA, VIRUS, FUNGUS, PROTOZOA, PRION, TOXIN OR MATERIAL FOUND IN NATURE THAT IS CAPABLE OF CAUSING DEATH OR SERIOUS PHYSICAL INJURY. INFECTIOUS BIOLOGICAL SUBSTANCE DOES NOT INCLUDE HUMAN IMMUNODEFICIENCY VIRUS, SYPHILIS OR HEPATITIS.

Ch. 326

2. "RADIOLOGICAL AGENT" INCLUDES ANY SUBSTANCE THAT IS ABLE TO RELEASE RADIATION AT LEVELS THAT ARE CAPABLE OF CAUSING DEATH OR SERIOUS BODILY INJURY OR AT ANY LEVEL IF USED WITH THE INTENT TO TERRIFY, INTIMIDATE, THREATEN OR HARASS.

EXPLANATION OF BLEND
SECTION 13-2314.01

Laws 2011, Chapters 18 and 83

Laws 2011, Ch. 18, section 13 — Effective July 20

Laws 2011, Ch. 83, section 6 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 18 and Ch. 83 text changes to section 13-2314.01 are blended in the form shown on the following pages.

BLEND OF SECTION 13-2314.01
Laws 2011, Chapters 18 and 83

13-2314.01. Anti-racketeering revolving fund; use of fund; reports

A. The anti-racketeering revolving fund is established. The attorney general shall administer the fund under the conditions and for the purposes provided by this section. Monies in the fund are exempt from the lapsing provisions of section 35-190.

B. Any prosecution and investigation costs, including attorney fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or, if the recipient is a political subdivision of this state, may be deposited in the fund established by section 13-2314.03.

D. Any monies obtained as a result of a forfeiture by any department or agency of this state under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section[,] the monies and interest shall be distributed within thirty days of application to the agency or agencies responsible for the seizure or forfeiture. Monies in the fund used by the attorney general for capital projects in excess of one million dollars are subject to review by the joint committee on capital review.

Ch. 18

E. Monies in the fund may be used for the following:

1. The funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs and witness protection pursuant to section 41-196 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency.

2. The investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

3. The payment of the relocation expenses of any law enforcement officer and the officer's immediate family if the law enforcement officer is

the victim of a bona fide threat that occurred because of the law enforcement officer's duties.

F. On or before January 15, April 15, July 15 and October 15 of each year, each department or agency of this state receiving monies pursuant to this section or section 13-2314.03 or 13-4315 or from any department or agency of the United States or another state as a result of participation in any investigation or prosecution shall file with the attorney general a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a department or agency of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the department or agency until the report is filed. The attorney general is responsible for collecting all reports from departments and agencies of this state and transmitting the reports to the Arizona criminal justice commission at the time that the report required pursuant to subsection G of this section is submitted.

G. On or before January 25, April 25, July 25 and October 25 of each year, the attorney general shall file with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the attorney general fails to file a report within sixty days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the attorney general until the report is filed. If a political subdivision of this state fails to file a report with the county attorney pursuant to section 13-2314.03 within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed.

Ch. 83 H. On or before ~~January 30, April 30, July 30 and October 30~~ SEPTEMBER 30 of each year, the Arizona criminal justice commission shall compile the attorney general report and the reports of all departments and agencies of this state into a single comprehensive report and shall submit a copy of the report to the governor, ~~with copies to~~ the director of the department of administration, the president of the senate, the speaker of the house of representatives, ~~and~~ the director of the joint legislative budget committee AND THE SECRETARY OF STATE.

Ch. 18

EXPLANATION OF BLEND
SECTION 13-2314.03

Laws 2011, Chapters 18 and 83

Laws 2011, Ch. 18, section 14 — Effective July 20

Laws 2011, Ch. 83, section 7 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 18 and Ch. 83 text changes to section 13-2314.03 are blended in the form shown on the following pages.

BLEND OF SECTION 13-2314.03
Laws 2011, Chapters 18 and 83

13-2314.03. County anti-racketeering revolving fund; use of fund; reports

A. The board of supervisors of a county shall establish a county anti-racketeering revolving fund administered by the county attorney under the conditions and for the purposes provided by this section.

B. Any prosecution and investigation costs, including attorney fees, recovered for the county as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by the board of supervisors.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or in the fund established by section 13-2314.01.

D. Any monies obtained as a result of a forfeiture by the county attorney under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section or in the fund established by section 13-2314.01. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section[,] the monies and interest shall be distributed to the agency or agencies responsible for the seizure or forfeiture within thirty days of application.

Ch. 18

E. Monies in the fund may be used for the funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs, and witness protection pursuant to section 11-536 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency. ~~Monies in the fund may be transmitted by the county attorney on behalf of any political subdivision of this state to the Arizona drug and gang policy council for the funding of gang prevention programs, substance abuse prevention programs and substance abuse education programs.~~ Monies in the fund may be used for the investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

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F. On or before January 25, April 25, July 25 and October 25 of each year, the county attorney shall cause to be filed with the Arizona criminal justice commission a report for the previous calendar quarter. The report

shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the county attorney fails to file a report within sixty days after it is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the county attorney until the report is filed.

G. On or before January 15, April 15, July 15 and October 15 of each year, each political subdivision of this state receiving monies pursuant to this section or section 13-2314.01 or 13-4315 or from any department or agency of the United States or another state as a result of participating in any investigation or prosecution shall cause to be filed with the county attorney of the county in which the political subdivision is located a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a political subdivision of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed. The county attorney shall be responsible for collecting all reports from political subdivisions within that county and transmitting the reports to the Arizona criminal justice commission at the time that the county report required pursuant to subsection F of this section is submitted.

Ch. 83 H. On or before ~~January 30, April 30, July 30 and October 30~~ SEPTEMBER 30 of each year, the Arizona criminal justice commission shall compile all county attorney reports into a single comprehensive report and all political subdivision reports into a single comprehensive report and submit a copy of each comprehensive report to the governor, the president of

Ch. 18 the senate, the speaker of the house of representatives, ~~and~~ the director of the joint legislative budget committee AND THE SECRETARY OF STATE.

EXPLANATION OF BLEND
SECTION 13-3102

Laws 2011, Chapters 85 and 211

Laws 2011, Ch. 85, section 1 — Effective July 20

Laws 2011, Ch. 211, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011 Ch. 85 and Ch. 211 text changes to section 13-3102 are blended in the form shown on the following pages.

BLEND OF SECTION 13-3102
Laws 2011, Chapters 85 and 211

13-3102. Misconduct involving weapons; defenses; classification; definitions

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon except a pocket knife concealed on his person or within his immediate control in or on a means of transportation:

(a) In the furtherance of a serious offense as defined in section 13-706, a violent crime as defined in section 13-901.03 or any other felony offense; or

(b) When contacted by a law enforcement officer and failing to accurately answer the officer if the officer asks whether the person is carrying a concealed deadly weapon; or

2. Carrying a deadly weapon except a pocket knife concealed on his person or concealed within his immediate control in or on a means of transportation if the person is under twenty-one years of age; or

3. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon, except that if the violation involves dry ice, a person commits misconduct involving weapons by knowingly possessing the dry ice with the intent to cause injury to or death of another person or to cause damage to the property of another person; or

4. Possessing a deadly weapon or prohibited weapon if such person is a prohibited possessor; or

5. Selling or transferring a deadly weapon to a prohibited possessor; or

6. Defacing a deadly weapon; or

7. Possessing a defaced deadly weapon knowing the deadly weapon was defaced; or

8. Using or possessing a deadly weapon during the commission of any felony offense included in chapter 34 of this title; or

9. Discharging a firearm at an occupied structure in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise; or

10. Unless specifically authorized by law, entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event for temporary and secure storage of the weapon pursuant to section 13-3102.01; or

11. Unless specifically authorized by law, entering an election polling place on the day of any election carrying a deadly weapon; or

12. Possessing a deadly weapon on school grounds; or

13. Unless specifically authorized by law, entering a nuclear or hydroelectric generating station carrying a deadly weapon on his person or within the immediate control of any person; or

14. Supplying, selling or giving possession or control of a firearm to another person if the person knows or has reason to know that the other person would use the firearm in the commission of any felony; or

15. Using, possessing or exercising control over a deadly weapon in furtherance of any act of terrorism as defined in section 13-2301 or possessing or exercising control over a deadly weapon knowing or having reason to know that it will be used to facilitate any act of terrorism as defined in section 13-2301.

B. Subsection A, paragraph 2 of this section shall not apply to:

1. A person in his dwelling, on his business premises or on real property owned or leased by that person or that person's parent, grandparent or legal guardian.

2. A member of the sheriff's volunteer posse or reserve organization who has received and passed firearms training that is approved by the Arizona peace officer standards and training board and who is authorized by the sheriff to carry a concealed weapon pursuant to section 11-441.

3. A firearm that is carried in:

(a) A manner where any portion of the firearm or holster in which the firearm is carried is visible.

(b) A holster that is wholly or partially visible.

(c) A scabbard or case designed for carrying weapons that is wholly or partially visible.

(d) Luggage.

(e) A case, holster, scabbard, pack or luggage that is carried within a means of transportation or within a storage compartment, map pocket, trunk or glove compartment of a means of transportation.

C. Subsection A, paragraphs 2, 3, 7, 10, 11, 12 and 13 of this section shall not apply to:

1. A peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties; or

2. A member of the military forces of the United States or of any state of the United States in the performance of official duties; or

3. A warden, deputy warden, community correctional officer, detention officer, special investigator or correctional officer of the state department of corrections or the department of juvenile corrections; or

4. A person specifically licensed, authorized or permitted pursuant to a statute of this state or of the United States.

D. Subsection A, paragraphs 3 and 7 of this section shall not apply to:

1. The possessing, transporting, selling or transferring of weapons by a museum as a part of its collection or an educational institution for educational purposes or by an authorized employee of such museum or institution, if:

(a) Such museum or institution is operated by the United States or this state or a political subdivision of this state, or by an organization described in 26 United States Code section 170(c) as a recipient of a charitable contribution; and

(b) Reasonable precautions are taken with respect to theft or misuse of such material.

2. The regular and lawful transporting as merchandise; or

3. Acquisition by a person by operation of law such as by gift, devise or descent or in a fiduciary capacity as a recipient of the property or former property of an insolvent, incapacitated or deceased person.

E. Subsection A, paragraph 3 of this section shall not apply to the merchandise of an authorized manufacturer of or dealer in prohibited weapons, when such material is intended to be manufactured, possessed, transported, sold or transferred solely for or to a dealer, a regularly constituted or appointed state, county or municipal police department or police officer, a detention facility, the military service of this or another state or the United States, a museum or educational institution or a person specifically licensed or permitted pursuant to federal or state law.

F. Subsection A, paragraph 10 of this section shall not apply to shooting ranges or shooting events, hunting areas or similar locations or activities.

G. Subsection A, paragraph 3 of this section shall not apply to a weapon described in section 13-3101, subsection A, paragraph 8, subdivision (a), item (v), if such weapon is possessed for the purposes of preparing for, conducting or participating in lawful exhibitions, demonstrations, contests or athletic events involving the use of such weapon. Subsection A, paragraph

Chs. 85 and 211 ~~10~~ 12 of this section shall not apply to a weapon if such weapon is possessed for the purposes of preparing for, conducting or participating in hunter or firearm safety courses.

H. Subsection A, paragraph 12 of this section shall not apply to the possession of a:

1. Firearm that is not loaded and that is carried within a means of transportation under the control of an adult provided that if the adult leaves the means of transportation the firearm shall not be visible from the outside of the means of transportation and the means of transportation shall be locked.

2. Firearm for use on the school grounds in a program approved by a school.

3. Firearm by a person who possesses a certificate of firearms

Ch. 85 proficiency pursuant to section 13-3112, subsection ~~W~~ T and who is authorized to carry a concealed firearm pursuant to the law enforcement officers safety act of 2004 (P.L. 108-277; 118 Stat. 865; 18 United States Code sections 926B and 926C).

Ch. 211 I. SUBSECTION A, PARAGRAPHS 2, 3, 7 AND 13 OF THIS SECTION SHALL NOT APPLY TO COMMERCIAL NUCLEAR GENERATING STATION ARMED NUCLEAR SECURITY GUARDS DURING THE PERFORMANCE OF OFFICIAL DUTIES OR DURING ANY SECURITY TRAINING EXERCISES SPONSORED BY THE COMMERCIAL NUCLEAR GENERATING STATION OR LOCAL, STATE OR FEDERAL AUTHORITIES.

~~I.~~ J. The operator of the establishment or the sponsor of the event or the employee of the operator or sponsor or the agent of the sponsor, including a public entity or public employee, is not liable for acts or omissions pursuant to subsection A, paragraph 10 of this section unless the operator, sponsor, employee or agent intended to cause injury or was grossly negligent.

~~J.~~ K. If a law enforcement officer contacts a person who is in possession of a firearm, the law enforcement officer may take temporary custody of the firearm for the duration of that contact.

~~K.~~ L. Misconduct involving weapons under subsection A, paragraph 15 of this section is a class 2 felony. Misconduct involving weapons under subsection A, paragraph 9 or 14 of this section is a class 3 felony. Misconduct involving weapons under subsection A, paragraph 3, 4, 8 or 13 of this section is a class 4 felony. Misconduct involving weapons under subsection A, paragraph 12 of this section is a class 1 misdemeanor unless the violation occurs in connection with conduct that violates section 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section 13-3409 or section 13-3411, in which case the offense is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, subdivision (a) of this section or subsection A, paragraph 5, 6 or 7 of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraph 1, subdivision (b) of this section or subsection A, paragraph 10 or 11 of this section is a class 1 misdemeanor. Misconduct involving weapons under subsection A, paragraph 2 of this section is a class 3 misdemeanor.

~~L.~~ M. For the purposes of this section:

1. "Contacted by a law enforcement officer" means a lawful traffic or criminal investigation, arrest or detention or an investigatory stop by a law enforcement officer that is based on reasonable suspicion that an offense has been or is about to be committed.

2. "Public establishment" means a structure, vehicle or craft that is owned, leased or operated by this state or a political subdivision of this state.

3. "Public event" means a specifically named or sponsored event of limited duration that is either conducted by a public entity or conducted by a private entity with a permit or license granted by a public entity. Public event does not include an unsponsored gathering of people in a public place.

4. "School" means a public or nonpublic kindergarten program, common school or high school.

5. "School grounds" means in, or on the grounds of, a school.

EXPLANATION OF BLEND
SECTION 14-5303

Laws 2011, Chapters 225 and 354

Laws 2011, Ch. 225, section 4 — Effective July 20, 2011

Laws 2011, Ch. 354, section 5 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 225 and Ch. 354 text changes to section 14-5303 are blended effective from and after December 31, 2011 in the form shown on the following pages. However, both the blend version and the Ch. 225 version of section 14-5303 will be published since the Ch. 225 version becomes effective before the Ch. 354 version. The publisher will automatically delete the Ch. 225 version on publication of the appropriate pocket part.

BLEND OF SECTION 14-5303
Laws 2011, Chapters 225 and 354

14-5303. Procedure for court appointment of a guardian of an alleged incapacitated person

A. The alleged incapacitated person or any person interested in that person's affairs or welfare may petition for the appointment of a guardian or for any other appropriate protective order.

B. The petition shall contain a statement that the authority granted to the guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid, and shall state,
Ch. 354— AT A MINIMUM AND to the extent known, ALL OF THE FOLLOWING:

1. The interest of the petitioner.

2. The name, age, residence and address of the alleged incapacitated person.

3. The name, address and priority for appointment of the person whose appointment is sought.

4. The name and address of the conservator, if any, of the alleged incapacitated person.

5. The name and address of the nearest relative of the alleged incapacitated person known to the petitioner.

6. A general statement of the property of the alleged incapacitated person, with an estimate of its value and including any compensation, insurance, pension or allowance to which the person is entitled.

7. The reason why appointment of a guardian or any other protective order is necessary.

8. The type of guardianship requested. If a general guardianship is requested, the petition must state that other alternatives have been explored and why a limited guardianship is not appropriate. If a limited guardianship is requested, the petition also must state what specific powers are requested.

Ch. 225— 9. IF A CUSTODIAL ORDER WAS PREVIOUSLY ENTERED REGARDING AN ALLEGED INCAPACITATED PERSON IN A CHILD CUSTODY ACTION OR SIMILAR PROCEEDING IN THIS STATE OR ANOTHER JURISDICTION AND THE PETITIONER OR PROPOSED GUARDIAN IS A PARENT OR NONPARENT CUSTODIAN OF THE ALLEGED INCAPACITATED PERSON, THE COURT AND CASE NUMBER FOR THAT ACTION OR PROCEEDING.

C. On the filing of a petition, the court shall set a hearing date on the issues of incapacity. Unless the alleged incapacitated person is represented by independent counsel, the court shall appoint an attorney to represent that person in the proceeding. The alleged incapacitated person shall be interviewed by an investigator appointed by the court and shall be examined by a physician, psychologist or registered nurse appointed by the
Ch. 354— court. IF THE ALLEGED INCAPACITATED PERSON HAS AN ESTABLISHED RELATIONSHIP WITH A PHYSICIAN, PSYCHOLOGIST OR REGISTERED NURSE WHO IS DETERMINED BY THE COURT TO BE QUALIFIED TO EVALUATE THE CAPACITY OF THE ALLEGED INCAPACITATED PERSON, THE COURT MAY APPOINT THE ALLEGED INCAPACITATED PERSON'S PHYSICIAN, PSYCHOLOGIST OR REGISTERED NURSE PURSUANT TO THIS SUBSECTION. The

investigator and the person conducting the examination shall submit their reports in writing to the court. In addition to information required under subsection D, the court may direct that either report include other information the court deems appropriate. The investigator also shall interview the person seeking appointment as guardian, visit the present place of abode of the alleged incapacitated person and the place where it is proposed that the person will be detained or reside if the requested appointment is made and submit a report in writing to the court. The alleged incapacitated person is entitled to be present at the hearing and to see or hear all evidence bearing on that person's condition. The alleged incapacitated person is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed examiner and investigator, and to trial by jury. The court may determine the issue at a closed hearing if the alleged incapacitated person or that person's counsel so requests.

D. A report filed pursuant to this section by a physician, psychologist or registered nurse acting within that person's scope of practice shall include the following information:

1. A specific description of the physical, psychiatric or psychological diagnosis of the person.

2. A comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in communicating informed decisions regarding that person.

3. An analysis of the tasks of daily living the alleged incapacitated person is capable of performing without direction or with minimal direction.

4. A list of all medications the alleged incapacitated person is receiving, the dosage of the medications and a description of the effects each medication has on the person's behavior to the best of the declarant's knowledge.

5. A prognosis for improvement in the alleged incapacitated person's condition and a recommendation for the most appropriate rehabilitation plan or care plan.

6. Other information the physician, psychologist or registered nurse deems appropriate.

EXPLANATION OF BLEND
SECTION 14-5312.01

Laws 2011, Chapters 257 and 262

Laws 2011, Ch. 257, section 1 — Effective July 20

Laws 2011, Ch. 262, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 257 and Ch. 262 text changes to section 14-5312.01 are blended in the form shown on the following pages.

BLEND OF SECTION 14-5312.01
Laws 2011, Chapters 257 and 262

14-5312.01. Inpatient treatment; rights and duties of ward and guardian

A. Except as provided in subsection B of this section, a guardian of an incapacitated person may consent to psychiatric and psychological care and treatment, including the administration of psychotropic medications, if the care and treatment take place outside a level one behavioral health facility licensed by the department of health services.

B. On clear and convincing evidence that the ward is incapacitated as a result of a mental disorder as defined in section 36-501, and is ~~currently~~ LIKELY TO BE in need of inpatient mental health care and treatment WITHIN THE PERIOD OF THE AUTHORITY GRANTED PURSUANT TO THIS SECTION, the court may authorize a guardian appointed pursuant to this title to give consent for the ward to receive inpatient mental health care and treatment, including placement in a level one behavioral health facility licensed by the department of health services and medical, psychiatric and psychological treatment associated with that placement. The evidence shall be supported by the opinion of a mental health expert who is either a physician licensed pursuant to title 32, chapter 13 or 17 and who is a specialist in psychiatry or a psychologist who is licensed pursuant to title 32, chapter 19.1.

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C. In making its decision to grant authority to a guardian pursuant to subsection B of this section, the court shall consider the cause of the ward's disability and the ward's foreseeable clinical needs. The court shall limit the guardian's authority to what is reasonably necessary to obtain the care required for the ward in the least restrictive treatment alternative. The court may limit the duration of the guardian's authority to consent to inpatient mental health care and treatment and include other orders the court determines necessary to protect the ward's best interests.

D. Within forty-eight hours after placement of the ward pursuant to this section, the guardian shall give notice of this action to the ward's attorney. When the attorney receives this notice the attorney shall assess the appropriateness of the placement pursuant to section 36-537, subsection B and section 36-546, subsection H. If requested by the attorney, the court shall hold a hearing on the appropriateness of the placement within three days after receiving that request.

E. The behavioral health treatment facility shall assess the appropriateness of the ward's placement every thirty days and shall provide a copy of the assessment report to the ward's attorney. The ward's attorney may attend the ward's evaluation, staffing, treatment team and case management meetings.

F. When the ward is admitted to a level one behavioral health treatment facility pursuant to this section, the guardian shall provide the facility with the name, address and telephone number of the ward's attorney. The facility shall include this information in the ward's treatment record.

G. Within twenty-four hours after the facility receives any writing in which the ward requests release from the facility, any change in placement or a change in the type or duration of treatment, the facility shall forward this information to the ward's attorney.

H. All health care providers, treatment facilities and regional behavioral health authorities shall allow the ward's attorney access to all of the ward's medical, psychiatric, psychological and other treatment records.

I. The ward's guardian shall place the ward in a least restrictive Ch. 257 —— treatment alternative within ~~ten~~ FIVE days after the guardian is notified by the medical director of the inpatient facility that the ward no longer needs inpatient care. The ward, a representative of the inpatient treatment facility, the ward's attorney, the ward's physician or any other interested person may petition the court to order the facility to discharge the ward to a least restrictive treatment alternative if the guardian does not act promptly to do so.

J. If the ward is in a behavioral health treatment facility at the time of the initial hearing on the petition for appointment of a guardian, the court investigator and the ward's attorney shall advise the court of the appropriateness of the placement.

K. An attorney appointed pursuant to section 14-5303, subsection C remains the attorney of record until the attorney is discharged by the court. The court shall ensure that a ward whose guardian has been granted mental health treatment authority is represented by an attorney at all times the guardian has that authority. Unless the court finds that the ward has insufficient assets to meet the ward's reasonable and necessary care and living expenses, the ward shall pay the attorney's reasonable fees.

L. If deemed necessary to adequately assess a request for mental health treatment authority or to review the ward's placement in a behavioral health treatment facility, the court may order an independent evaluation by either a physician who is licensed pursuant to title 32, chapter 13 or 17 and who is a specialist in psychiatry or a psychologist who is licensed pursuant to title 32, chapter 19.1. If the ward has insufficient funds to pay the total cost of this evaluation, the court may deem all or any part of the evaluator's fee to be a county expense after determining the reasonableness of that fee.

M. Instead of ordering an independent evaluation pursuant to subsection L of this section, the court may accept a report conducted on behalf of the behavioral health treatment facility if the court finds that the report meets the requirements of an independent evaluation.

N. The court may decide that the ward's right to retain or obtain a driver license and any other civil right that may be suspended by operation of law is not affected by the appointment of a guardian.

O. If the court grants the guardian the authority to consent to inpatient mental health care and treatment pursuant to this section, the medical director of a level one behavioral health facility licensed by the department of health services may admit the ward at the guardian's request.

P. A guardian who is authorized by the court to consent to inpatient mental health care and treatment pursuant to this section shall file with the annual report of the guardian required pursuant to section 14-5315 an

evaluation report by a physician or a psychologist who meets the requirements of subsection B of this section. The evaluation report shall indicate if the ward ~~currently needs~~ WILL LIKELY NEED inpatient mental health care and treatment WITHIN THE PERIOD OF THE AUTHORITY GRANTED PURSUANT TO THIS SECTION. If the guardian does not file the evaluation report or if the report indicates that the ward ~~does~~ WILL not LIKELY need inpatient mental health care and treatment, the guardian's authority to consent to this treatment ceases ON THE EXPIRATION OF THE PERIOD SPECIFIED IN THE PRIOR COURT ORDER. If the report ~~indicates that the ward currently needs this~~ SUPPORTS THE CONTINUATION OF THE GUARDIAN'S AUTHORITY TO CONSENT TO INPATIENT treatment, THE COURT MAY ORDER THAT the guardian's authority to consent to this treatment continues. If the report supports the continuation of the guardian's authority to consent to this treatment, the ward's attorney shall review the report with the ward. The ward may contest the continuation of the guardian's authority by filing a request for a court hearing within ten business days after the report is filed. The court shall hold this hearing within thirty calendar days after it receives the request. The guardian's authority continues pending the court's ruling on the issue. At the hearing the guardian has the burden of proving by clear and convincing evidence that the ward is ~~currently~~ LIKELY TO BE in need of inpatient mental health care and treatment WITHIN THE PERIOD OF THE AUTHORITY GRANTED PURSUANT TO THIS SECTION.

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Q. The court may discharge an attorney who was appointed pursuant to section 14-5303, subsection C subsequent to the appointment of a guardian if it clearly appears from specific facts presented by affidavit or verified petition that continued representation of the ward is no longer necessary or desirable. The factual basis must include, at a minimum, consideration of the following:

1. The nature and history of the ward's illness.
2. The ward's history of hospitalization.
3. The ward's current and anticipated living arrangements.
4. Whether the ward's inpatient treatment is anticipated to be a one-time hospitalization for the purpose of stabilizing the ward's condition and further hospitalizations are not likely to be necessary.
5. Whether the ward's current and anticipated living arrangements are the least restrictive alternatives possible.

EXPLANATION OF BLEND
SECTION 14-5401

Laws 2011, Chapters 225 and 354

Laws 2011, Ch. 225, section 5 — Effective July 20, 2011

Laws 2011, Ch. 354, section 15 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 225 and Ch. 354 text changes to section 14-5401 are blended effective from and after December 31, 2011 in the form shown on the following page. However, both the blend version and the Ch. 225 version of section 14-5401 will be published since the Ch. 225 version becomes effective before the Ch. 354 version. The publisher will automatically delete the Ch. 225 version on publication of the appropriate pocket part.

BLEND OF SECTION 14-5401
Laws 2011, Chapters 225 and 354

14-5401. Protective proceedings

Ch. 225 / Chs. 225 and 354 — A. [~~Upon~~ ON] petition and after notice and a hearing ~~in accordance with the provisions of~~ PURSUANT TO this article, the court may appoint a conservator or make another protective order for cause as follows:

1. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection ~~which~~ THAT cannot otherwise be provided or has or may have affairs ~~which~~ THAT may be jeopardized or prevented by ~~his~~ minority or that funds are needed for ~~his~~ THE MINOR'S support and education and that protection is necessary or desirable to obtain or provide funds. (Chs. 225 and 354)

Ch. 354 — 2. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court ~~determines~~ SPECIFICALLY FINDS ON THE RECORD both of the following:

(a) The person is unable to manage the person's estate and affairs effectively for reasons such as mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance.

Chs. 225 and 354 — (b) The person has property ~~which~~ THAT will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

Ch. 225 — B. ON PETITION AND AFTER NOTICE AND A HEARING PURSUANT TO THIS ARTICLE, THE COURT MAY CONTINUE A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER ENTERED PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION BEYOND THE MINOR'S EIGHTEENTH BIRTHDAY IF THE COURT DETERMINES THAT THE ORDER IS APPROPRIATE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION. THE PETITION SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 14-5404, SUBSECTION B AND MUST BE FILED AFTER THE MINOR'S SEVENTEENTH BIRTHDAY AND BEFORE TERMINATION OF THE CONSERVATORSHIP BY COURT ORDER.

EXPLANATION OF BLEND
SECTION 14-5405

Laws 2011, Chapters 225 and 354

Laws 2011, Ch. 225, section 6 — Effective July 20, 2011

Laws 2011, Ch. 354, section 18 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 225 and Ch. 354 text changes to section 14-5405 are blended effective from and after December 31, 2011 in the form shown on the following page. However, both the blend version and the Ch. 225 version of section 14-5405 will be published since the Ch. 225 version becomes effective before the Ch. 354 version. The publisher will automatically delete the Ch. 225 version on publication of the appropriate pocket part.

BLEND OF SECTION 14-5405
Laws 2011, Chapters 225 and 354

14-5405. Notice in conservatorship proceedings

Ch. 354 — A. In a proceeding for the appointment or ~~removal~~ SUBSTITUTION of a conservator of a protected person or person allegedly in need of protection, other than the appointment of a temporary conservator or temporary suspension of a conservator, AND IN A PROCEEDING TO CONTINUE A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO SECTION 14-5401, SUBSECTION B, notice of the hearing shall be given to each of the following:

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1. The protected person or the person allegedly in need of protection if that person is fourteen years of age or older.

2. The spouse, parents and adult children of the protected person or person allegedly in need of protection, or if no spouse, parents or adult children can be located, at least one adult relative of the protected person or the person allegedly in need of protection, if such a relative can be found.

3. Any person who is serving as guardian or conservator or who has the care and custody of the protected person or person allegedly in need of protection.

4. Any person who has filed a demand for notice.

B. At least fourteen days before the hearing notice shall be served personally on the protected person or the person allegedly in need of protection and that person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the protected person or the person allegedly in need of protection shall be given in accordance with section 14-1401. Waiver of notice by the protected person or the person allegedly in need of protection is not effective unless the protected person or the person allegedly in need of protection attends the hearing.

EXPLANATION OF BLEND
SECTION 14-5407

Laws 2011, Chapters 225 and 354

Laws 2011, Ch. 225, section 7 — Effective July 20, 2011

Laws 2011, Ch. 354, section 19 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 225 and Ch. 354 text changes to section 14-5407 are blended effective from and after December 31, 2011 in the form shown on the following page. However, both the blend version and the Ch. 225 version of section 14-5407 will be published since the Ch. 225 version becomes effective before the Ch. 354 version. The publisher will automatically delete the Ch. 225 version on publication of the appropriate pocket part.

The Laws 2011, Ch. 354 version of section 14-5407 made a technical change in subsection B in a different manner than the Ch. 225 version. Since this would not produce a substantive change, the blend version reflects the Ch. 225 version.

The Laws 2011, Ch. 225 version of section 14-5407 made a technical change in subsection E to words the Ch. 354 version struck. Since this would not produce a substantive change, the blend version reflects the Ch. 354 version.

BLEND OF SECTION 14-5407
Laws 2011, Chapters 225 and 354

14-5407. Procedure concerning hearing and order on original petition

A. On the filing of a petition for appointment of a conservator or any other protective order because of minority, the court shall set a hearing date on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it shall appoint an attorney to represent the minor. If the minor is at least fourteen years of age the court shall consider the choice of the minor.

B. On the filing of a petition for appointment of a conservator or any other protective order for reasons other than minority, OR ON THE FILING OF A PETITION FOR CONTINUATION OF A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO SECTION 14-5401, SUBSECTION B, the court shall set a hearing date. Unless the person to be protected has counsel of ~~his~~ THAT PERSON'S own choice, the court shall appoint an attorney to represent ~~him~~ THAT PERSON. If the alleged disability is mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, or chronic intoxication, the court shall appoint an investigator to interview the person to be protected. On petition by an interested person or on the court's own motion, the court may direct that an appropriate medical or psychological evaluation of the person be conducted. The investigator and the person conducting the medical or psychological evaluation shall submit written reports to the court before the hearing date.

C. In any case where the veterans administration is or may be an interested party, a certificate of an authorized official of the veterans administration that the person allegedly in need of protection has been found incapable of handling the benefits payable, on examination in accordance with the laws and regulations governing the veterans administration, is prima facie evidence of the necessity for appointment of a conservator.

D. The person allegedly in need of protection is entitled to be present at the hearing, to be represented by counsel, to present evidence and to cross-examine witnesses, including any court appointed examiner and investigator. The issue may be determined at a closed hearing if the person allegedly in need of protection or that person's counsel so requests.

E. After the hearing, [~~upon~~] ~~a finding~~ AND AFTER MAKING SPECIFIC FINDINGS ON THE RECORD that a basis for the appointment of a conservator or any other protective order has been established, the court shall make an appointment or other appropriate protective order.

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EXPLANATION OF BLEND
SECTION 15-185 (as amended by Laws 2010, Seventh Special Session, Ch. 8, section 1 and Laws 2010, Ch. 17, section 2, Ch. 306, section 1, Ch. 332, section 4 and Ch. 333, section 2)

Laws 2011, Chapters 29, 238, 310 and 344

Laws 2011, Ch. 29, section 1	Effective July 20
Laws 2011, Ch. 238, section 4	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 310, section 1	Effective July 20
Laws 2011, Ch. 344, section 6	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 29, Ch. 238, Ch. 310 and Ch. 344 text changes to section 15-185 (as amended by Laws 2010, Seventh Special Session, Ch. 8, sec. 1 and Laws 2010, Ch. 17, sec. 2, Ch. 306, sec. 1, Ch. 332, sec. 4 and Ch. 333, sec.2) are blended in the form shown on the following pages.

BLEND OF SECTION 15-185 (as amended by Laws 2010, Seventh Special Session, Ch. 8, section 1 and Laws 2010, Second Regular Session, Ch. 17, section 2, Ch. 306, section 1, Ch. 332, section 4 and Ch. 333, section 2)
Laws 2011, Chapters 29, 238 and 344

15-185. Charter schools; financing; civil penalty; transportation; definitions

A. Financial provisions for a charter school that is sponsored by a school district governing board are as follows:

1. The charter school shall be included in the district's budget and financial assistance calculations pursuant to paragraph 3 of this subsection and chapter 9 of this title, except for chapter 9, article 4 of this title. The charter of the charter school shall include a description of the methods of funding the charter school by the school district. The school district shall send a copy of the charter and application, including a description of how the school district plans to fund the school, to the state board of education before the start of the first fiscal year of operation of the charter school. The charter or application shall include an estimate of the student count for the charter school for its first fiscal year of operation. This estimate shall be computed pursuant to the requirements of paragraph 3 of this subsection.

2. A school district is not financially responsible for any charter school that is sponsored by the state board of education, the state board for charter schools, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts.

3. A school district that sponsors a charter school may:

(a) Increase its student count as provided in subsection B, paragraph 2 of this section during the first year of the charter school's operation to include those charter school pupils who were not previously enrolled in the school district. A charter school sponsored by a school district governing board is eligible for the assistance prescribed in subsection B, paragraph 4 of this section. The soft capital allocation as provided in section 15-962 for the school district sponsoring the charter school shall be increased by the amount of the additional assistance. The school district shall include the full amount of the additional assistance in the funding provided to the charter school.

(b) Compute separate weighted student counts pursuant to section 15-943, paragraph 2, subdivision (a) for its noncharter school versus charter school pupils in order to maintain eligibility for small school district support level weights authorized in section 15-943, paragraph 1 for its noncharter school pupils only. The portion of a district's student count that is attributable to charter school pupils is not eligible for small school district support level weights.

4. If a school district uses the provisions of paragraph 3 of this subsection, the school district is not eligible to include those pupils in

its student count for the purposes of computing an increase in its revenue control limit and district support level as provided in section 15-948.

5. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing an increase in its capital outlay revenue limit as provided in section 15-961, subsection C, except that if the charter school was previously a school in the district, the district may include in its student count any charter school pupils who were enrolled in the school district in the prior year.

6. A school district that sponsors a charter school is not eligible to include the charter school pupils in its student count for the purpose of computing the revenue control limit which is used to determine the maximum budget increase as provided in chapter 4, article 4 of this title unless the charter school is located within the boundaries of the school district.

7. If a school district converts one or more of its district public schools to a charter school and receives assistance as prescribed in subsection B, paragraph 4 of this section, and subsequently converts the charter school back to a district public school, the school district shall repay the state the total additional assistance received for the charter school for all years that the charter school was in operation. The repayment shall be in one lump sum and shall be reduced from the school district's current year equalization assistance. The school district's general budget limit shall be reduced by the same lump sum amount in the current year.

B. Financial provisions for a charter school that is sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts are as follows:

1. The charter school shall calculate a base support level as prescribed in section 15-943, except that section 15-941 does not apply to these charter schools.

2. Notwithstanding paragraph 1 of this subsection, the student count shall be determined initially using an estimated student count based on actual registration of pupils before the beginning of the school year. After the first one hundred days or two hundred days in session, as applicable, the charter school shall revise the student count to be equal to the actual average daily membership, as defined in section 15-901, ~~or the adjusted average daily membership, as prescribed in section 15-902,~~ of the charter school. ~~A charter school that provides two hundred days of instruction may use section 15-902.02 for the purposes of this section.~~ Before the one hundredth day or two hundredth day in session, as applicable, the state board of education, the state board for charter schools, the sponsoring university, the sponsoring community college district or the sponsoring group of community college districts may require a charter school to report periodically regarding pupil enrollment and attendance, and the department of education may revise its computation of equalization assistance based on the report. A charter school shall revise its student count, base support level and additional assistance before May 15. A charter school that overestimated its student count shall revise its budget before May 15. A charter school that underestimated its student count may revise its budget before May 15.

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3. A charter school may utilize section 15-855 for the purposes of this section. The charter school and the department of education shall prescribe procedures for determining ~~average daily attendance and~~ average daily membership.

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4. Equalization assistance for the charter school shall be determined by adding the amount of the base support level and additional assistance. The amount of the additional assistance is one thousand six hundred ~~seven dollars fifty~~ TWENTY-ONE DOLLARS NINETY-SEVEN cents per student count in kindergarten programs and grades one through eight and one thousand eight hundred ~~seventy-three dollars fifty-two~~ NINETY DOLLARS THIRTY-EIGHT cents per student count in grades nine through twelve.

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5. The state board of education shall apportion state aid from the appropriations made for such purposes to the state treasurer for disbursement to the charter schools in each county in an amount as determined by this paragraph. The apportionments shall be made as prescribed in section 15-973, subsection B.

6. The charter school shall not charge tuition for pupils who reside in this state, levy taxes or issue bonds. A charter school may admit pupils who are not residents of this state and shall charge tuition for those pupils in the same manner prescribed in section 15-823.

7. Not later than noon on the day preceding each apportionment date established by paragraph 5 of this subsection, the superintendent of public instruction shall furnish to the state treasurer an abstract of the apportionment and shall certify the apportionment to the department of administration, which shall draw its warrant in favor of the charter schools for the amount apportioned.

C. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the sum of the daily membership, which includes enrollment as prescribed in section 15-901, subsection A, paragraph ~~2~~ 1, subdivisions (a) and (b) and daily attendance as prescribed in section 15-901, subsection A, paragraph ~~6~~ 5, for that pupil in the school district and the charter school shall not exceed 1.0, except that if the pupil is enrolled in both a charter school and a joint technical education district and resides within the boundaries of a school district participating in the joint technical education district, the sum of the average daily membership for that pupil in the charter school and the joint technical education district shall not exceed 1.25. If a pupil is enrolled in both a charter school and a public school that is not a charter school, the department of education shall direct the average daily membership to the school with the most recent enrollment date. Upon validation of actual enrollment in both a charter school and a public school that is not a charter school and if the sum of the daily membership or daily attendance for that pupil is greater than 1.0, the sum shall be reduced to 1.0 and shall be apportioned between the public school and the charter school based on the percentage of total time that the pupil is enrolled or in attendance in the public school and the charter school, except that if the pupil is enrolled in both a charter school and a joint technical education district and resides within the boundaries of a school district participating in the joint technical education district, the sum of the average daily membership for that pupil in the charter school and the joint technical education district shall be reduced to 1.25 and shall

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be apportioned between the charter school and the joint technical education district based on the percentage of total time that the pupil is enrolled or in attendance in the charter school and the joint technical education district. The uniform system of financial records shall include guidelines for the apportionment of the pupil enrollment and attendance as provided in this section.

D. Charter schools are allowed to accept grants and gifts to supplement their state funding, but it is not the intent of the charter school law to require taxpayers to pay twice to educate the same pupils. The base support level for a charter school or for a school district sponsoring a charter school shall be reduced by an amount equal to the total amount of monies received by a charter school from a federal or state agency if the federal or state monies are intended for the basic maintenance and operations of the school. The superintendent of public instruction shall estimate the amount of the reduction for the budget year and shall revise the reduction to reflect the actual amount before May 15 of the current year. If the reduction results in a negative amount, the negative amount shall be used in computing all budget limits and equalization assistance, except that:

1. Equalization assistance shall not be less than zero.

2. For a charter school sponsored by the state board of education, the state board for charter schools, a university, a community college district or a group of community college districts, the total of the base support level and the additional assistance shall not be less than zero.

3. For a charter school sponsored by a school district, the base support level for the school district shall not be reduced by more than the amount that the charter school increased the district's base support level, capital outlay revenue limit and soft capital allocation.

E. If a charter school was a district public school in the prior year and is now being operated for or by the same school district and sponsored by the state board of education, the state board for charter schools, a university, a community college district, a group of community college districts or a school district governing board, the reduction in subsection D of this section applies. The reduction to the base support level of the charter school or the sponsoring district of the charter school shall equal the sum of the base support level and the additional assistance received in the current year for those pupils who were enrolled in the traditional public school in the prior year and are now enrolled in the charter school in the current year.

F. Equalization assistance for charter schools shall be provided as a single amount based on average daily membership without categorical distinctions between maintenance and operations or capital.

G. At the request of a charter school, the county school superintendent of the county where the charter school is located may provide the same educational services to the charter school as prescribed in section 15-308, subsection A. The county school superintendent may charge a fee to recover costs for providing educational services to charter schools.

H. If the sponsor of the charter school determines at a public meeting that the charter school is not in compliance with federal law, with the laws of this state or with its charter, the sponsor of a charter school may submit a request to the department of education to withhold up to ten per cent of

the monthly apportionment of state aid that would otherwise be due the charter school. The department of education shall adjust the charter school's apportionment accordingly. The sponsor shall provide written notice to the charter school at least seventy-two hours before the meeting and shall allow the charter school to respond to the allegations of noncompliance at the meeting before the sponsor makes a final determination to notify the department of education of noncompliance. The charter school shall submit a corrective action plan to the sponsor on a date specified by the sponsor at the meeting. The corrective action plan shall be designed to correct deficiencies at the charter school and to ensure that the charter school promptly returns to compliance. When the sponsor determines that the charter school is in compliance, the department of education shall restore the full amount of state aid payments to the charter school.

I. In addition to the withholding of state aid payments pursuant to subsection H of this section, the sponsor of a charter school may impose a civil penalty of one thousand dollars per occurrence if a charter school fails to comply with the fingerprinting requirements prescribed in section 15-183, subsection C or section 15-512. The sponsor of a charter school shall not impose a civil penalty if it is the first time that a charter school is out of compliance with the fingerprinting requirements and if the charter school provides proof within forty-eight hours of written notification that an application for the appropriate fingerprint check has been received by the department of public safety. The sponsor of the charter school shall obtain proof that the charter school has been notified, and the notification shall identify the date of the deadline and shall be signed by both parties. The sponsor of a charter school shall automatically impose a civil penalty of one thousand dollars per occurrence if the sponsor determines that the charter school subsequently violates the fingerprinting requirements. Civil penalties pursuant to this subsection shall be assessed by requesting the department of education to reduce the amount of state aid that the charter school would otherwise receive by an amount equal to the civil penalty. The amount of state aid withheld shall revert to the state general fund at the end of the fiscal year.

J. A charter school may receive and spend monies distributed by the department of education pursuant to section 42-5029, subsection E and section 37-521, subsection B.

K. If a school district transports or contracts to transport pupils to the Arizona state schools for the deaf and the blind during any fiscal year, the school district may transport or contract with a charter school to transport sensory impaired pupils during that same fiscal year to a charter school if requested by the parent of the pupil and if the distance from the pupil's place of actual residence within the school district to the charter school is less than the distance from the pupil's place of actual residence within the school district to the campus of the Arizona state schools for the deaf and the blind.

L. Notwithstanding any other law, a university under the jurisdiction of the Arizona board of regents, a community college district or a group of community college districts shall not include any student in the student count of the university, community college district or group of community college districts for state funding purposes if that student is enrolled in

and attending a charter school sponsored by the university, community college district or group of community college districts.

M. The governing body of a charter school shall transmit a copy of its proposed budget or the summary of the proposed budget and a notice of the public hearing to the department of education for posting on the department of education's website no later than ten days before the hearing and meeting. If the charter school maintains a website, the charter school governing body shall post on its website a copy of its proposed budget or the summary of the proposed budget and a notice of the public hearing.

Ch. 310 N. The governing body of a charter school ~~may contract~~ SHALL COLLABORATE with the private organization that is approved by the state board of education pursuant to section 15-792.02 to provide approved board examination systems for the charter school.

Ch. 344 O. IF PERMITTED BY FEDERAL LAW, A CHARTER SCHOOL MAY OPT OUT OF FEDERAL GRANT OPPORTUNITIES IF THE CHARTER HOLDER OR THE APPROPRIATE GOVERNING BODY OF THE CHARTER SCHOOL DETERMINES THAT THE FEDERAL REQUIREMENTS IMPOSE UNDULY BURDENSOME REPORTING REQUIREMENTS.

~~O.~~ P. For the purposes of this section:

1. "Monies intended for the basic maintenance and operations of the school" means monies intended to provide support for the educational program of the school, except that it does not include supplemental assistance for a specific purpose or title VIII of the elementary and secondary education act of 1965 monies. The auditor general shall determine which federal or state monies meet the definition in this paragraph.

2. "Operated for or by the same school district" means the charter school is either governed by the same district governing board or operated by the district in the same manner as other traditional schools in the district or is operated by an independent party that has a contract with the school district. The auditor general and the department of education shall determine which charter schools meet the definition in this subsection.

EXPLANATION OF BLEND
SECTION 15-241 (as amended by Laws 2010, Ch. 333, sec. 3)

Laws 2011, Chapters 49, 221 and 238

Laws 2011, Ch. 49, section 1	Effective July 20
Laws 2011, Ch. 221, section 1	Effective July 20
Laws 2011, Ch. 238, section 6	Effective July 20 (Retroactive to July 1)

Explanation

Since the Ch. 221 version includes all the changes made by the Ch. 49 and Ch. 238 versions, the Laws 2011, Ch. 221 amendment of section 15-241(as amended by Laws 2010, Ch. 333, sec. 3) is the blend of the Laws 2011, Ch. 49, Ch. 221 and Ch. 238 versions.

BLEND OF SECTION 15-241 (as amended by Laws 2010, Ch. 333, sec. 3)
Laws 2011, Chapters 49, 221 and 238

15-241. School accountability; schools failing to meet academic standards; failing schools tutoring fund; classification label for school districts and charter school operators

A. The department of education shall compile an annual achievement profile for each public school.

B. Each school shall submit to the department any data that is required and requested and that is necessary to compile the achievement profile. A school that fails to submit the information that is necessary is not eligible to receive monies from the classroom site fund established by section 15-977.

C. The department shall establish a baseline achievement profile for each school. The baseline achievement profile shall be used to determine a standard measurement of acceptable academic progress for each school and a school classification pursuant to subsection H of this section. Any disclosure of educational records compiled by the department of education pursuant to this section shall comply with the family educational and privacy rights act of 1974 (20 United States Code section 1232g).

D. The achievement profile for schools that offer instruction in kindergarten programs and grades one through eight, or any combination of those programs or grades, shall include the following school academic performance indicators:

1. The Arizona measure of academic progress. The department shall compute the extent of academic progress made by the pupils in each school during the course of each year.

2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

3. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

E. The achievement profile for schools that offer instruction in grades nine through twelve, or any combination of those grades, shall include the following school academic performance indicators:

1. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils pursuant to subsection G of this section who meet or exceed the standard on the Arizona instrument to measure

standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

2. The annual dropout rate.

3. The annual graduation rate.

4. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

F. Schools that offer instruction in all or a combination of the grades specified in subsections D and E of this section shall include a single achievement profile for that school that includes the school academic performance indicators specified in subsections D and E of this section.

G. Subject to final adoption by the state board of education, the department shall determine the criteria for each school classification using a research based methodology. The methodology shall include the performance of pupils at all achievement levels, account for pupil mobility, account for the distribution of pupil achievement at each school and include longitudinal indicators of academic performance. For the purposes of this subsection, "research based methodology" means the systematic and objective application of statistical and quantitative research principles to determine a standard measurement of acceptable academic progress for each school.

H. Except as provided in subsection EE of this section, the achievement profile shall be used to determine a school classification that designates each school as one of the following:

1. An excelling school.

2. A highly performing school.

3. A performing school.

4. An underperforming school.

5. A school failing to meet academic standards.

I. The classification for each school and the criteria used to determine classification pursuant to subsection G of this section shall be included on the school report card prescribed in section 15-746.

J. Subject to final adoption by the state board of education, the department of education shall develop a parallel achievement profile for accommodation schools, alternative schools as defined by the state board of education and extremely small schools as defined by the state board of education for the purposes of this section.

K. If a school is designated as an underperforming school, within ninety days after receiving notice of the designation, the governing board shall develop an improvement plan for the school, submit a copy of the plan to the superintendent of public instruction and supervise the implementation of the plan. The plan shall include necessary components as identified by the state board of education. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a special public meeting in each school that has been

designated as an underperforming school and shall present the respective improvement plans that have been developed for each school. The school district governing board, within thirty days of receiving notice of the designation, shall provide written notification of the classification to each residence within the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection.

L. A school that has not submitted an improvement plan pursuant to subsection K of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

M. If a charter school is designated as an underperforming school, within thirty days the school shall notify the parents of the students attending the school of the classification. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection. Within ninety days of receiving the classification, the charter holder shall present an improvement plan to the charter sponsor at a public meeting and submit a copy of the plan to the superintendent of public instruction. The improvement plan shall include necessary components as identified by the state board of education. For every day that an improvement plan is not received by the superintendent of public instruction, the school is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The charter holder shall appear before the sponsoring board and explain why the improvement plan has not been submitted.

N. The department of education shall establish an appeals process, to be approved by the state board of education, for a school to appeal data used to determine the achievement profile of the school. The criteria established shall be based on mitigating factors and may include a visit to the school site by the department of education.

O. If a school remains classified as an underperforming school for a third consecutive year, the department of education shall visit the school site to confirm the classification data and to review the implementation of the school's improvement plan. The school shall be classified as failing to meet academic standards unless an alternate classification is made after an appeal pursuant to subsection N of this section.

P. The school district governing board, within thirty days of receiving notice of the school failing to meet academic standards classification, shall provide written notification of the classification to each residence in the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by subsection S of this section.

Q. The superintendent of public instruction, based on need, shall assign a solutions team to an underperforming school, a school failing to meet academic standards or any other school pursuant to a mutual agreement between the department of education and the school comprised of master teachers, fiscal analysts and curriculum assessment experts who are certified by the state board of education as Arizona academic standards technicians. The department of education may hire or contract with administrators, principals and teachers who have demonstrated experience with the characteristics and situations in an underperforming school or a school failing to meet academic standards and may use these personnel as part of the solutions team. The department of education shall work with staff at the school to assist in curricula alignment and shall instruct teachers on how to increase pupil academic progress, considering the school's achievement profile. The solutions team shall consider the existing improvement plan to assess the need for changes to curriculum, professional development and resource allocation and shall present a statement of its findings to the school administrator and district superintendent. Within forty-five days after the presentation of the solutions team's statement of findings, the school district governing board, in cooperation with each school within the school district that is designated an underperforming school and its assigned solutions team representative, shall develop and submit to the department of education an action plan that details the manner in which the school district will assist the school as the school incorporates the findings of the solutions team into the improvement plan. The department of education shall review the action plan and shall either accept the action plan or return the action plan to the school district for modification. If the school district does not submit an approved action plan within forty-five days, the state board of education may direct the superintendent of public instruction to withhold up to ten per cent of state monies that the school district would otherwise be entitled to receive each month until the plan is submitted to the department of education, at which time those monies shall be returned to the school district.

R. The parent or the guardian of the pupil may apply to the department of education, in a manner determined by the department of education, for a certificate of supplemental instruction from the failing schools tutoring fund established by this section. Pupils attending a school designated as an underperforming school or a school failing to meet academic standards or a pupil who has failed to pass one or more portions of the Arizona instrument to measure standards test in grades eight through twelve in order to graduate from high school may select an alternative tutoring program in academic standards from a provider that is certified by the state board of education. To qualify, the provider must state in writing a level of academic improvement for the pupil that includes a timeline for improvement that is agreed to by the parent or guardian of the pupil. The state board of education shall annually review academic performance levels for providers certified pursuant to this subsection and may remove a provider at a public hearing from an approved list of providers if that provider fails to meet its stated level of academic improvement. The state board of education shall determine the application guidelines and the maximum value for each certificate of supplemental instruction. The state board of education shall

annually complete a market survey in order to determine the maximum value for each certificate of supplemental instruction. Nothing in this subsection shall be construed to require the state to provide additional monies beyond the monies provided pursuant to section 42-5029, subsection E, paragraph 7.

S. Within sixty days of receiving notification of designation as a school failing to meet academic standards, the school district governing board shall evaluate needed changes to the existing improvement plan for the school, consider recommendations from the solutions team, submit a copy of the plan to the superintendent of public instruction and supervise the implementation of the plan. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a public meeting in each school that has been designated as a school failing to meet academic standards and shall present the respective improvement plans that have been developed for each school.

T. A school that has not submitted an improvement plan pursuant to subsection S of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection S of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

U. If a charter school is designated as a school failing to meet academic standards, the department of education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the charter school's charter. Within thirty days the school shall notify the parents of the students attending the school of the classification and of any pending public meetings to review the issue.

V. A school that has been designated as a school failing to meet academic standards shall be evaluated by the department of education to determine if the school failed to properly implement its school improvement plan, align the curriculum with academic standards, provide teacher training, prioritize the budget or implement other proven strategies to improve academic performance. After visiting the school site pursuant to subsection O of this section, the department of education shall submit to the state board of education a recommendation to proceed pursuant to subsections Q, R and S of this section or that the school be subject to a public hearing to determine if the school failed to properly implement its improvement plan and the reasons for the department's recommendation.

W. If the department does recommend a public hearing, the state board of education shall meet and may provide by a majority vote at the public hearing for the continued operation of the school as allowed by this subsection. The state board of education shall determine whether governmental, nonprofit and private organizations may submit applications to the state board to fully or partially manage the school. The state board's determination shall include:

1. If and to what extent the local governing board may participate in the operation of the school including personnel matters.

2. If and to what extent the state board of education shall participate in the operation of the school.

3. Resource allocation pursuant to subsection Y of this section.

4. Provisions for the development and submittal of a school improvement plan to be presented in a public meeting at the school.

5. A suggested time frame for the alternative operation of the school.

X. The state board shall periodically review the status of a school that is operated by an organization other than the school district governing board to determine whether the operation of the school should be returned to the school district governing board. Before the state board makes a determination, the state board or its designee shall meet with the school district governing board or its designee to determine the time frame, operational considerations and the appropriate continuation of existing improvements that are necessary to assure a smooth transition of authority from the other organization back to the school district governing board.

Y. If an alternative operation plan is provided pursuant to subsection W of this section, the state board of education shall pay for the operation of the school and shall adjust the school district's ~~student count pursuant to section 15-902,~~ soft capital allocation pursuant to section 15-962, capital outlay revenue limit pursuant to section 15-961, base support level pursuant to section 15-943, monies distributed from the classroom site fund established by section 15-977 and transportation support level pursuant to section 15-945 to accurately reflect any reduction in district services that are no longer provided to that school by the district. The state board of education may modify the school district's revenue control limit, the district support level and the general budget limit calculated pursuant to section 15-947 by an amount that corresponds to this reduction in services. The state board of education shall retain the portion of state aid that would otherwise be due the school district for the school and shall distribute that portion of state aid directly to the organization that contracts with the state board of education to operate the school.

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Z. If the state board of education determines that a charter school failed to properly implement its improvement plan, the sponsor of the charter school shall revoke the charter school's charter.

AA. If there are more than two schools in a district and more than one-half, or in any case more than five, of the schools in the district are designated as schools failing to meet academic standards for more than two consecutive years, in the next election of members of the governing board the election ballot shall contain the following statement immediately above the listing of governing board candidates:

> Within the last five years, (number of schools) schools in the _____ school district have been designated as "schools failing to meet academic standards" by the superintendent of public instruction.

BB. At least twice each year the department of education shall publish in a newspaper of general circulation in each county of this state a list of schools that are designated as schools failing to meet academic standards.

CC. The failing schools tutoring fund is established consisting of monies collected pursuant to section 42-5029, subsection E as designated for this purpose. The department of education shall administer the fund. The

department of education may use monies from the fund to purchase materials designed to assist students to meet the Arizona academic standards and to achieve a passing score on the Arizona instrument to measure standards test in order to graduate from high school.

DD. The department of education may develop a classification label for school districts and charter school operators. If the department of education develops a classification label for school districts and charter school operators, the classification label may be developed from the following components:

1. Measures of academic progress.

2. Pupil assessment data.

3. The attendance rates and graduation rates of pupils who are educated in that charter school operator's charter schools or in that school district's schools.

4. The percentage of the parents of pupils enrolled in that charter school operator's charter schools or in that school district's schools that categorizes the quality of their child's education as excellent on a parental rating of school quality.

EE. The state board of education shall determine appropriate modifications to the criteria used to calculate achievement profiles for schools that participate in the board examination system prescribed in chapter 7, article 6 of this title.

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FF. THE STATE BOARD OF EDUCATION SHALL ADOPT GUIDELINES TO INCLUDE SUPPLEMENTARY TRAINING IN READING INSTRUCTION FOR TEACHERS WHO PROVIDE INSTRUCTION TO PUPILS IN A KINDERGARTEN PROGRAM OR GRADE ONE, TWO OR THREE IN AN IMPROVEMENT PLAN PURSUANT TO SUBSECTION K OF THIS SECTION.

EXPLANATION OF BLEND
SECTION 15-241 (as amended by Laws 2011, Ch. 49, sec. 1, Ch. 221, sec. 1 and Ch. 238, sec. 6)

Laws 2011, Chapters 49, 221 and 238

Laws 2011, Ch. 49, section 3	Effective September 1
Laws 2011, Ch. 221, section 3	Effective September 1
Laws 2011, Ch. 238, section 8	Effective September 1

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 49, Ch. 221 and Ch. 238 text changes to section 15-241 are blended in the form shown on the following pages.

BLEND OF SECTION 15-241 (as amended by Laws 2011, Ch. 49, sec. 1, Ch. 221, sec. 1 and Ch. 238, sec. 6)
Laws 2011, Chapters 49, 221 and 238

15-241. School and school district accountability; failing schools tutoring fund; classification label for school districts and charter school operators

A. The department of education shall compile an annual achievement profile for each public school AND SCHOOL DISTRICT.

B. Each school AND SCHOOL DISTRICT shall submit to the department any data that is required and requested and that is necessary to compile the achievement profile. A school OR SCHOOL DISTRICT that fails to submit the information that is necessary is not eligible to receive monies from the classroom site fund established by section 15-977.

C. The department shall establish a baseline achievement profile for each school AND SCHOOL DISTRICT. The baseline achievement profile shall be used to determine a standard measurement of acceptable academic progress for each school AND SCHOOL DISTRICT and a school AND SCHOOL DISTRICT classification pursuant to subsection H of this section. Any disclosure of educational records compiled by the department of education pursuant to this section shall comply with the family educational and privacy rights act of 1974 (20 United States Code section 1232g).

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D. The achievement profile for schools AND SCHOOL DISTRICTS that offer instruction in kindergarten programs and grades one through eight, or any combination of those programs or grades, shall include the following school academic performance indicators:

1. The Arizona measure of academic progress. The department shall compute the extent of academic progress made by the pupils in each school AND SCHOOL DISTRICT during the course of each year.

2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

3. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

E. The achievement profile for schools AND SCHOOL DISTRICTS that offer instruction in grades nine through twelve, or any combination of those grades, shall include the following school academic performance indicators:

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1. THE ARIZONA MEASURE OF ACADEMIC PROGRESS. THE DEPARTMENT SHALL COMPUTE THE EXTENT OF ACADEMIC PROGRESS MADE BY THE PUPILS AT EACH SCHOOL.

~~1.~~ 2. The Arizona instrument to measure standards test. The department shall compute the percentage of pupils pursuant to subsection G of

this section who meet or exceed the standard on the Arizona instrument to measure standards test, as prescribed by the state board of education. The superintendent of public instruction and the department may calculate academic gain on the Arizona instrument to measure standards test according to each of the school classifications prescribed in subsection G of this section on a statewide basis, for each school district in this state and for each school by determining the average scale scores for students in the current academic year as compared to the average scale scores for the previous academic year for the same students.

~~2.~~ 3. The annual dropout rate.

~~3.~~ 4. The annual graduation rate.

~~4.~~ 5. The results of English language learners tests administered pursuant to section 15-756, subsection B, section 15-756.05 and section 15-756.06.

F. Schools AND SCHOOL DISTRICTS that offer instruction in all or a combination of the grades specified in subsections D and E of this section shall include a single achievement profile for that school AND SCHOOL DISTRICT that includes the school academic performance indicators specified in subsections D and E of this section.

G. Subject to final adoption by the state board of education, the department shall determine the criteria for each school AND SCHOOL DISTRICT classification using a research based methodology. The methodology shall include the performance of pupils at all achievement levels, account for pupil mobility, account for the distribution of pupil achievement at each school AND SCHOOL DISTRICT and include longitudinal indicators of academic performance. FIFTY PER CENT OF THE SCHOOL AND SCHOOL DISTRICT CLASSIFICATION DETERMINATION SHALL CONSIST OF ACADEMIC PERFORMANCE MEASUREMENTS. FIFTY PER CENT OF THE ACADEMIC PERFORMANCE MEASUREMENT SHALL CONSIST OF A MEASUREMENT OF ACADEMIC GAIN FOR ALL PUPILS ENROLLED AT THE SCHOOL OR SCHOOL DISTRICT AND FIFTY PER CENT OF THE ACADEMIC PERFORMANCE MEASUREMENTS SHALL CONSIST OF A MEASUREMENT OF THE TWENTY-FIVE PER CENT OF PUPILS WITH THE LOWEST ACADEMIC PERFORMANCE MEASUREMENT ENROLLED AT THE SCHOOL OR SCHOOL DISTRICT. For the purposes of this subsection, "research based methodology" means the systematic and objective application of statistical and quantitative research principles to determine a standard measurement of acceptable academic progress for each school AND SCHOOL DISTRICT.

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H. Except as provided in subsection EE of this section, the achievement profile shall be used to determine a school AND SCHOOL DISTRICT classification that ~~designates each school as one of the following~~ USES A LETTER GRADE SYSTEM AS FOLLOWS:

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~~1. An excelling school.~~

~~2. A highly performing school.~~

~~3. A performing school.~~

~~4. An underperforming school.~~

~~5. A school failing to meet academic standards.~~

1. A SCHOOL OR SCHOOL DISTRICT ASSIGNED A LETTER GRADE OF A SHALL DEMONSTRATE AN EXCELLENT LEVEL OF PERFORMANCE.

2. A SCHOOL OR SCHOOL DISTRICT ASSIGNED A LETTER GRADE OF B SHALL DEMONSTRATE AN ABOVE AVERAGE LEVEL OF PERFORMANCE.

3. A SCHOOL OR SCHOOL DISTRICT ASSIGNED A LETTER GRADE OF C SHALL DEMONSTRATE AN AVERAGE LEVEL OF PERFORMANCE.

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4. A SCHOOL OR SCHOOL DISTRICT ASSIGNED A LETTER GRADE OF D SHALL DEMONSTRATE A BELOW AVERAGE LEVEL OF PERFORMANCE.

5. A SCHOOL OR SCHOOL DISTRICT ASSIGNED A LETTER GRADE OF F SHALL DEMONSTRATE A FAILING LEVEL OF PERFORMANCE. THE STATE BOARD OF EDUCATION MAY ALSO ASSIGN A SCHOOL A LETTER GRADE OF F IF THE STATE BOARD OF EDUCATION DETERMINES THAT THE SCHOOL IS AMONG THE "PERSISTENTLY LOWEST-ACHIEVING SCHOOLS" IN THE STATE UNDER THE FEDERAL SCHOOL ACCOUNTABILITY REQUIREMENTS PURSUANT TO SECTION 1003(g) OF THE ELEMENTARY AND SECONDARY EDUCATION ACT (20 UNITED STATES CODE SECTION 6303).

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I. The classification for each school and the criteria used to determine classification pursuant to subsection G of this section shall be included on the school report card prescribed in section 15-746.

J. Subject to final adoption by the state board of education, the department of education shall develop a parallel achievement profile for accommodation schools, alternative schools as defined by the state board of education and extremely small schools as defined by the state board of education for the purposes of this section.

K. If a school is ~~designated as an underperforming school~~ ASSIGNED A LETTER GRADE OF D, within ninety days after receiving notice of the designation, the governing board shall develop an improvement plan for the school, submit a copy of the plan to the superintendent of public instruction AND THE COUNTY EDUCATIONAL SERVICE AGENCY and supervise the implementation of the plan. The plan shall include necessary components as identified by the state board of education. Within thirty days after submitting the improvement plan to the superintendent of public instruction AND THE COUNTY EDUCATIONAL SERVICE AGENCY, the governing board shall hold a special public meeting in each school that has been ~~designated as an underperforming school~~ ASSIGNED A LETTER GRADE OF D and shall present the respective improvement plans that have been developed for each school. The school district governing board, within thirty days of receiving notice of the designation, shall provide written notification of the classification to each residence within the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection.

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L. A school that has not submitted an improvement plan pursuant to subsection K of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

M. If a charter school is ~~designated as an underperforming school~~ ASSIGNED A LETTER GRADE OF D, within thirty days the school shall notify the parents of the students attending the school of the classification. The notice shall explain the improvement plan process and provide information regarding the public meeting required by this subsection. Within ninety days of receiving the classification, the charter holder shall present an

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improvement plan to the charter sponsor at a public meeting and submit a copy of the plan to the superintendent of public instruction. The improvement plan shall include necessary components as identified by the state board of education. For every day that an improvement plan is not received by the superintendent of public instruction AND THE COUNTY EDUCATIONAL SERVICE AGENCY, the school is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection K of this section plus an additional ninety days. The charter holder shall appear before the sponsoring board and explain why the improvement plan has not been submitted.

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N. The department of education shall establish an appeals process, to be approved by the state board of education, for a school to appeal data used to determine the achievement profile of the school. The criteria established shall be based on mitigating factors and may include a visit to the school site by the department of education.

O. If a school ~~remains classified as an underperforming school~~ IS ASSIGNED A LETTER GRADE OF D for a third consecutive year, the department of education shall visit the school site to confirm the classification data and to review the implementation of the school's improvement plan. The school shall be ~~classified as failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F unless an alternate ~~classification~~ LETTER GRADE is ~~made~~ ASSIGNED after an appeal pursuant to subsection N of this section.

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P. The school district governing board, within thirty days of receiving notice of the school ~~failing to meet academic standards classification~~ BEING ASSIGNED A LETTER GRADE OF F, shall provide written notification of the classification to each residence in the attendance area of the school. The notice shall explain the improvement plan process and provide information regarding the public meeting required by subsection S of this section.

Q. The superintendent of public instruction IN COLLABORATION WITH THE COUNTY EDUCATIONAL SERVICE AGENCY, based on need, shall assign a solutions team to ~~an underperforming school~~ A SCHOOL ASSIGNED A LETTER GRADE OF D, a school ~~failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F or any other school pursuant to a mutual agreement between the department of education and the school comprised of master teachers, fiscal analysts and curriculum assessment experts who are certified by the state board of education as Arizona academic standards technicians. The department of education OR THE COUNTY EDUCATIONAL SERVICE AGENCY may hire or contract with administrators, principals and teachers who have demonstrated experience with the characteristics and situations in ~~an underperforming school or a school failing to meet academic standards~~ A SCHOOL ASSIGNED A LETTER GRADE OF D OR F and may use these personnel as part of the solutions team. The department of education shall work with staff at the school to assist in curricula alignment and shall instruct teachers on how to increase pupil academic progress, considering the school's achievement profile. The solutions team shall consider the existing improvement plan to assess the need for changes to curriculum, professional development and resource allocation and shall present a statement of its findings to the school administrator and district superintendent. Within forty-five days after the presentation of the

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solutions team's statement of findings, the school district governing board, in cooperation with each school within the school district that is ~~designated an underperforming school~~ ASSIGNED A LETTER GRADE OF D and its assigned solutions team representative, shall develop and submit to the department of education AND THE COUNTY EDUCATIONAL SERVICE AGENCY an action plan that details the manner in which the school district will assist the school as the school incorporates the findings of the solutions team into the improvement plan. The department of education shall review the action plan and shall either accept the action plan or return the action plan to the school district for modification. If the school district does not submit an approved action plan within forty-five days, the state board of education may direct the superintendent of public instruction to withhold up to ten per cent of state monies that the school district would otherwise be entitled to receive each month until the plan is submitted to the department of education AND THE COUNTY EDUCATIONAL SERVICE AGENCY, at which time those monies shall be returned to the school district.

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R. The parent or the guardian of the pupil may apply to the department of education, in a manner determined by the department of education, for a certificate of supplemental instruction from the failing schools tutoring fund established by this section. Pupils attending a school ~~designated as an underperforming school or a school failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF D OR F or a pupil who has failed to pass one or more portions of the Arizona instrument to measure standards test in grades eight through twelve in order to graduate from high school may select an alternative tutoring program in academic standards from a provider that is certified by the state board of education. To qualify, the provider must state in writing a level of academic improvement for the pupil that includes a timeline for improvement that is agreed to by the parent or guardian of the pupil. The state board of education shall annually review academic performance levels for providers certified pursuant to this subsection and may remove a provider at a public hearing from an approved list of providers if that provider fails to meet its stated level of academic improvement. The state board of education shall determine the application guidelines and the maximum value for each certificate of supplemental instruction. The state board of education shall annually complete a market survey in order to determine the maximum value for each certificate of supplemental instruction. Nothing in this subsection shall be construed to require the state to provide additional monies beyond the monies provided pursuant to section 42-5029, subsection E, paragraph 7.

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S. Within sixty days of receiving notification of ~~designation as~~ a school ~~failing to meet academic standards~~ BEING ASSIGNED A LETTER GRADE OF F, the school district governing board shall evaluate needed changes to the existing improvement plan for the school, consider recommendations from the solutions team, submit a copy of the plan to the superintendent of public instruction AND THE COUNTY EDUCATIONAL SERVICE AGENCY and supervise the implementation of the plan. Within thirty days after submitting the improvement plan to the superintendent of public instruction, the governing board shall hold a public meeting in each school that has been ~~designated as a school failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F and

shall present the respective improvement plans that have been developed for each school.

T. A school that has not submitted an improvement plan pursuant to subsection S of this section is not eligible to receive monies from the classroom site fund established by section 15-977 for every day that a plan has not been received by the superintendent of public instruction within the time specified in subsection S of this section plus an additional ninety days. The state board of education shall require the superintendent of the school district to testify before the board and explain the reasons that an improvement plan for that school has not been submitted.

U. If a charter school is ~~designated as a school failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F, the department of education shall immediately notify the charter school's sponsor. The charter school's sponsor shall either take action to restore the charter school to acceptable performance or revoke the charter school's charter. Within thirty days the school shall notify the parents of the students attending the school of the classification and of any pending public meetings to review the issue.

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V. A school that has been ~~designated as a school failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F shall be evaluated by the department of education to determine if the school failed to properly implement its school improvement plan, align the curriculum with academic standards, provide teacher training, prioritize the budget or implement other proven strategies to improve academic performance. After visiting the school site pursuant to subsection O of this section, the department of education shall submit to the state board of education a recommendation to proceed pursuant to subsections Q, R and S of this section or that the school be subject to a public hearing to determine if the school failed to properly implement its improvement plan and the reasons for the department's recommendation.

W. If the department does recommend a public hearing, the state board of education shall meet and may provide by a majority vote at the public hearing for the continued operation of the school as allowed by this subsection. The state board of education shall determine whether governmental, nonprofit and private organizations may submit applications to the state board to fully or partially manage the school. The state board's determination shall include:

1. If and to what extent the local governing board may participate in the operation of the school including personnel matters.

2. If and to what extent the state board of education shall participate in the operation of the school.

3. Resource allocation pursuant to subsection Y of this section.

4. Provisions for the development and submittal of a school improvement plan to be presented in a public meeting at the school.

5. A suggested time frame for the alternative operation of the school.

X. The state board shall periodically review the status of a school that is operated by an organization other than the school district governing board to determine whether the operation of the school should be returned to the school district governing board. Before the state board makes a determination, the state board or its designee shall meet with the school district governing board or its designee to determine the time frame,

operational considerations and the appropriate continuation of existing improvements that are necessary to assure a smooth transition of authority from the other organization back to the school district governing board.

Y. If an alternative operation plan is provided pursuant to subsection W of this section, the state board of education shall pay for the operation of the school and shall adjust the school district's soft capital allocation pursuant to section 15-962, capital outlay revenue limit pursuant to section 15-961, base support level pursuant to section 15-943, monies distributed from the classroom site fund established by section 15-977 and transportation support level pursuant to section 15-945 to accurately reflect any reduction in district services that are no longer provided to that school by the district. The state board of education may modify the school district's revenue control limit, the district support level and the general budget limit calculated pursuant to section 15-947 by an amount that corresponds to this reduction in services. The state board of education shall retain the portion of state aid that would otherwise be due the school district for the school and shall distribute that portion of state aid directly to the organization that contracts with the state board of education to operate the school.

Z. If the state board of education determines that a charter school failed to properly implement its improvement plan, the sponsor of the charter school shall revoke the charter school's charter.

AA. If there are more than two schools in a district and more than one-half, or in any case more than five, of the schools in the district are ~~designated as schools failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F for more than two consecutive years, in the next election of members of the governing board the election ballot shall contain the following statement immediately above the listing of governing board candidates:

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> Within the last five years, (number of schools) schools in the _____ school district have been designated as "schools failing to meet academic standards" by the superintendent of public instruction.

BB. At least twice each year the department of education shall publish in a newspaper of general circulation in each county of this state a list of schools that are ~~designated as schools failing to meet academic standards~~ ASSIGNED A LETTER GRADE OF F.

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CC. The failing schools tutoring fund is established consisting of monies collected pursuant to section 42-5029, subsection E as designated for this purpose. The department of education shall administer the fund. The department of education may use monies from the fund to purchase materials designed to assist students to meet the Arizona academic standards and to achieve a passing score on the Arizona instrument to measure standards test in order to graduate from high school.

DD. The department of education may develop a classification label for school districts and charter school operators. If the department of education develops a classification label for school districts and charter school operators, the classification label may be developed from the following components:

1. Measures of academic progress.

2. Pupil assessment data.

3. The attendance rates and graduation rates of pupils who are educated in that charter school operator's charter schools or in that school district's schools.

4. The percentage of the parents of pupils enrolled in that charter school operator's charter schools or in that school district's schools that categorizes the quality of their child's education as excellent on a parental rating of school quality.

EE. The state board of education shall determine appropriate modifications to the criteria used to calculate achievement profiles for schools that participate in the board examination system prescribed in chapter 7, article 6 of this title.

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FF. The state board of education shall adopt guidelines to include supplementary training in reading instruction for teachers who provide instruction to pupils in a kindergarten program or grade one, two or three in an improvement plan pursuant to subsection K of this section.

EXPLANATION OF BLEND
SECTION 15-341

Laws 2011, Chapters 167, 196 and 344

Laws 2011, Ch. 167, section 1	Effective July 20
Laws 2011, Ch. 196, section 1	Effective July 20
Laws 2011, Ch. 344, section 11	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 167, Ch. 196 and Ch. 344 text changes to section 15-341 are blended in the form shown on the following pages.

BLEND OF SECTION 15-341
Laws 2011, Chapters 167, 196 and 344

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.

2. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character.

3. Manage and control the school property within its district.

4. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.

5. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.

6. Furnish, repair and insure, at full insurable value, the school property of the district.

7. Construct school buildings on approval by a vote of the district electors.

8. Make in the name of the district conveyances of property belonging to the district and sold by the board.

9. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

10. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

11. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

12. Hold pupils to strict account for disorderly conduct on school property.

13. Discipline students for disorderly conduct on the way to and from school.

14. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

15. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section 15-521, paragraph 2, the parent or legal guardian may request in writing that the governing board review the teacher's decision. Nothing in this paragraph shall be construed

to release school districts from any liability relating to a child's promotion or retention.

16. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

17. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

18. Make an annual report to the county school superintendent on or before October 1 in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

19. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 20 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

20. Establish bank accounts in which the board during a month may deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank accounts at least monthly to the county treasurer for deposit as provided in paragraph 19 of this subsection and in accordance with the uniform system of financial records.

21. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct that is a violation of the policies of the governing board but that is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

22. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct that is a violation of the policies of the governing board regarding duties of administrators but that is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations that are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters. For violations that are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a

weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

24. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district sponsored practice sessions, OR games or other interscholastic athletic activities, including:

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(a) The provision of water.

(b) GUIDELINES, INFORMATION AND FORMS, DEVELOPED IN CONSULTATION WITH A STATEWIDE PRIVATE ENTITY THAT SUPERVISES INTERSCHOLASTIC ACTIVITIES, TO INFORM AND EDUCATE COACHES, PUPILS AND PARENTS OF THE DANGERS OF CONCUSSIONS AND HEAD INJURIES AND THE RISKS OF CONTINUED PARTICIPATION IN ATHLETIC ACTIVITY AFTER A CONCUSSION. THE POLICIES AND PROCEDURES SHALL REQUIRE THAT, BEFORE A PUPIL PARTICIPATES IN AN ATHLETIC ACTIVITY, THE PUPIL AND THE PUPIL'S PARENT MUST SIGN AN INFORMATION FORM AT LEAST ONCE EACH SCHOOL YEAR THAT STATES THAT THE PARENT IS AWARE OF THE NATURE AND RISK OF CONCUSSION. THE POLICIES AND PROCEDURES SHALL REQUIRE THAT A PUPIL WHO IS SUSPECTED OF SUSTAINING A CONCUSSION IN A PRACTICE SESSION, GAME OR OTHER INTERSCHOLASTIC ATHLETIC ACTIVITY BE IMMEDIATELY REMOVED FROM THE ATHLETIC ACTIVITY. A COACH FROM THE PUPIL'S TEAM OR AN OFFICIAL OR A LICENSED HEALTH CARE PROVIDER MAY REMOVE A PUPIL FROM PLAY. A TEAM PARENT MAY ALSO REMOVE HIS OR HER OWN CHILD FROM PLAY. A PUPIL MAY RETURN TO PLAY ON THE SAME DAY IF A HEALTH CARE PROVIDER RULES OUT A SUSPECTED CONCUSSION AT THE TIME THE PUPIL IS REMOVED FROM PLAY. ON A SUBSEQUENT DAY, THE PUPIL MAY RETURN TO PLAY IF THE PUPIL HAS BEEN EVALUATED BY AND RECEIVED WRITTEN CLEARANCE TO RESUME PARTICIPATION IN ATHLETIC ACTIVITY FROM A HEALTH CARE PROVIDER WHO HAS BEEN TRAINED IN THE EVALUATION AND MANAGEMENT OF CONCUSSIONS AND HEAD INJURIES. A HEALTH CARE PROVIDER WHO IS A VOLUNTEER AND WHO PROVIDES CLEARANCE TO PARTICIPATE IN ATHLETIC ACTIVITY ON THE DAY OF THE SUSPECTED INJURY OR ON A SUBSEQUENT DAY IS IMMUNE FROM CIVIL LIABILITY WITH RESPECT TO ALL DECISIONS MADE AND ACTIONS TAKEN THAT ARE BASED ON GOOD FAITH IMPLEMENTATION OF THE REQUIREMENTS OF THIS SUBDIVISION, EXCEPT IN CASES OF GROSS NEGLIGENCE OR WANTON OR WILFUL NEGLECT. A SCHOOL DISTRICT, SCHOOL DISTRICT EMPLOYEE, TEAM COACH, OFFICIAL, TEAM VOLUNTEER OR A PARENT OR GUARDIAN OF A TEAM MEMBER IS NOT SUBJECT TO CIVIL LIABILITY FOR ANY ACT, OMISSION OR POLICY UNDERTAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION OR FOR A DECISION MADE OR AN ACTION TAKEN BY A HEALTH CARE PROVIDER. A GROUP OR ORGANIZATION THAT USES PROPERTY OR FACILITIES OWNED OR OPERATED BY A SCHOOL DISTRICT FOR ATHLETIC ACTIVITIES SHALL COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION. A SCHOOL DISTRICT AND ITS EMPLOYEES AND VOLUNTEERS ARE NOT SUBJECT TO CIVIL LIABILITY FOR ANY OTHER PERSON OR ORGANIZATION'S FAILURE OR ALLEGED FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION. THIS SUBDIVISION DOES NOT APPLY TO TEAMS THAT ARE BASED IN ANOTHER STATE AND THAT PARTICIPATE IN AN ATHLETIC ACTIVITY IN THIS STATE. FOR THE PURPOSES OF THIS SUBDIVISION, ATHLETIC ACTIVITY DOES NOT INCLUDE DANCE, RHYTHMIC GYMNASTICS, COMPETITIONS OR EXHIBITIONS OF ACADEMIC SKILLS OR KNOWLEDGE OR OTHER SIMILAR FORMS OF PHYSICAL NONCONTACT ACTIVITIES, CIVIC ACTIVITIES OR ACADEMIC ACTIVITIES, WHETHER ENGAGED IN FOR THE PURPOSES OF COMPETITION OR RECREATION. FOR THE PURPOSES OF THIS SUBDIVISION, "A HEALTH CARE PROVIDER" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17, AN ATHLETIC TRAINER WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 41, A NURSE PRACTITIONER WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 15, AND A PHYSICIAN ASSISTANT WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 25.

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25. Prescribe and enforce policies and procedures regarding the smoking of tobacco within school buildings. The policies and procedures shall be adopted in consultation with school district personnel and members of the community and shall state whether smoking is prohibited in school buildings. If smoking in school buildings is not prohibited, the policies and procedures shall clearly state the conditions and circumstances under which smoking is permitted, those areas in a school building that may be designated as smoking areas and those areas in a school building that may not be designated as smoking areas.

26. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

27. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

28. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

29. Ensure that insurance coverage is secured for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

30. Keep on file the resumes of all current and former employees who provide instruction to pupils at a school. Resumes shall include an individual's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the resume information and shall make the resume information available for inspection on request of parents and guardians of pupils enrolled at a school. Nothing in this paragraph shall be construed to require any school to release personally identifiable information in relation to any teacher or employee, including the teacher's or employee's address, salary, social security number or telephone number.

31. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined in section 13-706 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meanings prescribed in section 13-105.

32. In conjunction with local law enforcement agencies and local medical facilities, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

33. Provide written notice to the parents or guardians of all students affected in the school district at least ~~thirty~~ TEN days prior to a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than ~~thirty~~ TEN days before voting in a public

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meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school. A GOVERNING BOARD MAY CONSULT WITH THE SCHOOL FACILITIES BOARD FOR TECHNICAL ASSISTANCE AND FOR INFORMATION ON THE IMPACT OF CLOSING A SCHOOL. THE INFORMATION PROVIDED FROM THE SCHOOL FACILITIES BOARD SHALL NOT REQUIRE THE GOVERNING BOARD TO TAKE OR NOT TAKE ANY ACTION.

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34. Incorporate instruction on Native American history into appropriate existing curricula.

35. Prescribe and enforce policies and procedures allowing pupils who have been diagnosed with anaphylaxis by a health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse practitioner licensed and certified pursuant to title 32, chapter 15 to carry and self-administer emergency medications, including auto-injectable epinephrine, while at school and at school sponsored activities. The pupil's name on the prescription label on the medication container or on the medication device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration is sufficient proof that the pupil is entitled to the possession and self-administration of the medication. The policies shall require a pupil who uses auto-injectable epinephrine while at school and at school sponsored activities to notify the nurse or the designated school staff person of the use of the medication as soon as practicable. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on good faith implementation of the requirements of this paragraph, except in cases of wanton or wilful neglect.

36. Allow the possession and self-administration of prescription medication for breathing disorders in handheld inhaler devices by pupils who have been prescribed that medication by a health care professional licensed pursuant to title 32. The pupil's name on the prescription label on the medication container or on the handheld inhaler device and annual written documentation from the pupil's parent or guardian to the school that authorizes possession and self-administration shall be sufficient proof that the pupil is entitled to the possession and self-administration of the medication. A school district and its employees are immune from civil liability with respect to all decisions made and actions taken that are based on a good faith implementation of the requirements of this paragraph.

37. Prescribe and enforce policies and procedures to prohibit pupils from harassing, intimidating and bullying other pupils on school grounds, on school property, on school buses, at school bus stops ~~and~~, at school sponsored events and activities AND THROUGH THE USE OF ELECTRONIC TECHNOLOGY OR ELECTRONIC COMMUNICATION ON SCHOOL COMPUTERS, NETWORKS, FORUMS AND MAILING LISTS that include the following components:

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(a) A procedure for pupils, PARENTS AND SCHOOL DISTRICT EMPLOYEES to confidentially report to school officials incidents of harassment, intimidation or bullying. THE SCHOOL SHALL MAKE AVAILABLE WRITTEN FORMS

DESIGNED TO PROVIDE A FULL AND DETAILED DESCRIPTION OF THE INCIDENT AND ANY OTHER RELEVANT INFORMATION ABOUT THE INCIDENT.

~~(b) A procedure for parents and guardians of pupils to submit written reports to school officials of suspected incidents of harassment, intimidation or bullying.~~

~~(c)~~ (b) A requirement that school district employees report IN WRITING suspected incidents of harassment, intimidation or bullying to the appropriate school official AND A DESCRIPTION OF APPROPRIATE DISCIPLINARY PROCEDURES FOR EMPLOYEES WHO FAIL TO REPORT SUSPECTED INCIDENTS THAT ARE KNOWN TO THE EMPLOYEE.

(c) A REQUIREMENT THAT, AT THE BEGINNING OF EACH SCHOOL YEAR, SCHOOL OFFICIALS PROVIDE ALL PUPILS WITH A WRITTEN COPY OF THE RIGHTS, PROTECTIONS AND SUPPORT SERVICES AVAILABLE TO A PUPIL WHO IS AN ALLEGED VICTIM OF AN INCIDENT REPORTED PURSUANT TO THIS PARAGRAPH.

(d) IF AN INCIDENT IS REPORTED PURSUANT TO THIS PARAGRAPH, A REQUIREMENT THAT SCHOOL OFFICIALS PROVIDE A PUPIL WHO IS AN ALLEGED VICTIM OF THE INCIDENT WITH A WRITTEN COPY OF THE RIGHTS, PROTECTIONS AND SUPPORT SERVICES AVAILABLE TO THAT PUPIL.

~~(d)~~ (e) A formal process for the documentation of reported incidents of harassment, intimidation or bullying and for the confidentiality, maintenance and disposition of this documentation. SCHOOL DISTRICTS SHALL MAINTAIN DOCUMENTATION OF ALL INCIDENTS REPORTED PURSUANT TO THIS PARAGRAPH FOR AT LEAST SIX YEARS. ~~If a school maintains documentation of reported incidents of harassment, intimidation or bullying,~~ The school shall not use that documentation to impose disciplinary action unless the appropriate school official has investigated and determined that the reported incidents of harassment, intimidation or bullying occurred. IF A SCHOOL PROVIDES DOCUMENTATION OF REPORTED INCIDENTS TO PERSONS OTHER THAN SCHOOL OFFICIALS OR LAW ENFORCEMENT, ALL INDIVIDUALLY IDENTIFIABLE INFORMATION SHALL BE REDACTED.

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~~(e)~~ (f) A formal process for the investigation by the appropriate school officials of suspected incidents of harassment, intimidation or bullying, INCLUDING PROCEDURES FOR NOTIFYING THE ALLEGED VICTIM ON COMPLETION AND DISPOSITION OF THE INVESTIGATION.

~~(f)~~ (g) Disciplinary procedures for pupils who have admitted or been found to have committed incidents of harassment, intimidation or bullying.

~~(g)~~ (h) A procedure that sets forth consequences for submitting false reports of incidents of harassment, intimidation or bullying.

(i) PROCEDURES DESIGNED TO PROTECT THE HEALTH AND SAFETY OF PUPILS WHO ARE PHYSICALLY HARMED AS THE RESULT OF INCIDENTS OF HARASSMENT, INTIMIDATION AND BULLYING, INCLUDING, IF APPROPRIATE, PROCEDURES TO CONTACT EMERGENCY MEDICAL SERVICES OR LAW ENFORCEMENT AGENCIES, OR BOTH.

(j) DEFINITIONS OF HARASSMENT, INTIMIDATION AND BULLYING.

38. Prescribe and enforce policies and procedures regarding changing or adopting attendance boundaries that include the following components:

(a) A procedure for holding public meetings to discuss attendance boundary changes or adoptions that allows public comments.

(b) A procedure to notify the parents or guardians of the students affected.

(c) A procedure to notify the residents of the households affected by the attendance boundary changes.

(d) A process for placing public meeting notices and proposed maps on the school district's website for public review, if the school district maintains a website.

(e) A formal process for presenting the attendance boundaries of the affected area in public meetings that allows public comments.

(f) A formal process for notifying the residents and parents or guardians of the affected area as to the decision of the governing board on the school district's website, if the school district maintains a website.

(g) A formal process for updating attendance boundaries on the school district's website within ninety days of an adopted boundary change. The school district shall send a direct link to the school district's attendance boundaries website to the department of real estate.

(h) If the land that a school was built on was donated within the past five years, a formal process to notify the entity that donated the land affected by the decision of the governing board.

39. If the state board of education determines that the school district has committed an overexpenditure as defined in section 15-107, provide a copy of the fiscal management report submitted pursuant to section 15-107, subsection H on its website and make copies available to the public on request. The school district shall comply with a request within five business days after receipt.

40. Ensure that the contract for the superintendent is structured in a manner ~~where at least~~ IN WHICH UP TO twenty per cent of the total annual ~~compensation and benefits~~ SALARY included for the superintendent in the contract is classified as performance pay. Nothing in this paragraph shall be construed to require school districts to increase total compensation for superintendents. Unless the school district governing board votes to implement an alternative procedure at a public meeting called for this purpose, the performance pay portion of the superintendent's total annual compensation shall be determined as follows:

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(a) Twenty-five per cent of the performance pay shall be determined based on the percentage of academic gain determined by the department of education of pupils who are enrolled in the school district compared to the academic gain achieved by the highest ranking of the fifty largest school districts in this state. For the purposes of this subdivision, the department of education shall determine academic gain by the academic growth achieved by each pupil who has been enrolled at the same school in a school district for at least five consecutive months measured against that pupil's academic results in the 2008-2009 school year. For the purposes of this subdivision, of the fifty largest school districts in this state, the school district with pupils who demonstrate the highest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 100 and the school district with pupils who demonstrate the lowest statewide percentage of overall academic gain measured against academic results for the 2008-2009 school year shall be assigned a score of 0.

(b) Twenty-five per cent of the performance pay shall be determined by the percentage of parents of pupils who are enrolled at the school district who assign a letter grade of "A" to the school on a survey of parental satisfaction with the school district. The parental satisfaction survey shall be administered and scored by an independent entity that is selected by

the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The parental satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each parent who participates in the survey. The letter grade scale used on the parental satisfaction survey shall direct parents to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

(c) Twenty-five per cent of the performance pay shall be determined by the percentage of teachers who are employed at the school district and who assign a letter grade of "A" to the school on a survey of teacher satisfaction with the school. The teacher satisfaction survey shall be administered and scored by an independent entity that is selected by the governing board and that demonstrates sufficient expertise and experience to accurately measure the results of the survey. The teacher satisfaction survey shall use standard random sampling procedures and provide anonymity and confidentiality to each teacher who participates in the survey. The letter grade scale used on the teacher satisfaction survey shall direct teachers to assign one of the following letter grades:

(i) A letter grade of "A" if the school district is excellent.

(ii) A letter grade of "B" if the school district is above average.

(iii) A letter grade of "C" if the school district is average.

(iv) A letter grade of "D" if the school district is below average.

(v) A letter grade of "F" if the school district is a failure.

(d) Twenty-five per cent of the performance pay shall be determined by other criteria selected by the governing board.

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41. MAINTAIN AND STORE PERMANENT PUBLIC RECORDS OF THE SCHOOL DISTRICT AS REQUIRED BY LAW. NOTWITHSTANDING SECTION 39-101, THE STANDARDS ADOPTED BY THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS FOR THE MAINTENANCE AND STORAGE OF SCHOOL DISTRICT PUBLIC RECORDS SHALL ALLOW SCHOOL DISTRICTS TO ELECT TO SATISFY THE REQUIREMENTS OF THIS PARAGRAPH BY MAINTAINING AND STORING THESE RECORDS EITHER ON PAPER OR IN AN ELECTRONIC FORMAT, OR A COMBINATION OF A PAPER AND ELECTRONIC FORMAT.

B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to

section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district, its governing board members, its school council members and its employees are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district, its governing board members, its school council members or its employees are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in a reduction of pupil square footage unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in a reduction that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district capital outlay revenue limit monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through G of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

EXPLANATION OF BLEND
SECTION 15-393

Laws 2011, Chapters 29, 83, 238 and 258

Laws 2011, Ch. 29, section 7	Effective July 20
Laws 2011, Ch. 83, section 8	Effective July 20
Laws 2011, Ch. 238, section 11	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 258, section 1	Conditionally Effective

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 29, Ch. 83, Ch. 238 and Ch. 258 text changes to section 15-393 are blended in the form shown on the following pages.

BLEND OF SECTION 15-393
Laws 2011, Chapters 29, 83, 238 and 258

15-393. Joint technical education district governing board; report; definition

A. The management and control of the joint district are vested in the joint technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. Unless the governing boards of the school districts participating in the formation of the joint district vote to implement an alternative election system as provided in subsection B of this section, the joint board shall consist of five members elected from five single member districts formed within the joint district. The single member district election system shall be submitted as part of the plan for the joint district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the joint district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the joint district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the joint district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who is a resident of the single member district is eligible for election to the office of joint board member from the single member district. The terms of office of the members of the joint board shall be as prescribed in section 15-427, subsection B. An employee of a joint technical education district or the spouse of an employee shall not hold membership on a governing board of a joint technical education district by which the employee is employed. A member of one school district governing board or joint technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the member's seat on the governing board before becoming a candidate for nomination or election to the governing board of any other school district or joint technical education district, unless the member of the governing board is serving in the last year of a term of office.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the joint district may vote to implement any other alternative election system for the election of joint district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the joint district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The joint technical education district shall be subject to the following provisions of this title:

1. Chapter 1, articles 1 through 6.
2. Sections 15-208, 15-210, 15-213 and 15-234.
3. Articles 2, 3 and 5 of this chapter.
4. Section 15-361.
5. Chapter 4, articles 1, 2 and 5.
6. Chapter 5, articles 1, 2 and 3.
7. Sections 15-701.01, 15-722, 15-723, 15-724, 15-727, 15-728, 15-729 and 15-730.
8. Chapter 7, article 5.
9. Chapter 8, articles 1, 3 and 4.
10. Sections 15-828 and 15-829.
11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.
12. Sections 15-941, 15-943.01, 15-948, 15-952, 15-953 and 15-973.
13. Sections 15-1101 and 15-1104.
14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a joint technical education district:

1. A joint district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one per cent of the taxable property used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1, within the joint technical education district as ascertained by the last property tax assessment previous to issuing the bonds.

2. The number of governing board members for a joint district shall be as prescribed in subsection A of this section.

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3. If a career and technical education ~~and vocational education~~ course or program provided pursuant to this article is provided in a facility owned or operated by a school district in which a pupil is enrolled, including satellite courses, the sum of the AVERAGE daily ~~attendance~~ MEMBERSHIP, as provided in section 15-901, subsection A, paragraph [~~6~~ [~~5~~] 1], for that pupil in both the school district and joint technical education district shall not exceed 1.25. ~~and~~ The sum of the ~~fractional student enrollment~~ AVERAGE DAILY MEMBERSHIP, as provided in section 15-901, subsection A, paragraph [~~2~~ 1], ~~subdivision (a),~~ shall not exceed 1.25 for the courses taken in the school district and the facility, including satellite courses. The school district and the joint district shall determine the apportionment of the ~~daily attendance and fractional student~~

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~~enrollment~~ AVERAGE DAILY MEMBERSHIP for that pupil between the school district and the joint district. ~~Pupils in an approved joint technical education district satellite program may generate an average daily attendance for attendance hours during any hour of the day, during any day of the week and at any time beginning July 1 through June 30 of each fiscal year.~~ Ch. 258

4. The student count for the first year of operation of a joint technical education district as provided in this article shall be determined as follows:

(a) Determine the estimated student count for joint district classes that will operate in the first year of operation. This estimate shall be based on actual registration of pupils as of March 30 scheduled to attend classes that will be operated by the joint district. The student count for the district of residence of the pupils registered at the joint district shall be adjusted. The adjustment shall cause the district of residence to reduce the student count for the pupil to reflect the courses to be taken at the joint district. The district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the joint district.

(b) The student count for the new joint district shall be the student count as determined in subdivision (a) of this paragraph.

(c) ~~After the first one hundred days or two hundred days in session, as applicable,~~ For the first year of operation, the joint district shall revise the student count to the actual ~~student count~~ AVERAGE DAILY MEMBERSHIP AS PRESCRIBED IN SECTION 15-901, SUBSECTION A, PARAGRAPH 1 for students attending classes in the joint district. A joint district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01, the capital outlay revenue limit and the soft capital allocation as provided in section 15-962.01 prior to May 15. A joint district that overestimated its student count shall revise its budget prior to May 15. A joint district that underestimated its student count may revise its budget prior to May 15. Ch. 258

(d) After ~~the first one hundred days or two hundred days in session, as applicable, for~~ MARCH 15 OF the first year of operation, the district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the joint district. The district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944, the capital outlay revenue limit as provided in section 15-961 and the soft capital allocation as provided in section 15-962 prior to May 15. A district that underestimated the student count for students attending the joint district shall revise its budget prior to May 15. A district that overestimated the student count for students attending the joint district may revise its budget prior to May 15. Ch. 258

(e) A joint district for the first year of operation shall not be eligible for adjustment pursuant to section 15-948.

(f) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

(g) Pupils in an approved joint technical education district centralized program may generate an average daily ~~attendance~~ MEMBERSHIP of 1.0 ~~for attendance hours during any hour of the day,~~ during any day of the week and at any time between July 1 and June 30 of each fiscal year. For the purposes of this paragraph, "district of residence" means the district that included the pupil in its average daily membership for the year before the first year of operation of the joint district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the joint district if the pupil had not enrolled in the joint district.

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5. A student includes any person enrolled in the joint district without regard to the person's age or high school graduation status, except that:

(a) A student in a kindergarten program or in grades one through ~~eight~~ NINE who enrolls in courses offered by the joint technical education district shall not be included in the joint district's [~~average daily attendance or~~] STUDENT COUNT OR average daily membership.

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(b) A student in a kindergarten program or in grades one through ~~eight~~ NINE who is enrolled in [~~vocational~~] CAREER AND TECHNICAL education courses shall not be funded in whole or in part with monies provided by a joint technical education district, EXCEPT THAT A PUPIL IN GRADE NINE MAY BE FUNDED WITH MONIES GENERATED BY THE FIVE CENT QUALIFYING TAX RATE AUTHORIZED IN SUBSECTION F OF THIS SECTION.

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(c) A student who is over twenty-two years of age shall not be included in the student count of the joint district for the purposes of chapter 9, articles 3, 4 and 5 of this title.

~~(d) A student in grade nine who enrolls in a career exploration course shall not be included in the joint district's~~ [~~average daily attendance or~~] ~~average daily membership.~~

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6. A joint district may operate for more than one hundred seventy-five days per year, with expanded hours of service.

7. A joint district may use the excess utility costs provisions of section 15-910 in the same manner as a school district for fiscal years 1999-2000 and 2000-2001, except that the base year shall be the first full fiscal year of operations.

8. A joint district may use the carryforward provisions of section 15-943.01 retroactively to July 1, 1993.

9. A school district that is part of a joint district shall use any monies received pursuant to this article to supplement and not supplant base year career and technical education ~~and vocational education~~ courses, and directly related equipment and facilities, except that a school district that is part of a joint technical education district and that has used monies received pursuant to this article to supplant career and ~~technological~~ TECHNICAL education [~~and vocational education~~] courses that were offered before the first year that the school district participated in the joint district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and ~~technological~~ TECHNICAL education [~~and vocational education~~] courses shall use one hundred per cent of the monies received pursuant to

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this article to supplement and not supplant base year career and technical education ~~and vocational education~~ courses.

Ch. 258 — 10. A joint technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education ~~and vocational education~~ courses and directly related equipment and facilities.

11. A joint technical education district or a school district that is part of a joint district shall only include pupils in grades ~~nine~~ TEN through twelve in the calculation of STUDENT COUNT OR average daily membership [~~or average daily attendance~~] if the pupils are enrolled in courses that are approved jointly by the governing board of the joint technical education district and each participating school district for satellite courses taught within the participating school district, or approved solely by the joint technical education district for centrally located courses. STUDENT COUNT AND average daily membership [~~and average daily attendance~~] from courses that are not part of an approved program for career and technical education shall not be included in STUDENT COUNT AND average daily membership [~~and average daily attendance~~] of a joint technical education district. ~~A student in grade nine who enrolls in a career exploration course shall not be included in the joint district's~~ [~~average daily attendance or~~] ~~average daily membership.~~

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E. The joint board shall appoint a superintendent as the executive officer of the joint district.

F. Taxes may be levied for the support of the joint district as prescribed in chapter 9, article 6 of this title, except that a joint technical education district shall not levy a property tax pursuant to law that exceeds five cents per one hundred dollars assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the joint district are available to all persons who reside in the joint district AND TO PUPILS WHOSE DISTRICT OF RESIDENCE IS PAYING TUITION ON BEHALF OF THE PUPILS TO A DISTRICT OF ATTENDANCE THAT IS A MEMBER OF THE JOINT TECHNICAL EDUCATION DISTRICT, subject to the rules for admission prescribed by the joint board.

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H. The joint board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not participating in the joint district pursuant to arrangements made between the governing board of the district and the joint board.

I. The joint board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair and equip buildings and for the cost of operation of the schools of the joint district.

J. One member of the joint board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the joint board shall be a voting member.

K. A joint board and a community college district may enter into agreements for the provision of administrative, operational and educational services and facilities.

L. Any agreement between the governing board of a joint technical education district and another joint technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:

1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.

3. The responsibilities of each joint technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the joint technical education district will contribute to a course and the amount of support required by the school district or the community college.

8. That the services provided by the joint technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

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~~10. That any initial intergovernmental agreement or other written contract and any addendums between the governing board of a joint technical education district and another joint technical education district, a school district, a charter school or a community college district be submitted by the joint technical education district to the joint legislative budget committee for review.~~

M. On or before December 31 of each year, each joint technical education district shall submit a detailed report to the career and technical education division of the department of education. The career and technical education division of the department of education shall collect, summarize and analyze the data submitted by the joint districts, shall submit an annual report that summarizes the data submitted by the joint districts to the governor, the speaker of the house of representatives, the president of the senate and the state board of education and shall submit a copy of this report to the secretary of state. The data submitted by each joint technical education district shall include the following:

1. The average daily membership of the joint district.

2. The program listings and program descriptions of programs offered by the joint district, including the course sequences for each program.

3. The costs associated with each program offered by the joint district.

4. The completion rate for each program offered by the joint district. For the purposes of this paragraph, "completion rate" means the completion rate for students who are designated as concentrators in that program by the department of education under the career and technology approved plan.

5. The graduation rate from the school district of residence of students who have completed a program in the joint district.

6. A detailed description of the career opportunities available to students after completion of the program offered by the joint district.

7. A detailed description of the career placement of students who have completed the program offered by the joint district.

8. Any other data deemed necessary by the department of education to carry out its duties under this subsection.

N. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a joint technical education course, the governing board of the joint technical education district may appeal this decision to the state board of education acting as the state board of vocational education.

O. Notwithstanding any other law, the average daily membership of a Ch. 29 pupil IN GRADE TEN, ELEVEN OR TWELVE who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus owned and operated by a joint technical education district shall be 0.75. The sum of THE AVERAGE daily ~~attendance~~ MEMBERSHIP, as provided in section 15-901, subsection A, paragraph ~~6~~ 1 ~~and the sum of the fractional student enrollment, as provided in section 15-901, subsection A, paragraph 2, subdivision (a), for that~~ h. 258 OF A pupil WHO IS ENROLLED in both the member school district and joint technical education district courses provided at a community college pursuant to subsection K of this section or at a facility owned and operated by a joint technical education district that is not located on a site of a member district shall not exceed 1.75. The member school district and the joint district shall determine the apportionment of the AVERAGE daily ~~attendance~~ MEMBERSHIP and student enrollment for that pupil between the member school district and the joint district, except the amount apportioned shall not exceed 1.0 for either entity.

P. NOTWITHSTANDING ANY OTHER LAW, THE AVERAGE DAILY MEMBERSHIP FOR A PUPIL WHO IS ENROLLED IN A JOINT TECHNICAL EDUCATION COURSE APPROVED PURSUANT TO SECTION 15-391 AND WHO DOES NOT MEET THE CRITERIA SPECIFIED IN Ch. 258 SUBSECTION O OF THIS SECTION SHALL BE 0.25 FOR EACH COURSE, EXCEPT THE SUM OF THE AVERAGE DAILY MEMBERSHIP SHALL NOT EXCEED THE LIMITS PRESCRIBED BY SUBSECTION D OR O, AS APPLICABLE.

Q. NOTWITHSTANDING ANY OTHER LAW, BEGINNING IN FISCAL YEAR 2011-2012, THE STUDENT COUNT FOR A JOINT TECHNICAL EDUCATION DISTRICT SHALL BE EQUIVALENT TO THE JOINT TECHNICAL EDUCATION DISTRICT'S AVERAGE DAILY MEMBERSHIP.

~~P.~~ R. For the purposes of this section, "base year" means the complete school year in which voters of a school district elected to join a joint technical education district.

EXPLANATION OF BLEND
SECTION 15-761

Laws 2011, Chapters 89 and 306

Laws 2011, Ch. 89, section 7 — Effective July 20

Laws 2011, Ch. 306, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 89 and Ch. 306 text changes to section 15-761 are blended in the form shown on the following pages.

BLEND OF SECTION 15-761
Laws 2011, Chapters 89 and 306

15-761. Definitions

In this article, unless the context otherwise requires:

1. "Autism" means a developmental disability that significantly affects verbal and nonverbal communication and social interaction and that adversely affects educational performance. Characteristics include irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences. Autism does not include children with characteristics of emotional disability as defined in this section.

2. "Child with a disability":

(a) Means a child who is at least three years but less than twenty-two years of age, who has been evaluated pursuant to section 15-766 and found to have at least one of the following disabilities and who, because of the disability, needs special education and related services:

(i) Autism.

(ii) Developmental delay.

(iii) Emotional disability.

(iv) Hearing impairment.

(v) Other health impairments.

(vi) Specific learning disability.

Ch. 89 (vii) Mild, moderate or severe ~~mental retardation~~ INTELLECTUAL DISABILITY.

(viii) Multiple disabilities.

(ix) Multiple disabilities with severe sensory impairment.

(x) Orthopedic impairment.

(xi) Preschool severe delay.

(xii) Speech/language impairment.

(xiii) Traumatic brain injury.

(xiv) Visual impairment.

(b) Does not include a child if the determinant factor for the classification is one or more of the following:

(i) A lack of appropriate instruction in reading, including essential components of reading instruction.

(ii) A lack of appropriate instruction in mathematics.

(iii) Difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.

3. "Developmental delay" means performance by a child who is at least three years of age but under ten years of age on a norm-referenced test that measures at least one and one-half, but not more than three, standard deviations below the mean for children of the same chronological age in two or more of the following areas:

(a) Cognitive development.
(b) Physical development.
(c) Communication development.
(d) Social or emotional development.
(e) Adaptive development.

The results of the norm-referenced measure must be corroborated by information from a comprehensive development assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.

4. "Due process hearing" means a fair and impartial administrative hearing conducted by the state educational agency by an impartial administrative law judge in accordance with federal and state law.

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5. "Educational disadvantage" means a condition ~~which~~ THAT has limited a child's opportunity for educational experience resulting in a child achieving less than a normal level of learning development.

6. "Eligibility for special education" means the pupil must have one of the disabilities contained in paragraph 2 of this section and must also require special education services in order to benefit from an educational program.

7. "Emotional disability":

(a) Means a condition whereby a child exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the child's performance in the educational environment:

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(i) An inability to learn ~~which~~ THAT cannot be explained by intellectual, sensory or health factors.

(ii) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(iii) Inappropriate types of behavior or feelings under normal circumstances.

(iv) A general pervasive mood of unhappiness or depression.

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(b) Includes children who are schizophrenic but does not include children who are socially maladjusted unless they are also determined to have an emotional disability as determined by evaluation as provided in section 15-766.

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8. "Hearing impairment" means a loss of hearing acuity, as determined by evaluation pursuant to section 15-766, ~~which~~ THAT interferes with the child's performance in the educational environment and requires the provision of special education and related services.

9. "Home school district" means the school district in which the person resides who has legal custody of the child, as provided in section 15-824, subsection B. If the child is a ward of the state and a specific person does not have legal custody of the child OR IS A WARD OF THIS STATE AND THE CHILD IS ENROLLED IN AN ACCOMMODATION SCHOOL PURSUANT TO SECTION 15-913, the home school district is the district that the child last attended or, if the child has not previously attended a public school in this state, the school district within which the child currently resides.

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10. "Impartial administrative law judge" means an administrative law judge of the office of administrative hearings who is knowledgeable in the laws governing special education and administrative hearings.

11. "Individualized education program" means a written statement, as defined in 20 United States Code sections 1401 and 1412, for providing special education and related services to a child with a disability.

12. "Individualized education program team" means a team whose task is to develop an appropriate educational program for the child and has the same meaning prescribed in 20 United States Code section 1414.

13. "~~Mental retardation~~ INTELLECTUAL DISABILITY" means a significant impairment of general intellectual functioning that exists concurrently with deficits in adaptive behavior and that adversely affects the child's performance in the educational environment.

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14. "Mild ~~mental retardation~~ INTELLECTUAL DISABILITY" means performance on standard measures of intellectual and adaptive behavior between two and three standard deviations below the mean for children of the same age.

15. "Moderate ~~mental retardation~~ INTELLECTUAL DISABILITY" means performance on standard measures of intellectual and adaptive behavior between three and four standard deviations below the mean for children of the same age.

16. "Multidisciplinary evaluation team" means a team of persons including individuals described as the individualized education program team and other qualified professionals who shall determine whether a child is eligible for special education.

17. "Multiple disabilities" means learning and developmental problems resulting from multiple disabilities as determined by evaluation pursuant to section 15-766 that cannot be provided for adequately in a program designed to meet the needs of children with less complex disabilities. Multiple disabilities include any of the following conditions that require the provision of special education and related services:

(a) Two or more of the following conditions:

(i) Hearing impairment.

(ii) Orthopedic impairment.

(iii) Moderate ~~mental retardation~~ INTELLECTUAL DISABILITY.

(iv) Visual impairment.

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(b) A child with a disability listed in subdivision (a) of this paragraph existing concurrently with a condition of mild ~~mental retardation~~ INTELLECTUAL DISABILITY, emotional disability or specific learning disability.

18. "Multiple disabilities with severe sensory impairment" means multiple disabilities that include at least one of the following:

(a) Severe visual impairment or severe hearing impairment in combination with another severe disability.

(b) Severe visual impairment and severe hearing impairment.

19. "Orthopedic impairment" means one or more severe orthopedic impairments and includes those that are caused by congenital anomaly, disease and other causes, such as amputation or cerebral palsy, and that adversely affect a child's performance in the educational environment.

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20. "Other health impairments" means limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, due to chronic or acute health problems ~~which~~ THAT adversely affect a pupil's educational performance.

21. "Out-of-home care" means the placement of a child with a disability outside of the home environment and includes twenty-four hour residential care, group care or foster care on either a full-time or part-time basis.

22. "Parent" means:

(a) Either a natural or adoptive parent of a child.

(b) A guardian, but not this state if the child is a ward of this state.

(c) A person acting in the place of a natural or adoptive parent with whom the child lives or a person who is legally responsible for the child's welfare.

(d) A surrogate parent.

(e) A foster parent to the extent permitted by state law.

23. "Preschool child" means a child who is at least three years of age but who has not reached the required age for kindergarten, subject to section 15-771, subsection G.

24. "Preschool severe delay" means performance by a preschool child on a norm-referenced test that measures more than three standard deviations below the mean for children of the same chronological age in one or more of the following areas:

(a) Cognitive development.

(b) Physical development.

(c) Communication development.

(d) Social or emotional development.

(e) Adaptive development.

The results of the norm-referenced measure must be corroborated by information from a comprehensive developmental assessment and from parental input, if available, as measured by a judgment based assessment or survey. If there is a discrepancy between the measures, the evaluation team shall determine eligibility based on a preponderance of the information presented.

25. "Prior written notice" means written prior notice that a public educational agency is required to send to parents whenever the public educational agency proposes or refuses to initiate or change the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education.

26. "Public educational agency" means a school district, a charter school, an accommodation school, a state supported institution or any other political subdivision of this state that is responsible for providing education to children with disabilities.

27. "Related services" means those supportive services, as defined in 20 United States Code section 1401, that are required to assist a child with a disability who is eligible to receive special education services in order for the child to benefit from special education.

28. "Residential special education placement" means the placement of a child with a disability in a public or private residential program, as provided in section 15-765, subsection G, in order to provide necessary

special education and related services as specified in the child's individualized education program.

Ch. 89 29. "Severe ~~mental retardation~~ INTELLECTUAL DISABILITY" means performance on standard measures of intellectual and adaptive behavior measures at least four standard deviations below the mean for children of the same age.

30. "Special education" means specially designed instruction that meets the unique needs of a child with a disability and that is provided without cost to the parents of the child.

31. "Special education referral" means a written request for an evaluation to determine whether a pupil is eligible for special education services that, for referrals not initiated by a parent, includes documentation of appropriate efforts to educate the pupil in the regular education program.

32. "Specially designed instruction" means adapting the content, methodology or delivery of instruction to address the unique needs of a child with a disability and to ensure that child's access to the general curriculum as identified in the academic standards adopted by the state board of education.

33. "Specific learning disability" has the same meaning as defined in 20 United States Code section 1401.

34. "Speech/language impairment":

(a) For a preschool child, means performance on a norm-referenced language test that measures at least one and one-half standard deviations below the mean for children of the same chronological age or whose speech, out of context, is unintelligible to a listener who is unfamiliar with the child. Eligibility for a preschool child under this subdivision is appropriate only when a comprehensive developmental assessment and parental input indicate that the preschool child is not eligible for services under another preschool category or under the developmental delay category. IF

Ch. 306 THERE IS A DISCREPANCY BETWEEN THE MEASURES, THE EVALUATION TEAM SHALL DETERMINE ELIGIBILITY BASED ON A PREPONDERANCE OF THE INFORMATION PRESENTED.

(b) For a child who has reached the required age for kindergarten, means a speech or language impairment as defined in 34 Code of Federal Regulations section 300.8.

35. "State educational agency" means the Arizona department of education.

36. "State placing agency" has the same meaning prescribed in section 15-1181.

37. "Surrogate parent" means a person who has been appointed by the court or by the department of education pursuant to section 15-763.01 in order to represent a child in decisions regarding special education.

38. "Traumatic brain injury":

(a) Means an acquired injury to the brain that is caused by an external physical force and that results in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance.

(b) Applies to open or closed head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem

solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech.

(c) Does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

39. "Visual impairment" has the same meaning prescribed in 34 Code of Federal Regulations section 300.8.

40. "Ward of the state" has the same meaning prescribed in 20 United States Code section 1401.

EXPLANATION OF BLEND
SECTION 15-802

Laws 2011, Chapters 19, 205 and 306

Laws 2011, Ch. 19, section 4	Effective July 20
Laws 2011, Ch. 205, section 1	Effective July 20
Laws 2011, Ch. 306, section 3	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 19, Ch. 205 and Ch. 306 text changes to section 15-802 are blended in the form shown on the following pages.

BLEND OF SECTION 15-802
Laws 2011, Chapters 19, 205 and 306

15-802. School instruction; exceptions; violations; classification; definitions

A. Every child between the ages of six and sixteen years shall attend a school and shall be provided instruction in at least the subjects of reading, grammar, mathematics, social studies and science. The person who has custody of the child shall choose a public, private~~,~~ OR charter SCHOOL or ~~home school~~ A HOMESCHOOL as defined in this section to provide instruction. (Ch. 19)

B. The parent or person who has custody shall do the following:

1. If the child will attend a public, private or charter school, enroll the child in and ensure that the child attends a public, private or charter school for the full time school is in session. IN ACCORDANCE WITH GUIDELINES ADOPTED BY THE DEPARTMENT OF EDUCATION, SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL REQUIRE AND MAINTAIN VERIFIABLE DOCUMENTATION OF RESIDENCY IN THIS STATE FOR PUPILS WHO ENROLL IN THE SCHOOL DISTRICT OR CHARTER SCHOOL. (Ch. 205; Chs. 19, 205 and 306) If a child attends a school [~~which~~ THAT] is operated on a year-round basis[,] the child shall regularly attend during school sessions that total not less than one hundred ~~seventy-five~~ EIGHTY school days or two hundred school days, as applicable, or the equivalent as approved by the superintendent of public instruction. (Chs. 19, 205 and 306; Ch. 306)

2. If the child will attend a private school or ~~home school~~ HOMESCHOOL, file an affidavit of intent with the county school superintendent stating that the child is attending a regularly organized private school or is being provided with instruction in a ~~home school~~ HOMESCHOOL. The affidavit of intent shall include: (Ch. 19)

(a) The child's name.

(b) The child's date of birth.

(c) The current address of the school the child is attending.

(d) The names, telephone numbers and addresses of the persons who currently have custody of the child.

3. If the child will attend ~~home school~~ HOMESCHOOL, the child has not reached eight years of age by September 1 of the school year and the person who has custody of the child does not desire to begin home instruction until the child has reached eight years of age, file an affidavit of intent pursuant to paragraph 2 of this subsection stating that the person who has custody of the child does not desire to begin ~~home school~~ HOMESCHOOL instruction. (Ch. 19)

C. An affidavit of intent shall be filed within thirty days from the time the child begins to attend a private school or ~~home school~~ HOMESCHOOL and is not required thereafter unless the private school or the ~~home school~~ HOMESCHOOL instruction is terminated and then resumed. The person who has custody of the child shall notify the county school superintendent within thirty days of the termination that the child is no longer being instructed at a private school or a ~~home school~~ HOMESCHOOL. If the private school or ~~home school~~ HOMESCHOOL instruction is resumed, the person who has custody of

the child shall file another affidavit of intent with the county school superintendent within thirty days.

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D. A person is excused from the duties prescribed by subsection A or B of this section if any of the following ~~are~~ IS shown to the satisfaction of the school principal or the school principal's designee:

1. The child is in such physical or mental condition that instruction is inexpedient or impracticable.

2. The child has completed the high school course of study necessary for completion of grade ten as prescribed by the state board of education.

3. The child has presented reasons for nonattendance at a public school ~~which~~ THAT are satisfactory to the school principal or the school principal's designee. For THE purposes of this paragraph, the principal's designee may be the school district governing board.

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4. The child is over fourteen years of age and is EMPLOYED, with the consent of the person who has custody of him, ~~employed~~ at some lawful wage earning occupation.

5. The child is enrolled in a work training, career education, career and technical education, vocational education or manual training program ~~which~~ THAT meets the educational standards established and approved by the department of education.

6. The child was either:

(a) Suspended and not directed to participate in an alternative education program.

(b) Expelled from a public school as provided in article 3 of this chapter.

7. The child is enrolled in an education program provided by a state educational or other institution.

E. Unless otherwise exempted in this section or section 15-803, a parent of a child between six and sixteen years of age or a person who has custody of a child, who does not provide instruction in a ~~home school~~ HOMESCHOOL and who fails to enroll or fails to ensure that the child attends a public, private or charter school pursuant to this section is guilty of a class 3 misdemeanor. A parent who fails to comply with the duty to file an affidavit of intent to provide instruction in a ~~home school~~ HOMESCHOOL is guilty of a petty offense.

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F. For the purposes of this section:

1. "~~Home school~~ HOMESCHOOL" means a NONPUBLIC school conducted primarily by the parent, guardian or other person who has custody of the child or NONPUBLIC instruction provided in the child's home.

2. "Private school" means a nonpublic institution, other than the child's home, where academic instruction is provided for at least the same number of days and hours each year as a public school.

EXPLANATION OF BLEND
SECTION 15-901

Laws 2011, Chapters 29, 89, 238 and 306

Laws 2011, Ch. 29, section 10	Effective July 20
Laws 2011, Ch. 89, section 8	Effective July 20
Laws 2011, Ch. 238, section 15	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 306, section 6	Conditionally Effective

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 29, Ch. 89. Ch. 238 and Ch. 306 text changes to section 15-901 are blended in the form shown on the following pages.

BLEND OF SECTION 15-901
Laws 2011, Chapters 29, 89, 238 and 306

15-901. Definitions

A. In this title, unless the context otherwise requires:

~~1. "Average daily attendance" or "ADA" means actual average daily attendance through the first one hundred days or two hundred days in session, as applicable.~~

~~2.~~ 1. "Average daily membership" means the total enrollment of fractional students and full-time students, minus withdrawals, ~~of each school day through the first one hundred days or two hundred days in session, as applicable, for the current year~~ WHO ARE ENROLLED ON SEPTEMBER 15, NOVEMBER 15, JANUARY 15 AND MARCH 15, DIVIDED BY FOUR. Withdrawals include students formally withdrawn from schools and students absent for ten consecutive school days, except for excused absences ~~as~~ identified by the department of education. FOR THE PURPOSES OF THIS SECTION, SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL REPORT STUDENT ABSENCE DATA TO THE DEPARTMENT OF EDUCATION AT LEAST ONCE EVERY SIXTY DAYS IN SESSION. For computation purposes, the effective date of withdrawal shall be retroactive to the last day of actual attendance of the student OR EXCUSED ABSENCE.

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(a) "Fractional student" means:

(i) For common schools, ~~until fiscal year 2001-2002,~~ a preschool child who is enrolled in a program for preschool children with disabilities of at least three hundred sixty minutes each week or a kindergarten student at least five years of age ~~prior to~~ BEFORE January 1 of the school year and enrolled in a school kindergarten program that meets at least ~~three hundred forty-six instructional hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the kindergarten program shall meet at least three hundred forty-eight hours. In fiscal year 2002-2003, the kindergarten program shall meet at least three hundred fifty hours. In fiscal year 2003-2004, the kindergarten program shall meet at least three hundred fifty-two hours. In fiscal year 2004-2005, the kindergarten program shall meet at least three hundred fifty-four hours. In fiscal year 2005-2006 and each fiscal year thereafter, the kindergarten program shall meet at least~~ three hundred fifty-six hours FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. Lunch periods and recess periods may not be included as part of the instructional hours unless the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented. In computing the average daily membership, preschool children with disabilities and kindergarten students shall be counted as one-half of a full-time student. For common schools, a part-time student is a student enrolled for less than the total time for a full-time student as defined in this section. A part-time common school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least

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one-fourth, one-half or three-fourths of the time a full-time student is enrolled as defined in subdivision (b) of this paragraph.

(ii) For high schools, a part-time student who is enrolled in less than four subjects that count toward graduation as defined by the state board of education in a recognized high school. ~~and who is taught in less than twenty instructional hours per week prorated for any week with fewer than five school days. A part-time high school student shall be counted as one-fourth, one-half or three-fourths of a full-time student if the student is enrolled in an instructional program that is at least one-fourth, one-half or three-fourths of a full-time instructional program as defined in subdivision (c) of this paragraph.~~ THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.75 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF THREE SUBJECTS THAT MEET AT LEAST FIVE HUNDRED [~~EIGHTY~~ FORTY] HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.5 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF TWO SUBJECTS THAT MEET AT LEAST THREE HUNDRED SIXTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. THE AVERAGE DAILY MEMBERSHIP OF A PART-TIME HIGH SCHOOL STUDENT SHALL BE 0.25 IF THE STUDENT IS ENROLLED IN AN INSTRUCTIONAL PROGRAM OF ONE SUBJECT THAT MEETS AT LEAST ONE HUNDRED EIGHTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION.

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(b) "Full-time student" means:

(i) For common schools, a student who is at least six years of age ~~prior to~~ BEFORE January 1 of a school year, who has not graduated from the highest grade taught in the school district and who is regularly enrolled in a course of study required by the state board of education. ~~Until fiscal year 2001-2002,~~ First, second and third grade students, ungraded students at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities who are at least five, but under six, years of age by September 1 must be enrolled in an instructional program that meets for a total of at least ~~six hundred ninety-two hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least six hundred ninety-six hours. In fiscal year 2002-2003, the program shall meet at least seven hundred hours. In fiscal year 2003-2004, the program shall meet at least seven hundred four hours. In fiscal year 2004-2005, the program shall meet at least seven hundred eight hours. In fiscal year 2005-2006 and in each fiscal year thereafter, the program shall meet at least seven hundred twelve hours. Until fiscal year 2001-2002,~~ SEVEN HUNDRED TWELVE HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. Fourth, fifth and sixth grade students or ungraded students at least nine, but under twelve, years of age by September 1 must be enrolled in an instructional program that meets for a total of at ~~least eight hundred sixty-five hours during the minimum number of school days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least eight hundred seventy hours. In fiscal year 2002-2003, the program shall meet at least eight hundred seventy-five hours. In fiscal year 2003-2004, the program shall meet at least eight hundred~~

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~~eighty hours. In fiscal year 2004-2005, the program shall meet at least eight hundred eighty-five hours. In fiscal year 2005-2006 and each fiscal year thereafter, the program shall meet at least eight hundred ninety hours. Until fiscal year 2001-2002,~~ LEAST EIGHT HUNDRED NINETY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION. Seventh and eighth grade students or ungraded students at least twelve, but under fourteen, years of age by September 1 must be enrolled in an instructional program that meets for [~~a~~] ~~total of at least one thousand thirty-eight hours during the minimum number of days required in a school year as provided in section 15-341. In fiscal year 2001-2002, the program shall meet at least one thousand forty-four hours. In fiscal year 2002-2003, the program shall meet at least one thousand fifty hours. In fiscal year 2003-2004, the program shall meet at least one thousand fifty-six hours. In fiscal year 2004-2005, the program shall meet at least one thousand sixty-two hours. In fiscal years 2005-2006 through 2009-2010, the program shall meet at least one thousand sixty-eight hours. In fiscal year 2010-2011 and each fiscal year thereafter, the program shall meet~~ at least one thousand hours. Lunch periods and recess periods may not be included as part of the instructional hours unless the student is a child with a disability and the child's individualized education program requires instruction during those periods and the specific reasons for such instruction are fully documented.

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(ii) For high schools, except as provided in section 15-105, a student not graduated from the highest grade taught in the school district, or an ungraded student at least fourteen years of age by September 1, and enrolled in at least ~~a full-time~~ AN instructional program of FOUR OR MORE subjects that count toward graduation as defined by the state board of education, THAT MEETS FOR A TOTAL OF AT LEAST SEVEN HUNDRED TWENTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION in a recognized high school. A full-time student shall not be counted more than once for computation of average daily membership. THE AVERAGE DAILY MEMBERSHIP OF A FULL-TIME HIGH SCHOOL STUDENT SHALL BE 1.0 IF THE STUDENT IS ENROLLED IN AT LEAST FOUR SUBJECTS THAT MEET AT LEAST SEVEN HUNDRED TWENTY HOURS FOR A ONE HUNDRED EIGHTY DAY SCHOOL YEAR, OR THE EQUIVALENT INSTRUCTIONAL HOURS PRESCRIBED IN THIS SECTION.

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(iii) Except as otherwise provided by law, for a full-time high school student who is concurrently enrolled in two school districts or two charter schools, the average daily membership shall not exceed 1.0.

(iv) Except as otherwise provided by law, for any student who is concurrently enrolled in a school district and a charter school, the average daily membership shall be apportioned between the school district and the charter school and shall not exceed 1.0. The apportionment shall be based on the percentage of total time that the student is enrolled in or in attendance at the school district and the charter school.

(v) Except as otherwise provided by law, for any student who is concurrently enrolled, pursuant to section 15-808, in a school district and Arizona online instruction or a charter school and Arizona online instruction, the average daily membership shall be apportioned between the school district and Arizona online instruction or the charter school and Arizona online instruction and shall not exceed 1.0. The apportionment shall

be based on the percentage of total time that the student is enrolled in or in attendance at the school district and Arizona online instruction or the charter school and Arizona online instruction.

(vi) For homebound or hospitalized, a student receiving at least four hours of instruction per week.

~~(c) "Full-time instructional program" means:~~

~~(i) Through fiscal year 2000-2001, at least four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

~~(ii) For fiscal year 2001-2002, an instructional program that meets at least a total of seven hundred four hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-two hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

~~(iii) For fiscal year 2002-2003, an instructional program that meets at least a total of seven hundred eight hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-two hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

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~~(iv) For fiscal year 2003-2004, an instructional program that meets at least a total of seven hundred twelve hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

~~(v) For fiscal year 2004-2005, an instructional program that meets at least a total of seven hundred sixteen hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

~~(vi) For fiscal year 2005-2006 and each fiscal year thereafter, an instructional program that meets at least a total of seven hundred twenty hours during the minimum number of days required and includes at least four subjects each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty-three hours a year, or the equivalent, or one or more subjects taught in amounts of time totaling at least twenty hours per week prorated for any week with fewer than five school days.~~

~~3.~~ 2. "Budget year" means the fiscal year for which the school district is budgeting and ~~which~~ THAT immediately follows the current year.

~~4.~~ 3. "Common school district" means a political subdivision of this state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and either:

(a) Grades one through eight.

(b) Grades one through nine pursuant to section 15-447.01.

~~5.~~ 4. "Current year" means the fiscal year in which a school district is operating.

~~6.~~ 5. "Daily attendance" means:

(a) For common schools, days in which a pupil:

(i) Of a kindergarten program or ungraded, but not group B children with disabilities, and at least five, but under six, years of age by September 1 attends at least three-quarters of the instructional time scheduled for the day. If the total instruction time scheduled for the year is at least three hundred forty-six hours but is less than six hundred ninety-two hours such attendance shall be counted as one-half day of attendance. If the instructional time scheduled for the year is at least six hundred ninety-two hours, "daily attendance" means days in which a pupil attends at least one-half of the instructional time scheduled for the day. Such attendance shall be counted as one-half day of attendance.

(ii) Of the first, second or third grades, ungraded and at least six, but under nine, years of age by September 1 or ungraded group B children with disabilities and at least five, but under six, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day.

(iii) Of the fourth, fifth or sixth grades or ungraded and at least nine, but under twelve, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(iv) Of the seventh or eighth grades or ungraded and at least twelve, but under fourteen, years of age by September 1 attends more than three-quarters of the instructional time scheduled for the day, except as provided in section 15-797.

(b) For common schools, the attendance of a pupil at three-quarters or less of the instructional time scheduled for the day shall be counted as follows, except as provided in section 15-797 and except that attendance for a fractional student shall not exceed the pupil's fractional membership:

(i) If attendance for all pupils in the school is based on quarter days, the attendance of a pupil shall be counted as one-fourth of a day's attendance for each one-fourth of full-time instructional time attended.

(ii) If attendance for all pupils in the school is based on half days, the attendance of at least three-quarters of the instructional time scheduled for the day shall be counted as a full day's attendance and attendance at a minimum of one-half but less than three-quarters of the instructional time scheduled for the day equals one-half day of attendance.

(c) For common schools, the attendance of a preschool child with disabilities shall be counted as one-fourth day's attendance for each thirty-six minutes of attendance not including lunch periods and recess periods, except as provided in paragraph ~~2~~ 1, subdivision (a), item (i) of this subsection for children with disabilities up to a maximum of three hundred sixty minutes each week.

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(d) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil shall not be counted as a full day unless the pupil is actually and physically in attendance and enrolled in and carrying four subjects, each of which, if taught each school day for the minimum number of days required in a school year, would meet a minimum of one hundred twenty hours a year, or the equivalent, that count toward graduation in a recognized high school except as provided in section 15-797 and subdivision (e) of this paragraph. Attendance of a pupil carrying less than the load prescribed shall be prorated.

(e) For high schools or ungraded schools in which the pupil is at least fourteen years of age by September 1, the attendance of a pupil may be counted as one-fourth of a day's attendance for each sixty minutes of instructional time in a subject that counts toward graduation, except that attendance for a pupil shall not exceed the pupil's full or fractional membership.

(f) For homebound or hospitalized, a full day of attendance may be counted for each day during a week in which the student receives at least four hours of instruction.

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(g) For school districts ~~which~~ THAT maintain school for an approved year-round school year operation, attendance shall be based on a computation, as prescribed by the superintendent of public instruction, of the one hundred eighty days' equivalency or two hundred days' equivalency, as applicable, of instructional time as approved by the superintendent of public instruction during which each pupil is enrolled.

~~7.~~ 6. "Daily route mileage" means the sum of:

(a) The total number of miles driven daily by all buses of a school district while transporting eligible students from their residence to the school of attendance and from the school of attendance to their residence on scheduled routes approved by the superintendent of public instruction.

(b) The total number of miles driven daily on routes approved by the superintendent of public instruction for which a private party, a political subdivision or a common or a contract carrier is reimbursed for bringing an eligible student from the place of his residence to a school transportation pickup point or to the school of attendance and from the school transportation scheduled return point or from the school of attendance to his residence. Daily route mileage includes the total number of miles necessary to drive to transport eligible students from and to their residence as provided in this paragraph.

~~8.~~ 7. "District support level" means the base support level plus the transportation support level.

~~9.~~ 8. "Eligible students" means:

(a) Students who are transported by or for a school district and who qualify as full-time students or fractional students, except students for

whom transportation is paid by another school district or a county school superintendent, and:

(i) For common school students, whose place of actual residence within the school district is more than one mile from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one mile from the school facility of attendance.

(ii) For high school students, whose place of actual residence within the school district is more than one and one-half miles from the school facility of attendance or students who are admitted pursuant to section 15-816.01 and who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches and whose actual place of residence outside the school district boundaries is more than one and one-half miles from the school facility of attendance.

(b) Kindergarten students, for purposes of computing the number of eligible students under subdivision (a), item (i) of this paragraph, shall be counted as full-time students, notwithstanding any other provision of law.

(c) Children with disabilities, as defined by section 15-761, who are transported by or for the school district or who are admitted pursuant to chapter 8, article 1.1 of this title and who qualify as full-time students or fractional students regardless of location or residence within the school district or children with disabilities whose transportation is required by the pupil's individualized education program.

(d) Students whose residence is outside the school district and who are transported within the school district on the same basis as students who reside in the school district.

~~10.~~ 9. "Enrolled" or "enrollment" means when a pupil is currently registered in the school district.

~~11.~~ 10. "GDP price deflator" means the average of the four implicit price deflators for the gross domestic product reported by the United States department of commerce for the four quarters of the calendar year.

~~12.~~ 11. "High school district" means a political subdivision of this state offering instruction to students for grades nine through twelve or that
Ch. 89 — portion of the budget of a common school district ~~which~~ THAT is allocated to teaching high school subjects with permission of the state board of education.

~~13.~~ 12. "Revenue control limit" means the base revenue control limit plus the transportation revenue control limit.

~~14.~~ 13. "Student count" means average daily membership as prescribed
Ch. 89 — in this subsection for the fiscal year ~~prior to~~ BEFORE the current year, except that for the purpose of budget preparation student count means average daily membership as prescribed in this subsection for the current year.

~~15.~~ 14. "Submit electronically" means submitted in a format and in a manner prescribed by the department of education.

~~16.~~ 15. "Total bus mileage" means the total number of miles driven by all buses of a school district during the school year.

~~17.~~ 16. "Total students transported" means all eligible students transported from their place of residence to a school transportation pickup point or to the school of attendance and from the school of attendance or from the school transportation scheduled return point to their place of residence.

~~18.~~ 17. "Unified school district" means a political subdivision of the state offering instruction to students in programs for preschool children with disabilities and kindergarten programs and grades one through twelve.

B. In this title, unless the context otherwise requires:

1. "Base" means the revenue level per student count specified by the legislature.

2. "Base level" means the following amounts plus the percentage increases to the base level as provided in sections 15-902.02, 15-918.04, 15-919.04 and 15-952, except that if a school district or charter school is eligible for an increase in the base level as provided in two or more of these sections, the base level amount shall be calculated by compounding rather than adding the sum of one plus the percentage of the increase from those different sections:

(a) For fiscal year 2007-2008, three thousand two hundred twenty-six dollars eighty-eight cents.

(b) For fiscal year 2008-2009, three thousand two hundred ninety-one dollars forty-two cents.

Ch. 29 (c) For fiscal years 2009-2010, ~~and~~ 2010-2011 AND 2011-2012, three thousand two hundred sixty-seven dollars seventy-two cents.

3. "Base revenue control limit" means the base revenue control limit computed as provided in section 15-944.

4. "Base support level" means the base support level as provided in section 15-943.

5. "Certified teacher" means a person who is certified as a teacher pursuant to the rules adopted by the state board of education, who renders direct and personal services to school children in the form of instruction related to the school district's educational course of study and who is paid from the maintenance and operation section of the budget.

6. "DD" means programs for children with developmental delays who are at least three years of age but under ten years of age. A preschool child who is categorized under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

Ch. 89 7. "ED, ~~MIMR~~ MIID, SLD, SLI and OHI" means programs for children with emotional disabilities, mild ~~mental retardation~~ INTELLECTUAL DISABILITIES, a specific learning disability, a speech/language impairment and other health impairments. A preschool child who is categorized as SLI under this paragraph is not eligible to receive funding pursuant to section 15-943, paragraph 2, subdivision (b).

8. "ED-P" means programs for children with emotional disabilities who are enrolled in private special education programs as prescribed in section 15-765, subsection D, paragraph 1 or in an intensive school district program as provided in section 15-765, subsection D, paragraph 2.

9. "ELL" means English learners who do not speak English or whose native language is not English, who are not currently able to perform

ordinary classroom work in English and who are enrolled in an English language education program pursuant to sections 15-751, 15-752 and 15-753.

10. "Full-time equivalent certified teacher" or "FTE certified teacher" means for a certified teacher the following:

(a) If employed full time as defined in section 15-501, 1.00.

(b) If employed less than full time, multiply 1.00 by the percentage of a full school day, or its equivalent, or a full class load, or its equivalent, for which the teacher is employed as determined by the governing board.

11. "Group A" means educational programs for career exploration, a specific learning disability, an emotional disability, A mild ~~mental retardation~~ INTELLECTUAL DISABILITY, remedial education, a speech/language impairment, developmental delay, homebound, bilingual, other health impairments and gifted pupils.

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12. "Group B" means educational improvements for pupils in kindergarten programs and grades one through three, educational programs for autism, a hearing impairment, A moderate ~~mental retardation~~ INTELLECTUAL DISABILITY, multiple disabilities, multiple disabilities with severe sensory impairment, orthopedic impairments, preschool severe delay, A severe ~~mental retardation~~ INTELLECTUAL DISABILITY and emotional disabilities for school age pupils enrolled in private special education programs or in school district programs for children with severe disabilities or visual impairment and English learners enrolled in a program to promote English language proficiency pursuant to section 15-752.

13. "HI" means programs for pupils with hearing impairment.

14. "Homebound" or "hospitalized" means a pupil who is capable of profiting from academic instruction but is unable to attend school due to illness, disease, accident or other health conditions, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for a period of not less than three school months or a pupil who is capable of profiting from academic instruction but is unable to attend school regularly due to chronic or acute health problems, who has been examined by a competent medical doctor and who is certified by that doctor as being unable to attend regular classes for intermittent periods of time totaling three school months during a school year. The medical certification shall state the general medical condition, such as illness, disease or chronic health condition, that is the reason that the pupil is unable to attend school. Homebound or hospitalized includes a student who is unable to attend school for a period of less than three months due to a pregnancy if a competent medical doctor, after an examination, certifies that the student is unable to attend regular classes due to risk to the pregnancy or to the student's health.

15. "K-3" means kindergarten programs and grades one through three.

16. "MD-R, A-R and ~~SMR-R~~ SID-R" means resource programs for pupils with multiple disabilities, autism and severe ~~mental retardation~~ INTELLECTUAL DISABILITY.

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17. "MD-SC, A-SC and ~~SMR-SC~~ SID-SC" means self-contained programs for pupils with multiple disabilities, autism and severe ~~mental retardation~~ INTELLECTUAL DISABILITY.

18. "MD-SSI" means a program for pupils with multiple disabilities with severe sensory impairment.

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19. ~~"MOMR"~~ "MOID" means programs for pupils with moderate ~~mental retardation~~ INTELLECTUAL DISABILITY.

20. "OI-R" means a resource program for pupils with orthopedic impairments.

21. "OI-SC" means a self-contained program for pupils with orthopedic impairments.

22. "PSD" means preschool programs for children with disabilities as provided in section 15-771.

23. "P-SD" means programs for children who meet the definition of preschool severe delay as provided in section 15-771.

24. "Qualifying tax rate" means the qualifying tax rate specified in section 15-971 applied to the assessed valuation used for primary property taxes.

25. "Small isolated school district" means a school district ~~which~~ THAT meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains no school ~~which~~ THAT is fewer than thirty miles by the most reasonable route from another school, or, if road conditions and terrain make the driving slow or hazardous, fifteen miles from another school ~~which~~ THAT teaches one or more of the same grades and is operated by another school district in this state.

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(c) Is designated as a small isolated school district by the superintendent of public instruction.

26. "Small school district" means a school district ~~which~~ THAT meets all of the following:

(a) Has a student count of fewer than six hundred in kindergarten programs and grades one through eight or grades nine through twelve.

(b) Contains at least one school ~~which~~ THAT is fewer than thirty miles by the most reasonable route from another school ~~which~~ THAT teaches one or more of the same grades and is operated by another school district in this state.

(c) Is designated as a small school district by the superintendent of public instruction.

27. "Transportation revenue control limit" means the transportation revenue control limit computed as prescribed in section 15-946.

28. "Transportation support level" means the support level for pupil transportation operating expenses as provided in section 15-945.

29. "VI" means programs for pupils with visual impairments.

30. "Voc. Ed." means career and technical education and vocational education programs, as defined in section 15-781.

EXPLANATION OF BLEND
SECTION 15-943

Laws 2011, Chapters 29 and 89

Laws 2011, Ch. 29, section 15 — Effective July 20

Laws 2011, Ch. 89, section 10 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 29 and Ch. 89 text changes to section 15-943 are blended in the form shown on the following pages.

BLEND OF SECTION 15-943
Laws 2011, Chapters 29 and 89

15-943. Base support level

The base support level for each school district shall be computed as follows:

1. The following support level weights shall be used in paragraph 2, subdivision (a) of this section for the following school districts:

(a) For school districts whose student count in kindergarten programs and grades one through eight is classified in column 1 of this subdivision, the support level weight for kindergarten programs and grades one through eight is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

Column 1	Column 2	Column 3
Student Count	Support Level Weight For Small Isolated School Districts	Support Level Weight For Small School Districts
1-99	1.559	1.399
100-499	1.358 + [0.0005 x (500 - student count)]	1.278 + [0.0003 x (500 - student count)]
500-599	1.158 + [0.002 x (600 - student count)]	1.158 + [0.0012 x (600 - student count)]

(b) For school districts whose student count in grades nine through twelve is classified in column 1 of this subdivision, the support level weight for grades nine through twelve is the corresponding support level weight prescribed in column 2 or 3 of this subdivision, whichever is appropriate:

Column 1	Column 2	Column 3
Student Count	Support Level Weight For Small Isolated School Districts	Support Level Weight For Small School Districts
1-99	1.669	1.559
100-499	1.468 + [0.0005 x (500 - student count)]	1.398 + [0.0004 x (500 - student count)]
500-599	1.268 + [0.002 x (600 - student count)]	1.268 + [0.0013 x (600 - student count)]

2. Subject to paragraph 1 of this section, determine the weighted student count as follows:

(a)

Grade	Base		Group A		Support Level Weight		Student Count		Weighted Student Count
PSD	1.000	+	0.450	=	1.450	x	_____	=	_____
K-8	1.000	+	0.158	=	1.158	x	_____	=	_____
9-12	1.163	+	0.105	=	1.268	x	_____	=	_____
							Subtotal	A	_____

(b)

Funding Category	Support Level Weight		Student Count		Weighted Student Count
HI	4.771	x	_____	=	_____
K-3	0.060	x	_____	=	_____
ELL	0.115	x	_____	=	_____
MD-R, A-R and ~~SMR-R~~ SID-R	6.024	x	_____	=	_____
MD-SC, A-SC and ~~SMR-SC~~ SID-SC	5.833	x	_____	=	_____
MD-SSI	7.947	x	_____	=	_____
OI-R	3.158	x	_____	=	_____
OI-SC	6.773	x	_____	=	_____
P-SD	3.595	x	_____	=	_____
DD, ED, ~~MIMR~~ MIID, SLD, SLI and OHI	0.003	x	_____	=	_____
ED-P	4.822	x	_____	=	_____
~~MOMR~~ MOID	4.421	x	_____	=	_____
VI	4.806	x	_____	=	_____
			Subtotal	B	_____

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(c) Total of subtotals A and B: _____

3. Multiply the total determined in paragraph 2 of this section by the base level.

4. Multiply the teacher experience index of the district or 1.00, whichever is greater, by the product obtained in paragraph 3 of this section.

Ch. 29 ~~5. Add the amount determined in section 15-910.04.~~

EXPLANATION OF BLEND
SECTION 15-977

Laws 2011, Chapters 29 and 344

Laws 2011, Ch. 29, section 20 — Effective July 20

Laws 2011, Ch. 344, section 17 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 29 and Ch. 344 text changes to section 15-977 are blended in the form shown on the following pages.

BLEND OF SECTION 15-977
Laws 2011, Chapters 29 and 344

15-977. Classroom site fund; definitions

A. The classroom site fund is established consisting of monies transferred to the fund pursuant to section 37-521, subsection B and section 42-5029, subsection E, paragraph 10. The department of education shall administer the fund. School districts and charter schools may not supplant existing school site funding with revenues from the fund. All monies distributed from the fund are intended for use at the school site. Each school district or charter school shall allocate forty per cent of the monies for teacher compensation increases based on performance and employment related expenses, twenty per cent of the monies for teacher base salary increases and employment related expenses and forty per cent of the monies for maintenance and operation purposes as prescribed in subsection H of this section. Teacher compensation increases based on performance or teacher base salary increases distributed pursuant to this subsection shall supplement, and not supplant, teacher compensation monies from any other sources. The school district or charter school shall notify each school principal of the amount available to the school by April 15 of each year. The district or charter school shall request from the school's principal each school's priority for the allocation of the funds available to the school for each program listed under subsection H of this section. The amount budgeted by the school district or charter school pursuant to this section shall not be included in the allowable budget balance carryforward calculated pursuant to section 15-943.01.

B. A school district governing board must adopt a performance based compensation system at a public hearing to allocate funding from the classroom site fund pursuant to subsection A of this section.

C. A school district governing board shall vote on a performance based compensation system that includes the following elements:

1. School district performance and school performance.
2. Measures of academic progress toward the academic standards adopted by the state board of education.
3. Other measures of academic progress.
4. Dropout or graduation rates.
5. Attendance rates.
6. Ratings of school quality by parents.
7. Ratings of school quality by students.
8. The input of teachers and administrators.
9. Approval of the performance based compensation system based on an affirmative vote of at least seventy per cent of the teachers eligible to participate in the performance based compensation system.
10. An appeals process for teachers who have been denied performance based compensation.
11. Regular evaluation for effectiveness.

D. A performance based compensation system shall include teacher professional development programs that are aligned with the elements of the performance based compensation system.

E. A school district governing board may modify the elements contained in subsection C of this section and consider additional elements when adopting a performance based compensation system. A school district governing board shall adopt any modifications or additional elements and specify the criteria used at a public hearing.

F. Until December 31, 2009, each school district shall develop an assessment plan for its performance based compensation system and submit the plan to the department of education by December 31 of each year. A copy of the performance based compensation system and assessment plan adopted by the school district governing board shall be included in the report submitted to the department of education.

G. Monies in the fund are continuously appropriated, are exempt from the provisions of section 35-190 relating to lapsing of appropriations and shall be distributed as follows:

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1. By March 30 of each year[,] the staff of the joint legislative budget committee shall determine a per pupil amount from the fund for the budget year using the estimated statewide weighted count for the current year pursuant to section 15-943, paragraph 2, subdivision (a) and based on estimated available resources in the classroom site fund for the budget year adjusted for any prior year carryforward or shortfall.

2. The allocation to each charter school and school district for a fiscal year shall equal the per pupil amount established in paragraph 1 of this subsection for the fiscal year multiplied by the weighted student count for the school district or charter school for the fiscal year pursuant to section 15-943, paragraph 2, subdivision (a). For the purposes of this paragraph, the weighted student count for a school district that serves as the district of attendance for nonresident pupils shall be increased to include nonresident pupils who attend school in the school district.

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~~3. For each fiscal year in which the legislature appropriates sufficient monies for teacher performance pay pursuant to this section, the amount appropriated shall equal the product of the base level prescribed in section 15-901 multiplied by the prior year statewide weighted student count multiplied by the following percentages:~~

~~(a) For stage one, one per cent.~~

~~(b) For stage two, two per cent.~~

~~(c) For stage three, three per cent.~~

~~(d) For stage four, four per cent.~~

~~(e) For stage five, five per cent.~~

~~(f) For stage six, five and one-half per cent by June 30, 2018.~~

H. Monies distributed from the classroom site fund shall be spent for the following maintenance and operation purposes:

1. Class size reduction.
2. Teacher compensation increases.
3. AIMS intervention programs.
4. Teacher development.
5. Dropout prevention programs.
6. Teacher liability insurance premiums.

I. The district governing board or charter school shall allocate the classroom site fund monies to include, wherever possible, the priorities identified by the principals of the schools while assuring that the funds maximize classroom opportunities and conform to the authorized expenditures identified in subsection A of this section.

J. School districts and charter schools that receive monies from the classroom site fund shall submit a report by November 15 of each year to the superintendent of public instruction ~~on a per-school basis~~ that provides an accounting of the expenditures of monies distributed from the fund during the previous fiscal year and a summary of the results of district and school programs funded with monies distributed from the fund. The department of education in conjunction with the auditor general shall prescribe the format of the report under this subsection.

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K. School districts and charter schools that receive monies from the classroom site fund shall receive these monies monthly in an amount not to exceed one-twelfth of the monies estimated pursuant to subsection G of this section, except that if there are insufficient monies in the fund that month to make payments, the distribution for that month shall be prorated for each school district or charter school. The department of education may make an additional payment in the current month for any prior month or months in which school districts or charter schools received a prorated payment if there are sufficient monies in the fund that month for the additional payments. The state is not required to make payments to a school district or charter school classroom site fund if the state classroom site fund revenue collections are insufficient to meet the estimated allocations to school districts and charter schools pursuant to subsection G of this section.

L. The state education system for committed youth shall receive monies from the classroom site fund in the same manner as school districts and charter schools. The Arizona state schools for the deaf and the blind shall receive monies from the classroom site fund in an amount that corresponds to the weighted student count for the current year pursuant to section 15-943, paragraph 2, subdivision (b) for each pupil enrolled in the Arizona state schools for the deaf and the blind. Except as otherwise provided in this subsection, the Arizona state schools for the deaf and the blind and the state education system for committed youth are subject to this section in the same manner as school districts and charter schools.

M. Each school district and charter school, including school districts that unify pursuant to section 15-448 or consolidate pursuant to section 15-459, shall establish a local level classroom site fund to receive allocations from the state level classroom site fund. The local level classroom site fund shall be a budgetary controlled account. Interest charges for any registered warrants for the local level classroom site fund shall be a charge against the local level classroom site fund. Interest earned on monies in the local level classroom site fund shall be added to the local level classroom site fund as provided in section 15-978. ~~In no event shall~~ This state SHALL NOT be required to make payments to a school district or charter school local level classroom site fund that are in addition to monies transferred to the state level classroom site fund pursuant to section 37-521, subsection B and section 42-5029, subsection E, paragraph 10.

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N. Monies distributed from the classroom site fund for class size reduction, AIMS intervention and dropout prevention programs shall only be used for instructional purposes in the instruction function as defined in the uniform system of financial records, except that monies shall not be used for school sponsored athletics.

~~O. If a school district is approved for a career ladder program pursuant to section 15-918.04 or an optional performance incentive program pursuant to section 15-919, the school district may continue to participate in those programs or may choose to receive additional teacher performance pay monies pursuant to subsection G, paragraph 3 of this section. If a school district chooses to receive monies pursuant to subsection G, paragraph 3 of this section, the school district shall reduce the amount of funding for its career ladder program or optional performance incentive program, as applicable, in an amount that is equal to the amount appropriated by the legislature for the applicable stage specified in subsection G, paragraph 3 of this section. If a school district is approved for a career ladder program pursuant to section 15-918.04 or an optional performance incentive program pursuant to section 15-919 and that school district chooses to receive monies for stage one pursuant to subsection G, paragraph 3 of this section, the school district shall continue to receive funding through the remaining stages specified in subsection G, paragraph 3 of this section, subject to legislative appropriation. A school district that is subject to this subsection shall notify the department of education of the school district's intention to receive monies pursuant to subsection G, paragraph 3 of this section no later than July 1 of the fiscal year that stage one monies are appropriated.~~

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~~P.~~ O. For the purposes of this section:

1. "AIMS intervention" means summer programs, after school programs, before school programs or tutoring programs that are specifically designed to ensure that pupils meet the Arizona academic standards as measured by the Arizona instrument to measure standards test prescribed by section 15-741.

2. "Class size reduction" means any maintenance and operations expenditure that is designed to reduce the ratio of pupils to classroom teachers, including the use of persons who serve as aides to classroom teachers.

EXPLANATION OF BLEND
SECTION 15-1021

Laws 2011, Chapters 238, 306 and 344

Laws 2011, Ch. 238, section 17	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 306, section 7	Conditionally Effective
Laws 2011, Ch. 344, section 19	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 238, Ch. 306 and Ch. 344 text changes to section 15-1021 are blended in the form shown on the following pages.

BLEND OF SECTION 15-1021
Laws 2011, Chapters 238, 306 and 344

15-1021. Limitation on bonded indebtedness; limitation on authorization and issuance of bonds

A. Until December 31, 1999, a school district may issue class A bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding fifteen per cent of the taxable property used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last property tax assessment previous to issuing the bonds.

B. From and after December 31, 1998, a school district may issue class B bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing class B indebtedness, not exceeding five per cent of the taxable property used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last assessment of state and county taxes previous to issuing the bonds, or one thousand five hundred dollars per student [~~count as determined pursuant to section 15-902~~ [~~AVERAGE DAILY MEMBERSHIP~~]] [COUNT PURSUANT TO SECTION 15-901, SUBSECTION A, PARAGRAPH 13], whichever amount is greater. A school district shall not issue class B bonds until the proceeds of any class A bonds issued by the school district have been obligated in contract. The total amount of class A and class B bonds issued by a school district shall not exceed the debt limitations prescribed in article IX, section 8, Constitution of Arizona.

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C. Until December 31, 1999, a unified school district, as defined under article IX, section 8.1, Constitution of Arizona, may issue class A bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding thirty per cent of the taxable property used for secondary property tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a unified school district as ascertained by the last property tax assessment previous to issuing the bonds.

D. From and after December 31, 1998, a unified school district, as defined under article IX, section 8.1, Constitution of Arizona, may issue class B bonds for the purposes specified in this section and chapter 4, article 5 of this title to an amount in the aggregate, including the existing class B indebtedness, not exceeding ten per cent of the taxable property used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1, within a school district as ascertained by the last assessment of state and county taxes previous to issuing the bonds, or one thousand five hundred dollars per student [~~count as determined pursuant to section 15-902 [AVERAGE DAILY MEMBERSHIP]~~] [COUNT PURSUANT TO SECTION 15-901, SUBSECTION A, PARAGRAPH 13], whichever amount is greater. A unified school district shall not issue class B bonds

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until the proceeds of any class A bonds issued by the unified school district have been obligated in contract. The total amount of class A and class B bonds issued by a unified school district shall not exceed the debt limitations prescribed in article IX, section 8.1, Constitution of Arizona.

E. No bonds authorized to be issued by an election held after July 1, 1980 and before November 24, 2009 may be issued more than six years after the date of the election, EXCEPT THAT THE TIME PERIOD MAY BE EXTENDED TO TEN YEARS PURSUANT TO AN ELECTION CONDUCTED PURSUANT TO SECTION 15-491, SUBSECTION A, PARAGRAPH 6 AND except that class A bonds shall not be issued after December 31, 1999. No bonds authorized to be issued by an election held after November 24, 2009 may be issued more than ten years after the date of the election.

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F. Except as provided in section 15-491, subsection A, paragraph 3, bond proceeds shall not be expended for items whose useful life is less than the average life of the bonds issued, except that bond proceeds shall not be expended for items whose useful life is less than five years.

G. A joint technical education district shall not spend class B bond proceeds to construct or renovate a facility located on the campus of a school in a school district that participates in the joint district unless the facility is only used to provide career and technical education and is available to all pupils who live within the joint technical education district. If the facility is not owned by the joint technical education district, an intergovernmental agreement or a written contract shall be executed for ten years or the duration of the bonded indebtedness, whichever is greater. The intergovernmental agreement or written contract shall include provisions:

1. That preserve the usage of the facility renovated or constructed, or both, only for career and technology programs operated by the joint technical education district.

2. That include the process to be used by the participating district to compensate the joint technical education district in the event that the facility is no longer used only for career and ~~technology~~ TECHNICAL education programs offered by the joint technical education district during the life of the bond.

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H. A school district shall not authorize, issue or sell bonds pursuant to this section if the school district has any existing indebtedness from impact aid revenue bonds pursuant to chapter 16, article 8 of this title, except for bonds issued to refund any bonds issued by the governing board.

EXPLANATION OF BLEND
SECTION 15-1472

Laws 2011, Chapters 30, 248 and 249

Laws 2011, Ch. 30, section 2	Effective July 20
Laws 2011, Ch. 248, section 8	Effective October 1
Laws 2011, Ch. 249, section 1	Effective October 1

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 30, Ch. 248 and Ch. 249 text changes to section 15-1472 are blended in the form shown on the following pages.

BLEND OF SECTION 15-1472
Laws 2011, Chapters 30, 248 and 249

15-1472. Community college district workforce development accounts; reports

A. Each community college district shall establish a separate workforce development account to receive only tax revenues authorized pursuant to section 42-5029, subsection E, paragraph 3. Each community college district board shall approve the expenditure of these monies in accordance with section 15-1461 and consistent with subsection B of this section.

B. Monies received pursuant to subsection A of this section shall be expended for workforce development and job training purposes. These expenditures may include:

1. Partnerships with businesses and educational institutions.

2. Additional faculty for improved and expanded classroom instruction and course offerings.

3. Technology, equipment and technology infrastructure for advanced teaching and learning in classrooms or laboratories.

4. Student services such as assessment, advisement and counseling for new and expanded job opportunities.

5. The purchase, lease or lease-purchase of real property, for new construction, remodeling or repair of buildings or facilities on real property.

C. The state treasurer shall transfer monies under this section into each district's workforce development account by the fifteenth day of each month. The state treasurer shall also allocate and distribute any pooled interest earnings earned from revenues authorized in section 42-5029, subsection E, paragraph 3 to each district in accordance with the method prescribed in subsection D, paragraph 2 of this section.

D. Revenues authorized for community college districts in section 42-5029, subsection E, paragraph 3 shall be distributed by the state in the following manner:

1. For thirteen fiscal years beginning in fiscal year 2001-2002 the state treasurer shall allocate one million dollars per fiscal year for the purpose of bringing this state into compliance with the matching capital requirements prescribed in section 15-1463. The state treasurer shall distribute the monies authorized in this subsection to each district in the order in which each campus qualified for funding pursuant to section 15-1463.

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2. After the monies have been paid each year to the eligible ~~district~~ DISTRICTS pursuant to paragraph 1 of this subsection, the state treasurer shall distribute monies from the workforce development fund to each community college district in the following manner:

(a) Each district shall receive the sum of two hundred thousand dollars.

(b) After each district has received the payments prescribed in subdivision (a), the remainder of monies in the fund shall be distributed to each district according to each district's full-time equivalent student enrollment percentage of the total ~~state-wide~~ STATEWIDE audited full-time equivalent student enrollment in the preceding fiscal year prescribed in section 15-1466.01. FOR THE PURPOSES OF THIS SUBDIVISION, THE FULL-TIME EQUIVALENT STUDENT ENROLLMENT OF A PROVISIONAL COMMUNITY COLLEGE DISTRICT SHALL BE ADDED TO THE FULL-TIME EQUIVALENT STUDENT ENROLLMENT OF THE COMMUNITY COLLEGE DISTRICT THAT CONTRACTS WITH THE PROVISIONAL COMMUNITY COLLEGE DISTRICT PURSUANT TO SECTION 15-1409, SUBSECTION A, AND THAT PORTION OF THE MONIES DISTRIBUTED UNDER THIS SUBDIVISION TO THAT COMMUNITY COLLEGE DISTRICT SHALL BE USED TO PROVIDE SERVICES TO STUDENTS ENROLLED IN THAT PROVISIONAL COMMUNITY COLLEGE DISTRICT AS APPROVED BY THE PROVISIONAL COMMUNITY COLLEGE DISTRICT'S GOVERNING BOARD AS PART OF THE ANNUAL BUDGET PROCESS PURSUANT TO SECTION 15-1461. The percentage distribution under this subdivision shall be adjusted annually on October 1 of each year. FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DISTRIBUTION PROCEDURES APPLY:

(i) IF A COMMUNITY COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1402.01 CONTRACTS WITH ANOTHER COMMUNITY COLLEGE DISTRICT PURSUANT TO SECTION 15-1402.01, SUBSECTION B, THE FULL-TIME EQUIVALENT STUDENT ENROLLMENT OF THAT DISTRICT SHALL BE ADDED TO THE FULL-TIME EQUIVALENT STUDENT ENROLLMENT OF THE OTHER COMMUNITY COLLEGE DISTRICT THAT CONTRACTS WITH THAT DISTRICT PURSUANT TO SECTION 15-1402.01, SUBSECTION B, AND THAT PORTION OF THE MONIES DISTRIBUTED UNDER THIS SUBDIVISION TO THE OTHER COMMUNITY COLLEGE DISTRICT SHALL BE USED TO PROVIDE SERVICES TO STUDENTS ENROLLED IN THE COMMUNITY COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1402.01 AS APPROVED BY THAT DISTRICT'S GOVERNING BOARD AS PART OF THE ANNUAL BUDGET PROCESS PURSUANT TO SECTION 15-1461.

(ii) IF A COMMUNITY COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1402.01 IS NO LONGER REQUIRED TO CONTRACT WITH ANOTHER COMMUNITY COLLEGE DISTRICT PURSUANT TO SECTION 15-1402.01, SUBSECTION B, THAT COMMUNITY COLLEGE DISTRICT SHALL RECEIVE MONIES AS PROVIDED IN THIS SUBDIVISION ACCORDING TO ITS FULL-TIME EQUIVALENT STUDENT ENROLLMENT.

E. Revenues received by community college districts shall not be used by the legislature to supplant or reduce any state aid authorized in this chapter or supplant any proceeds from the sale of bonds authorized in this article and article 5 of this chapter.

F. Monies received under this section shall not be considered to be local revenues for purposes of article IX, section 21, Constitution of Arizona.

~~G. Each community college district shall submit a workforce development plan by April 1 of each year to the department of commerce. The plan shall outline the purpose and goals for which workforce development monies are to be expended by the district.~~

~~H.~~ G. Each community college district or community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation shall submit a report once every two years of its workforce development plan activities and the expenditures authorized in this section to the governor, president of the senate, speaker of the house of representatives, joint legislative budget committee and department of

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commerce by December 1 of every even-numbered year. The report shall include the purpose and goals for which the workforce development monies were expended by each district or community college together with a general accounting of the expenditures authorized in subsection B of this section. A copy of the final report shall also be provided to the secretary of state ~~and the director of the Arizona state library, archives and public records~~. For the purposes of this subsection, "qualifying Indian tribe" has the same meaning prescribed in section 42-5031.01.

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EXPLANATION OF BLEND
SECTION 15-1626

Laws 2011, Chapters 19 and 30

Laws 2011, Ch. 19, section 7 — Effective July 20

Laws 2010, Ch. 30, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 19 and Ch. 30 text changes to section 15-1626 are blended in the form shown on the following pages.

BLEND OF SECTION 15-1626
Laws 2011, Chapters 19 and 30

15-1626. General administrative powers and duties of board

A. The board shall:

1. Have and exercise the powers necessary for the effective governance and administration of the institutions under its control. To that end, the board may adopt, and authorize each university to adopt, such regulations, policies, rules or measures as are deemed necessary and may delegate in writing to its committees, to its university presidents, or their designees, or to other entities under its control, any part of its authority for the administration and governance of such institutions, including those powers enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section. Any delegation of authority may be rescinded by the board at any time in whole or in part.

2. Appoint and employ and determine the compensation of presidents with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary.

3. Appoint and employ and determine the compensation of vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees with such power and authority and for such purposes in connection with the operation of the institutions as the board deems necessary, or delegate its authority pursuant to paragraph 1 of this subsection.

4. Remove any officer or employee when the interests of education in this state so require in accordance with its personnel rules and policies.

5. Fix tuitions and fees to be charged and differentiate the tuitions and fees between institutions and between residents, nonresidents, undergraduate students, graduate students, students from foreign countries and students who have earned credit hours in excess of the credit hour threshold. For the purposes of this paragraph, the undergraduate credit hour threshold is one hundred forty-five hours for students who attend a university under the jurisdiction of the board. The undergraduate credit hour threshold shall be based on the actual full-time equivalent student enrollment counted on the forty-fifth day of every fall and spring semester, divided by two, and any budget adjustment based on student enrollment shall occur in the fiscal year following the actual full-time equivalent student enrollment count. The undergraduate credit hour threshold shall not apply to degree programs that require credit hours above the credit hour threshold, credits earned in the pursuit of up to two baccalaureate degrees, credits earned in the pursuit of up to two state regulated licensures or certificates, credits earned in the pursuit of teaching certification, credits transferred from a private institution of higher education, credits transferred from an institution of higher education in another state, credits earned at another institution of higher education but that are not accepted as transfer credits at the university where the student is currently enrolled

and credits earned by students who enroll at a university under the jurisdiction of the board more than twenty-four months after the end of that student's previous enrollment at a public institution of higher education in this state. On or before October 15 of each year, the board shall report to the joint legislative budget committee the number of students who were enrolled at universities under the jurisdiction of the board during the previous fiscal year who met or exceeded the undergraduate credit hour threshold prescribed in this paragraph. The amount of tuition, registration fees and other revenues included in the operating budget for the university adopted by the board as prescribed in paragraph 13 of this subsection shall be deposited, pursuant to sections 35-146 and 35-147. All other tuition and fee revenue shall be retained by each university for expenditure as approved by the board, except that the universities shall not use any tuition or fee revenue to fund or support an alumni association.

6. Except as provided in subsection I of this section, adopt rules to govern its tuition and fee setting process that provide for the following:

(a) At least one public hearing at each university as an opportunity for students and members of the public to comment on any proposed increase in tuition or fees.

(b) Publication of the notice of public hearing at least ten days prior to the hearing in a newspaper of general circulation in Maricopa county, Coconino county and Pima county. The notice shall include the date, time and location of the public hearing.

(c) Public disclosure by each university of any proposed increases in tuition or fees at least ten days prior to the public hearing.

(d) Final board action on changes in tuition or fees shall be taken by roll call vote.

The procedural requirements of subdivisions (a), (b), (c) and (d) of this paragraph apply only to those changes in tuition or fees that require board approval.

7. Pursuant to section 35-115, submit a budget request for each institution under its jurisdiction that includes the estimated tuition and fee revenue available to support the programs of the institution as described in the budget request. The estimated available tuition and fee revenue shall be based on the tuition and registration fee rates in effect at the time the budget request is submitted with adjustments for projected changes in enrollment as provided by the board.

8. Establish curriculums and designate courses at the several institutions that in its judgment will best serve the interests of this state.

9. Award such degrees and diplomas on the completion of such courses and curriculum requirements as it deems appropriate.

10. Prescribe qualifications for admission of all students to the universities. The board shall establish policies for guaranteed admission that assure fair and equitable access to students in this state from public, private, AND charter SCHOOLS and ~~home schools~~ HOMESCHOOLS. For the purpose of determining the qualifications of honorably discharged veterans, veterans are those persons who served in the armed forces for a minimum of two years and who were previously enrolled at a university or community college in this

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state. No prior failing grades received by the veteran at the university or community college in this state may be considered.

11. Adopt any energy conservation standards promulgated by the department of administration for the construction of new buildings.

12. Employ for such time and purposes as the board requires attorneys whose compensation shall be fixed and paid by the board. Litigation to which the board is a party and for which self-insurance is not provided may be compromised or settled at the direction of the board.

13. Adopt annually an operating budget for each university equal to the sum of appropriated general fund monies and the amount of tuition, registration fees and other revenues approved by the board and allocated to each university operating budget.

14. In consultation with the state board of education and other education groups, develop and implement a program to award honors endorsements to be affixed to the high school diplomas of qualifying high school pupils and to be included in the transcripts of pupils who are awarded endorsements. The board shall develop application procedures and testing criteria and adopt testing instruments and procedures to administer the program. In order to receive an honors endorsement, a pupil must demonstrate an extraordinary level of knowledge, skill and competency as measured by the testing instruments adopted by the board in mathematics, English, science and social studies. Additional subjects may be added at the determination of the board. The program is voluntary for pupils.

15. Require the publisher of each literary and nonliterary textbook used in the universities of this state to furnish computer software in a standardized format when software becomes available for nonliterary textbooks to the Arizona board of regents from which braille versions of the textbooks may be produced.

16. Require universities that provide a degree in education to require courses that are necessary to obtain a provisional structured English immersion endorsement as prescribed by the state board of education.

17. Acquire United States flags for each classroom that are manufactured in the United States and that are at least two feet by three feet and hardware to appropriately display the United States flags, acquire a legible copy of the Constitution of the United States and the Bill of Rights, display the flags in each classroom in accordance with title 4 of the United States Code and display a legible copy of the Constitution of the United States and the Bill of Rights adjacent to the flag.

18. To facilitate the transfer of military personnel and their dependents to and from the public schools of this state, pursue, in cooperation with the state board of education, reciprocity agreements with other states concerning the transfer credits for military personnel and their dependents. A reciprocity agreement entered into pursuant to this paragraph shall:

(a) Address procedures for each of the following:

(i) The transfer of student records.

(ii) Awarding credit for completed course work.

(iii) Permitting a student to satisfy the graduation requirements prescribed in section 15-701.01 through the successful performance on comparable exit-level assessment instruments administered in another state.

(b) Include appropriate criteria developed by the state board of education and the Arizona board of regents.

19. Require a university to publicly post notices of all of its employment openings, including the title and description, instructions for applying and relevant contact information.

20. In consultation with the community college districts in this state, develop and implement common equivalencies for specific levels of achievement on advanced placement examinations and international baccalaureate examinations in order to award commensurate postsecondary academic credits at community colleges and public universities in this state.

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21. ON OR BEFORE AUGUST 1 OF EACH YEAR, REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE THE GRADUATION RATE BY UNIVERSITY CAMPUS DURING THE PREVIOUS FISCAL YEAR. THE BOARD SHALL ALSO REPORT THE RETENTION RATE BY UNIVERSITY CAMPUS AND BY CLASS, AS DETERMINED BY DATE OF ENTRY DURING THE PREVIOUS FISCAL YEAR.

B. The board shall adopt personnel rules. All nonacademic employees of the universities are subject to these rules except for university presidents, university vice-presidents, university deans, legal counsel and administrative officers. The personnel rules shall be similar to the personnel rules under section 41-783. The rules shall include provisions for listing available positions with the department of economic security, competitive employment processes for applicants, probationary status for new nonacademic employees, nonprobationary status on successful completion of probation and due process protections of nonprobationary employees after discharge. The board shall provide notice of proposed rule adoption and an opportunity for public comment on all personnel rules proposed for adoption.

C. In conjunction with the auditor general, the board shall develop a uniform accounting and reporting system, which shall be reviewed by the joint legislative budget committee before final adoption by the board. The board shall require each university to comply with the uniform accounting and reporting system.

D. The board may employ legal assistance in procuring loans for the institutions from the United States government. Fees or compensation paid for such legal assistance shall not be a claim on the general fund of this state but shall be paid from funds of the institutions.

E. The board shall approve or disapprove any contract or agreement entered into by the university of Arizona hospital with the Arizona health facilities authority.

F. The board may adopt policies that authorize the institutions under its jurisdiction to enter into employment contracts with nontenured employees for periods of more than one year but not more than five years. The policies shall prescribe limitations on the authority of the institutions to enter into employment contracts for periods of more than one year but not more than five years, including the requirement that the board approve the contracts.

G. The board may adopt a plan or plans for employee benefits that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

H. The board may establish a program for the exchange of students between the universities under the jurisdiction of the board and colleges and universities located in the state of Sonora, Mexico. Notwithstanding

subsection A, paragraph 5 of this section, the program may provide for in-state tuition at the universities under the jurisdiction of the board for fifty Sonoran students in exchange for similar tuition provisions for up to fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or universities. The board may direct the universities to work in conjunction with the Arizona-Mexico commission to coordinate recruitment and admissions activities.

I. Subsection A, paragraph 6, subdivisions (a), (b), (c) and (d) of this section do not apply to fee increases that are set by individual universities and that do not require approval by the Arizona board of regents before the fee increase becomes effective.

EXPLANATION OF BLEND
SECTION 16-168

Laws 2011, Chapters 331 and 339

Laws 2011, Ch. 331, section 1 — Effective July 20

Laws 2011, Ch. 339, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 331 and Ch. 339 text changes to section 16-168 are blended in the form shown on the following pages.

BLEND OF SECTION 16-168
Laws 2011, Chapters 331 and 339

16-168. Precinct registers; date of preparation; contents; copies; reports; statewide database; violation; classification

A. By the tenth day preceding the primary and general elections the county recorder shall prepare from the original registration forms or from electronic media at least four lists that are printed or typed on paper, OR AT LEAST TWO ELECTRONIC MEDIA POLL LISTS, OR ANY COMBINATION OF BOTH, of all qualified electors in each precinct in the county, and the lists shall be the official precinct registers.

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B. The official precinct registers for use at the polling place shall contain at least the names in full, party preference, date of registration and residence address of each qualified electror in the respective precincts. The names shall be in alphabetical order and, in a column to the left of the names, shall be numbered consecutively beginning with number 1 in each precinct register.

C. For the purposes of transmitting voter registration information as prescribed by this subsection, electronic media shall be the principal media. A county or state chairman who is eligible to receive copies of precinct lists as prescribed by this subsection may request that the recorder provide a paper copy of the precinct lists. In addition to preparing the official precinct lists, the county recorder shall provide a means for electronically reproducing the precinct lists. Unless otherwise agreed, the county recorder shall deliver one electronic media copy of each precinct list in the county without charge and on the same day within eight days after the close of registration for the primary and general elections to the county chairman and one electronic media copy to the state chairman of each party that has at least four candidates other than presidential electors appearing on the ballot in that county at the current election. The secretary of state shall ~~prescribe~~ ESTABLISH A SINGLE FORMAT THAT PRESCRIBES the manner~~, format~~ and template in which all county recorders provide this data to the secretary of state to ensure that the submissions are uniform from all counties in this state, THAT ALL SUBMISSIONS ARE IDENTICAL IN FORMAT, INCLUDING THE LEVEL OF DETAIL FOR VOTING HISTORY, AND THAT INFORMATION MAY READILY BE COMBINED FROM TWO OR MORE COUNTIES. The electronic media copies of the precinct lists that are delivered to the party chairmen shall include for each elector the following information:

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1. Name in full and appropriate title.
2. Party preference.
3. Date of registration.
4. Residence address.
5. Mailing address, if different from residence address.
6. Zip code.
7. Telephone number if given.
8. Birth year.

9. Occupation if given.

10. Voting history for all elections in the prior four years and any other information regarding registered voters that the county recorder or city or town clerk maintains electronically and that is public information.

11. All data relating to permanent early voters and nonpermanent early voters, including ballot requests and ballot returns.

D. The names on the precinct lists shall be in alphabetical order and the precinct lists in their entirety, unless otherwise agreed, shall be delivered to each county chairman and each state chairman within ten business days of the close of each date for counting registered voters prescribed by subsection G of this section other than the primary and general election registered voter counts in the same format and media as prescribed by subsection C of this section. During the thirty-three days immediately preceding an election and on request from a county or state chairman, the county recorder shall provide at no cost a daily list of persons who have requested an early ballot and shall provide at no cost a weekly listing of persons who have returned their early ballots. The recorder shall provide the daily and weekly information through the Friday preceding the election. On request from a county chairman or state chairman, the county recorder of a county with a population of more than eight hundred thousand persons shall provide at no cost a daily listing of persons who have returned their early ballots. The daily listing shall be provided Mondays through Fridays, beginning with the first Monday following the start of early voting and ending on the Monday before the election.

E. Precinct registers and other lists and information derived from registration forms may be used only for purposes relating to a political or political party activity, a political campaign or an election, for revising election district boundaries or for any other purpose specifically authorized by law and may not be used for a commercial purpose as defined in section 39-121.03. The sale of registers, lists and information derived from registration forms to a candidate or a registered political committee for a use specifically authorized by this subsection does not constitute use for a commercial purpose. The county recorder, on a request for an authorized use and within thirty days from receipt of the request, shall prepare additional copies of an official precinct list and furnish them to any person requesting them on payment of a fee equal to five cents for each name appearing on the register for a printed list and one cent for each name for an electronic data medium, plus the cost of the blank computer disk or computer software if furnished by the recorder, for each copy so furnished.

F. Any person in possession of a precinct register or list, in whole or part, or any reproduction of a precinct register or list, shall not permit the register or list to be used, bought, sold or otherwise transferred for any purpose except for uses otherwise authorized by this section. A person in possession of information derived from voter registration forms or precinct registers shall not distribute, post or otherwise provide access to any portion of that information through the internet except as authorized by subsection J of this section. Nothing in this section shall preclude public inspection of voter registration records at the office of the county recorder for the purposes prescribed by this section, except that the month and day of birth date, the social security number or any portion thereof, the driver

license number or nonoperating identification license number, the Indian census number, the father's name or mother's maiden name, the state or country of birth and the records containing a voter's signature shall not be accessible or reproduced by any person other than the voter, by an authorized government official in the scope of the official's duties, for signature verification on petitions and candidate filings, for election purposes and for news gathering purposes by a person engaged in newspaper, radio, television or reportorial work, or connected with or employed by a newspaper, radio or television station or pursuant to a court order. A person who violates this subsection or subsection E of this section is guilty of a class 6 felony.

G. The county recorder shall count the registered voters by political party by precinct, legislative district and congressional district as follows:

1. In even numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) March 1.

(c) June 1.

(d) The last day on which a person may register to be eligible to vote in the next primary election.

(e) The last day on which a person may register to be eligible to vote in the next general election.

(f) The last day on which a person may register to be eligible to vote in the next presidential preference election.

2. In odd numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) April 1.

(c) July 1.

(d) October 1.

H. The county recorder shall report the totals to the secretary of state as soon as is practicable following each of the dates prescribed in subsection G of this section. The report shall include completed registration forms returned in accordance with section 16-134, subsection B. The county recorder shall also provide the report in a uniform electronic computer media format that shall be agreed on between the secretary of state and all county recorders. The secretary of state shall then prepare a summary report for the state and shall maintain that report as a permanent record.

I. The county recorder and the secretary of state shall protect access to voter registration information in an auditable format and method specified in the secretary of state's electronic voting system instructions and procedures manual that is adopted pursuant to section 16-452.

J. The secretary of state shall develop and administer a statewide database of voter registration information that contains the name and registration information of every registered voter in this state. The statewide database is a matter of statewide concern and is not subject to modification or further regulation by a political subdivision. The database shall include an identifier that is unique for each individual voter. The

database shall provide for access by voter registration officials and shall allow expedited entry of voter registration information after it is received by county recorders. As a part of the statewide voter registration database, county recorders shall provide for the electronic transmittal of that information to the secretary of state on a real time basis. The secretary of state shall provide for maintenance of the database, including provisions regarding removal of ineligible voters that are consistent with the national voter registration act of 1993 (P.L. 103-31; 107 Stat. 77; 42 United States Code section 394) and the help America vote act of 2002 (P.L. 107-252; 116 Stat. 1666; 42 United States Code sections 15301 through 15545), provisions regarding removal of duplicate registrations and provisions to ensure that eligible voters are not removed in error. For the purpose of maintaining compliance with the help America vote act of 2002, each county voter registration system is subject to approval by the secretary of state for compatibility with the statewide voter registration database system.

K. Except as provided in subsection L of this section, for requests for the use of registration forms and access to information as provided in subsections E and F of this section, the county recorder shall receive and respond to requests regarding federal, state and county elections.

L. Beginning January 1, 2008, recognized political parties shall request precinct lists and access to information as provided in subsections E and F of this section during the time periods prescribed in subsection C or D of this section and the county recorder shall receive and respond to those requests. If the county recorder does not provide the requested materials within the applicable time prescribed for the county recorder pursuant to subsection C or D of this section, a recognized political party may request that the secretary of state provide precinct lists and access to information as provided in subsections E and F of this section for federal, state and county elections. The secretary of state shall not provide access to precinct lists and information for recognized political parties unless the county recorder has failed or refused to provide the lists and materials as prescribed by this section. The secretary of state may charge the county recorder a fee determined by rule for each name or record produced.

M. For municipal registration information in those municipalities in which the county administers the municipal elections, county and state party chairmen shall request and obtain voter registration information and precinct lists from the city or town clerk during the time periods prescribed in subsection C or D of this section. If the city or town clerk does not provide that information within the same time prescribed for county recorders pursuant to subsection C or D of this section, the county or state party chairman may request and obtain the information from the county recorder. The county recorder shall provide the municipal voter registration and precinct lists within the time prescribed in subsection C or D of this section.

N. The county recorders and the secretary of state shall not prohibit any person or entity prescribed in subsection C of this section from distributing a precinct list to any person or entity that is deemed to be using the precinct list in a lawful manner as prescribed in subsections E and F of this section.

EXPLANATION OF BLEND
SECTION 16-411

Laws 2011, Chapters 273, 331, 332 and 339

Laws 2011, Ch. 273, section 1	Effective July 20
Laws 2011, Ch. 331, section 3	Effective July 20
Laws 2011, Ch. 332, section 6	Effective July 20
Laws 2011, Ch. 339, section 3	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 273, Ch. 331, Ch. 332 and Ch. 339 text changes to section 16-411 are blended in the form shown on the following pages.

BLEND OF SECTION 16-411
Laws 2011, Chapters 273, 331, 332 and 339

16-411. Designation of election precincts and polling places; voting centers; electioneering; wait times

A. Except as prescribed by subsection J of this section, the board of supervisors of each county, on or before December 1 of each year preceding the year of a general election, by an order, shall establish a convenient number of election precincts in the county and define the boundaries of the precincts. Such election precinct boundaries shall be so established as included within election districts prescribed by law for elected officers of the state and its political subdivisions including community college district precincts, except those elected officers provided for in titles 30 and 48.

B. Not less than twenty days before a general or primary election, and at least ten days before a special election, the board shall designate one polling place within each precinct where the election shall be held, except that:

1. On a specific finding of the board, included in the order or resolution designating polling places pursuant to this subsection, that no suitable polling place is available within a precinct, a polling place for such precinct may be designated within an adjacent precinct.

2. Adjacent precincts may be combined if boundaries so established are included in election districts prescribed by law for state elected officials and political subdivisions including community college districts but not including elected officials prescribed by titles 30 and 48. The officer in charge of elections may also split a precinct for administrative purposes. Any such polling places shall be listed in separate sections of the order or resolution.

3. On a specific finding of the board that the number of persons who are listed as permanent early voters pursuant to section 16-544 is likely to substantially reduce the number of voters appearing at one or more specific polling places at that election, adjacent precincts may be consolidated by combining polling places and precinct boards for that election. The board of supervisors shall ensure that a reasonable and adequate number of polling places will be designated for that election. Any consolidated polling places shall be listed in separate sections of the order or resolution of the board.

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4. ON A SPECIFIC RESOLUTION OF THE BOARD, THE BOARD MAY AUTHORIZE THE USE OF VOTING CENTERS IN PLACE OF OR IN ADDITION TO SPECIFICALLY DESIGNATED POLLING PLACES. A VOTING CENTER SHALL ALLOW ANY VOTER IN THAT COUNTY TO RECEIVE THE APPROPRIATE BALLOT FOR THAT VOTER ON ELECTION DAY AND LAWFULLY CAST THE BALLOT. VOTING CENTERS MAY BE ESTABLISHED IN COORDINATION AND CONSULTATION WITH THE COUNTY RECORDER, AT OTHER COUNTY OFFICES OR AT OTHER LOCATIONS IN THE COUNTY DEEMED APPROPRIATE.

C. If the board fails to designate the place for holding the election, or if it cannot be held at or about the place designated, the justice of the peace in the precinct, two days before the election, by an order, copies of which the justice of the peace shall immediately post in three public places in the precinct, shall designate the place within the precinct for holding the election. If there is no justice of the peace in the precinct, or if the justice of the peace fails to do so, the election board of the precinct shall

designate and give notice of the place within the precinct of holding the election. For any election in which there are no candidates for elected office appearing on the ballot, the board may consolidate polling places and precinct boards and may consolidate the tabulation of results for that election if all of the following apply:

1. All affected voters are notified by mail of the change at least thirty-three days before the election.

2. Notice of the change in polling places includes notice of the new voting location, notice of the hours for voting on election day and notice of the telephone number to call for voter assistance.

3. All affected voters receive information on early voting that includes the application used to request an early voting ballot.

D. The board is not required to designate a polling place for special district mail ballot elections held pursuant to article 8.1 of this chapter, but the board may designate one or more sites for voters to deposit marked ballots until 7:00 p.m. on the day of the election.

E. Except as provided in subsection F of this section, a public school shall provide sufficient space for use as a polling place for any city, county or state election when requested by the officer in charge of elections.

F. The principal of the school may deny a request to provide space for use as a polling place for any city, county or state election if, within two weeks after a request has been made, the principal provides a written statement indicating a reason the election cannot be held in the school, including any of the following:

1. Space is not available at the school.

2. The safety or welfare of the children would be jeopardized.

G. The board shall make available to the public as a public record a list of the polling places for all precincts in which the election is to be held including identification of polling place changes that were submitted to the United States department of justice for approval.

H. Except in the case of an emergency, any facility that is used as a polling place on election day OR THAT IS USED AS AN EARLY VOTING SITE DURING THE PERIOD OF EARLY VOTING shall allow persons to electioneer and engage in other political activity outside of the seventy-five foot limit prescribed by section 16-515 in public areas and parking lots used by voters. This subsection shall not be construed to permit the temporary or permanent construction of structures in public areas and parking lots or the blocking or other impairment of access to parking spaces for voters. THE COUNTY RECORDER SHALL POST ON ITS WEBSITE AT LEAST TWO WEEKS BEFORE ELECTION DAY A LIST OF THOSE POLLING PLACES IN WHICH EMERGENCY CONDITIONS PREVENT ELECTIONEERING AND SHALL SPECIFY THE REASON THE EMERGENCY EXEMPTION WAS GRANTED. IF THE POLLING PLACE IS NOT ON THE WEBSITE LIST OF POLLING PLACES WITH EMERGENCY CONDITIONS, ELECTIONEERING AND OTHER POLITICAL ACTIVITY SHALL BE PERMITTED OUTSIDE OF THE SEVENTY-FIVE FOOT LIMIT. IF AN EMERGENCY ARISES AFTER THE COUNTY RECORDER'S INITIAL WEBSITE POSTING, THE COUNTY RECORDER SHALL UPDATE THE WEBSITE AS SOON AS IS PRACTICABLE TO INCLUDE ANY NEW POLLING PLACES, SHALL HIGHLIGHT THE POLLING PLACE LOCATION ON THE WEBSITE AND SHALL SPECIFY THE REASON THE EMERGENCY EXEMPTION WAS GRANTED.

Chs. 273 and 332

Ch. 339

I. The secretary of state shall provide through the instructions and procedures manual adopted pursuant to section 16-452 the maximum allowable wait time for any election that is subject to section 16-204 and provide for a method to reduce voter wait time at the polls in the primary and general elections. The method shall consider at least all of the following for primary and general elections in each precinct:

1. The number of ballots voted in the prior primary and general elections.

2. The number of registered voters who voted early in the prior primary and general elections.

3. The number of registered voters and the number of registered voters who cast an early ballot for the current primary or general election.

4. The number of election board members and clerks and the number of rosters that will reduce voter wait time at the polls.

J. The board of supervisors of a county shall not change precinct lines during the period after July 31, 2008 and before January 1, 2011. The board of supervisors may subdivide an election precinct for administrative purposes or may provide for more than one polling place within the boundaries of the election precincts established for use in voting in elections held after July 31, 2008 and before January 1, 2011. In providing for multiple polling places within a precinct, the board of supervisors shall consider the particular population characteristics of each precinct in order to provide the voters the most reasonable access to the polls possible.

EXPLANATION OF BLEND
SECTION 16-502

Laws 2011, Chapters 299 and 332

Laws 2011, Ch. 299, section 1	Effective July 20
Laws 2011, Ch. 332, section 8	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 299 and Ch. 332 text changes to section 16-502 are blended in the form shown on the following pages.

BLEND OF SECTION 16-502
Laws 2011, Chapters 299 and 332

16-502. Form and contents of ballot

A. Ballots shall be printed with black ink on white paper of sufficient thickness to prevent the printing thereon from being discernible from the back, and the same type shall be used for the names of all candidates. The ballots shall be headed "official ballot" in bold-faced plain letters, with a heavy rule above and below the heading. Immediately below shall be placed the words "type of election, (date of election)" and the name of the county and state in which the election is held. The name or number of the precinct in which the election is held shall be placed on the ballot in a uniform location for all ballots. No other matter shall be placed or printed at the head of any ballot, except above the heading there may be a stub that contains the words "stub no. _____, register no. _____, to be torn off by inspector." The stub shall be separated from the ballot by a perforated line, so that it may be easily detached from the ballot. Instructions to the voter on marking the ballot may be printed below the heading. The official ballots shall be bound together in blocks of not less than five nor more than one hundred.

B. Immediately below the ballot heading shall be placed the following:

"Section One
Partisan Ballot

1. Put a mark according to the instructions next to the name of each candidate for each partisan office for whom you wish to vote.

2. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot or write-in envelope and put a mark according to the instructions next to the name so written."

C. Immediately below the instructions for voting in section one there shall be placed in columns the names of the candidates of the several political parties. Next to each candidate's name there shall be printed in bold-faced letters the name of the political party. At the head of each column shall be printed the names of the offices to be filled with the name of each office being of uniform type size. At the head of each column shall be printed in the following order the names of candidates for:

Ch. 299

1. PRESIDENT AND VICE-PRESIDENT. THE INDICATOR FOR THE SELECTION OF A CANDIDATE SHALL BE NEXT TO THE NAME OF THE CANDIDATE FOR PRESIDENT, AND THE VICE-PRESIDENTIAL CANDIDATE'S NAME SHALL BE LISTED IMMEDIATELY BELOW THAT OF THE PRESIDENTIAL CANDIDATE.

~~1.~~ 2. Presidential electors.

~~2.~~ 3. United States senator.

~~3.~~ 4. Representatives in Congress.

~~4.~~ 5. The several state offices.

~~5.~~ 6. The several county and precinct offices.

D. The names of candidates for the offices of state senator and state representative along with the district number shall be placed within the heading of each column to the right of the office name for state offices and immediately below the candidates for the office of governor. The number of the supervisorial district of which a candidate is a nominee shall be printed within the heading of each column to the right of the name of the office.

E. The lists of the candidates of the several parties shall be arranged with the names of the parties in descending order according to the votes cast for governor for that county in the most recent general election for the office of governor, commencing with the left-hand column. In the case of political parties which did not have candidates on the ballot in the last general election, such parties shall be listed in alphabetical order below the parties which did have candidates on the ballot in the last general election. The names of all candidates nominated under section 16-341 shall be placed in a single column below that of the recognized parties. Next to the name of each candidate, in parentheses, shall be printed ~~the designation not to exceed three words in length as~~ A THREE-LETTER ABBREVIATION THAT IS TAKEN FROM THE THREE WORDS prescribed in the candidate's certificate of nomination.

Ch. 332

F. Immediately below the designation of the office to be voted for shall appear the words: "Vote for not more than _____" (insert the number to be elected).

G. In each column at the right of the name of each candidate and on the same line there shall be a place for the voter to put a mark. Below the name of the last named candidate for each office there shall be as many blank lines as there are offices of the same title to be filled, with a place for the voter to put a mark unless write-in envelopes are provided for that purpose. Upon the blank line the voter may write the name of any person for whom he desires to vote whose name is not printed, and next to the name so written he shall designate his choice by a mark as in the case of printed names.

H. When there are two or more candidates of the same political party for the same office, or more than one candidate for a judicial office, the names of all such candidates shall be so alternated on the ballots used in each election district that the name of each candidate shall appear substantially an equal number of times in each possible location. If there are fewer or the same number of candidates seeking office than the number to be elected, the rotation of names is not required and the names shall be placed in alphabetical order.

I. Immediately below section one of the ballot shall be placed the following:

"Section Two
Nonpartisan Ballot

1. Put a mark according to the instructions next to the name of each candidate for each nonpartisan office for whom you wish to vote.

2. If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space provided on the ballot or write-in envelope and put a mark according to the instructions next to the name so written.

3. Put a mark according to the instructions next to the word 'yes' (or for) for each proposition or question you wish to be adopted. Put a mark according to the instructions next to the word 'no' (or against) for each proposition or question you wish not to be adopted."

J. Immediately below the instructions for voting in section two shall be placed the names of the candidates for judges of the superior court standing for election pursuant to article VI, section 12, Constitution of Arizona, school district officials, ~~justice~~ JUSTICES of the supreme court, judges of the court of appeals, judges of the superior court standing for retention or rejection pursuant to article VI, section 38, Constitution of Arizona, and other nonpartisan officials in a column or in columns without partisan or other designation except the title of office in an order determined by the officer in charge of the election.

Chs. 299 and 332

K. Immediately below the offices listed in subsection J of this section, the ballot shall contain a separate heading of any nonpartisan office for a vacant unexpired term and shall include the expiration date of the term of the vacated office.

L. All proposed constitutional amendments and other propositions or questions to be submitted to the voters shall be printed immediately below the names of candidates for nonpartisan positions in such order as the secretary of state, or if a city or town election, the city or town clerk, designates. Placement of county and local charter amendments, propositions or questions shall be determined by the officer in charge of the election. Except as provided by section 19-125, each proposition or question shall be followed by the words "yes" and "no" or "for _____" and "against _____" as the nature of the proposition or question requires, and at the right of and next to each of such words shall be a place for the voter to put a mark according to the instructions that is similar in size to those places appearing opposite the names of the candidates, in which the voter may indicate his vote for or against such proposition or question by a mark as defined in section 16-400.

M. Instead of printing the official and descriptive titles or the full text of each measure or question on the official ballot, the officer in charge of elections may print phrases on the official ballot that contain all of the following:

1. The number of the measure in reverse type and at least twelve point type.

2. The designation of the measure as prescribed by section 19-125, subsection C or as a question, proposition or charter amendment, followed by the words "relating to..." and inserting the subject.

3. Either the statement prescribed by section 19-125, subsection D that describes the effects of a "yes" vote and a "no" vote or, for other measures, the text of the question or proposition.

4. The words "yes" and "no" or "for" and "against", as may be appropriate and a place for the voter to put a mark.

N. For any ballot printed pursuant to subsection M of this section, the instructions on the official ballot shall direct the voter to the full text of the official and descriptive titles and the questions and propositions as printed on the sample ballot and posted in the polling place.

EXPLANATION OF BLEND
SECTION 16-542

Laws 2011, Chapters 332 and 339

Laws 2011, Ch. 332, section 10	Effective July 20
Laws 2011, Ch. 339, section 4	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 332 and Ch. 339 text changes to section 16-542 are blended in the form shown on the following pages.

BLEND OF SECTION 16-542
Laws 2011, Chapters 332 and 339

16-542. Request for ballot; civil penalties; violation; classification

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary.

B. Notwithstanding subsection A of this section, a request for an official early ballot from an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6) or a voter whose information is protected pursuant to section 16-153 that is received by the county recorder or other officer in charge of elections more than ninety-three days before the election is valid. If requested by the absent uniformed services or overseas voter, or a voter whose information is protected pursuant to section 16-153, the county recorder or other officer in charge of elections shall provide to the requesting voter early ballot materials through the next ~~two~~ regularly scheduled general ~~elections~~ ELECTION for federal office immediately following receipt of the request UNLESS A DIFFERENT PERIOD OF TIME, WHICH DOES NOT EXCEED THE NEXT TWO REGULARLY SCHEDULED GENERAL ELECTIONS FOR FEDERAL OFFICE, IS DESIGNATED BY THE VOTER.

Ch. 332

C. The county recorder or other officer in charge of elections shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots pursuant to section 16-545, except that early ballot distribution shall not begin more than twenty-six days before the election. If an early ballot request is received on or before the thirtieth day before

the election, the early ballot shall be distributed on the twenty-sixth day before the election.

D. Only the elector may be in possession of that elector's unvoted early ballot. If a complete and correct request is made by the elector within twenty-six days before the election, the mailing must be made within forty-eight hours after receipt of the request. Saturdays, Sundays and other legal holidays are excluded from the computation of the forty-eight hour period prescribed by this subsection. If a complete and correct request is made by an absent uniformed services voter or an overseas voter before the election, the regular early ballot shall be transmitted by mail, by fax or by other electronic format approved by the secretary of state within twenty-four hours after the early ballots are delivered pursuant to section 16-545, subsection B, excluding Sundays.

E. In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed to the elector's residence or temporary address must include all of the information prescribed by subsection A of this section and must be received by the county recorder or other officer in charge of elections no later than 5:00 p.m. on the eleventh day preceding the election. An elector who appears personally no later than 5:00 p.m. on the Friday preceding the election at an on-site early voting location that is established by the county recorder or other officer in charge of elections shall be given a ballot and permitted to vote at the on-site location. If an elector's request to receive an early ballot is not complete and correct but complies with all other requirements of this section, the county recorder or other officer in charge of elections shall attempt to notify the elector of the deficiency of the request.

F. Unless an elector specifies that the address to which an early ballot is to be sent is a temporary address, the recorder may use the information from an early ballot request form to update voter registration records.

G. The county recorder or other officer in charge of early balloting shall provide an alphabetized list of all voters in the precinct who have requested and have been sent an early ballot to the election board of the precinct in which the voter is registered not later than the day prior to the election.

H. As a result of an emergency occurring between 5:00 p.m. on the second Friday preceding the election and 5:00 p.m. on the Monday preceding the election, qualified electors may request to vote early in the manner prescribed by the county recorder of their respective county. For the purposes of this subsection, "emergency" means any unforeseen circumstances that would prevent the elector from voting at the polls.

I. A candidate ~~or~~, political committee OR OTHER ORGANIZATION may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return ~~to an addressee other than a political subdivision~~, the addressee shall be the ~~candidate or political committee that paid for the printing and distribution of the request forms~~ POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. FAILURE TO USE THE POLITICAL SUBDIVISION AS THE RETURN ADDRESSEE IS PUNISHABLE BY A CIVIL PENALTY OF UP TO THREE TIMES THE COST OF THE PRODUCTION AND DISTRIBUTION OF THE REQUEST.

Ch. 339

J. All ORIGINAL AND COMPLETED early ballot request forms that are received by a candidate or political committee shall be ~~transmitted as soon as practicable~~ SUBMITTED WITHIN SIX BUSINESS DAYS AFTER RECEIPT BY A CANDIDATE OR POLITICAL COMMITTEE OR ELEVEN DAYS BEFORE THE ELECTION DAY, WHICHEVER IS EARLIER, to the political subdivision that will conduct the election. ANY PERSON, POLITICAL COMMITTEE OR OTHER ORGANIZATION THAT FAILS TO SUBMIT A COMPLETED EARLY BALLOT REQUEST FORM WITHIN THE PRESCRIBED TIME IS SUBJECT TO A CIVIL PENALTY OF UP TO TWENTY-FIVE DOLLARS PER DAY FOR EACH COMPLETED FORM WITHHELD FROM SUBMITTAL. ANY PERSON WHO KNOWINGLY FAILS TO SUBMIT A COMPLETED EARLY BALLOT REQUEST FORM BEFORE THE SUBMISSION DEADLINE FOR THE ELECTION IMMEDIATELY FOLLOWING THE COMPLETION OF THE FORM IS GUILTY OF A CLASS 6 FELONY.

Ch. 339

EXPLANATION OF BLEND
SECTION 16-544

Laws 2011, Chapters 332 and 339

Laws 2011, Ch. 332, section 12	Effective July 20
Laws 2011, Ch. 339, section 5	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 332 and Ch. 339 text changes to section 16-544 are blended in the form shown on the following pages.

BLEND OF SECTION 16-544
Laws 2011, Chapters 332 and 339

16-544. Permanent early voting list; civil penalty; violation; classification

A. Any voter may request to be included on a permanent list of voters to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register. The county recorder of each county shall maintain the permanent early voting list as part of the voter registration roll.

B. In order to be included on the permanent early voting list, the voter shall make a written request specifically requesting that the voter's name be added to the permanent early voting list for all elections in which the applicant is eligible to vote. A permanent early voter request form shall conform to requirements prescribed in the instructions and procedures manual issued pursuant to section 16-452. The application shall allow for the voter to provide the voter's name, residence address, mailing address in the voter's county of residence, date of birth and signature AND SHALL STATE THAT THE VOTER IS ATTESTING THAT THE VOTER IS A REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN THE COUNTY OF RESIDENCE. The voter shall not list a mailing address that is outside of ~~the voter's county of residence~~ THIS STATE for the purpose of the permanent early voting list unless the voter is an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6). In lieu of the application, the applicant may submit a written request that contains the required information.

Ch. 339

Ch. 332

C. On receipt of a request to be included on the permanent early voting list, the county recorder or other officer in charge of elections shall compare the signature on the request form with the voter's signature on the voter's registration form and, if the request is from the voter, shall mark the voter's registration file as a permanent early ballot request.

D. Not less than ninety days before any polling place election scheduled in March or August, the county recorder or other officer in charge of elections shall mail to all voters who are eligible for the election and who are included on the permanent early voting list an election notice by nonforwardable mail that is marked with the statement required by the postmaster to receive an address correction notification. If an election is not formally called by a jurisdiction by the one hundred twentieth day before the election, the recorder or other officer in charge of elections is not required to send the election notice. The notice shall include the dates of the elections that are the subject of the notice, the dates that the voter's ballot is expected to be mailed and the address where the ballot will be mailed. If the upcoming election is a partisan open primary election and the voter is not registered as a member of one of the political parties that is recognized for purposes of that primary, the notice shall include information on the procedure for the voter to designate a political party ballot. The notice shall be delivered with return postage prepaid and shall also include a means for the voter to do any of the following:

1. Change the mailing address for the voter's ballot to another location in the voter's county of residence.

2. Update the voter's residence address in the voter's county of residence.

3. Request that the voter not be sent a ballot for the upcoming election or elections indicated on the notice.

E. If the notice that is mailed to the voter is returned undeliverable by the postal service, the county recorder or other officer in charge of elections shall take the necessary steps to contact the voter at the voter's new residence address in order to update that voter's address or to move the voter to inactive status as prescribed in section 16-166, subsection A. If a voter is moved to inactive status, the voter shall be removed from the permanent early voting list. If the voter is removed from the permanent early voting list, the voter shall only be added to the permanent early voting list again if the voter submits a new request pursuant to this section.

F. Not later than the first day of early voting, the county recorder or other officer in charge of elections shall mail an early ballot to all eligible voters included on the permanent early voting list in the same manner prescribed in section 16-542, subsection C. If the voter has not returned the notice or otherwise notified the election officer within forty-five days before the election that the voter does not wish to receive an early ballot by mail for the election or elections indicated, the ballot shall automatically be scheduled for mailing.

G. If a voter who is on the permanent early voting list is not registered as a member of a recognized political party and fails to notify the county recorder of the voter's choice for political party ballot within forty-five days before a partisan open primary election, the following apply:

1. The voter shall not automatically be sent a ballot for that partisan open primary election only and the voter's name shall remain on the permanent early voting list for future elections.

2. To receive an early ballot for the primary election, the voter shall submit the voter's choice for political party ballot to the county recorder.

H. After a voter has requested to be included on the permanent early voting list, the voter shall be sent an early ballot by mail automatically for any election at which a voter at that residence address is eligible to vote until any of the following occurs:

1. The voter requests in writing to be removed from the permanent early voting list.

2. The voter's registration or eligibility for registration is moved to inactive status or canceled as otherwise provided by law.

3. The notice sent by the county recorder or other officer in charge of elections is returned undeliverable and the county recorder or officer in charge of elections is unable to contact the voter to determine the voter's continued desire to remain on the list.

I. A voter may make a written request at any time to be removed from the permanent early voting list. The request shall include the voter's name, residence address, date of birth and signature. On receipt of a completed request to remove a voter from the permanent early voting list, the county

recorder or other officer in charge of elections shall remove the voter's name from the list as soon as practicable.

J. An absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6) is eligible to be placed on the permanent early voting list pursuant to this section.

K. A voter's failure to vote an early ballot once received does not constitute grounds to remove the voter from the permanent early voting list.

L. A CANDIDATE, POLITICAL COMMITTEE OR OTHER ORGANIZATION MAY DISTRIBUTE PERMANENT EARLY VOTING LIST REQUEST FORMS TO VOTERS. IF THE PERMANENT EARLY VOTING LIST REQUEST FORMS INCLUDE A PRINTED ADDRESS FOR RETURN, THAT ADDRESS SHALL BE THE POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. FAILURE TO USE THE POLITICAL SUBDIVISION AS THE RETURN ADDRESSEE IS PUNISHABLE BY A CIVIL PENALTY OF UP TO THREE TIMES THE COST OF THE PRODUCTION AND DISTRIBUTION OF THE PERMANENT EARLY VOTING LIST REQUEST.

Ch. 339

M. ALL ORIGINAL AND COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORMS THAT ARE RECEIVED BY A CANDIDATE, POLITICAL COMMITTEE OR OTHER ORGANIZATION SHALL BE SUBMITTED WITHIN SIX BUSINESS DAYS AFTER RECEIPT BY A CANDIDATE OR POLITICAL COMMITTEE OR ELEVEN DAYS BEFORE THE ELECTION DAY, WHICHEVER IS EARLIER, TO THE POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. ANY PERSON, POLITICAL COMMITTEE OR OTHER ORGANIZATION THAT FAILS TO SUBMIT A COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORM WITHIN THE PRESCRIBED TIME IS SUBJECT TO A CIVIL PENALTY OF UP TO TWENTY-FIVE DOLLARS PER DAY FOR EACH COMPLETED FORM WITHHELD FROM SUBMITTAL. ANY PERSON WHO KNOWINGLY FAILS TO SUBMIT A COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORM BEFORE THE SUBMISSION DEADLINE FOR THE ELECTION IMMEDIATELY FOLLOWING THE COMPLETION OF THE FORM IS GUILTY OF A CLASS 6 FELONY.

EXPLANATION OF BLEND
SECTION 16-547

Laws 2011, Chapters 105 and 166

Laws 2011, Ch. 105, section 2 — Effective July 20

Laws 2011, Ch. 166, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 105 and Ch. 166 text changes to section 16-547 are blended in the form shown on the following pages.

BLEND OF SECTION 16-547
Laws 2011, Chapters 105 and 166

16-547. Ballot affidavit; form

Chs. 105 and 166

A. The early ballot shall be accompanied by an envelope bearing ~~upon~~ ON the front the name, official title and post office address of the recorder or other officer in charge of elections and ~~upon~~ ON the other side a printed affidavit in substantially the following form:

~~State of Arizona~~

~~County of _____~~

~~I, _____, do solemnly swear that I am the identical person whose name is signed to this affidavit and that this name and signature are my true name and signature, or if I did not personally sign, it was because of physical disability and that I requested _____ (name of person signing affidavit) to sign for me, that I have not voted and will not vote in this election in any other state during the calendar year of this affidavit and that I personally voted the enclosed ballot or that it was marked according to my instructions because I was unable to do so. I understand that knowingly voting more than once in any election is a class 5 felony. I declare that I am more than eighteen years of age, that I am a qualified elector of the state of Arizona and the county of _____ and that I reside at _____. If a challenge is filed against my early ballot, I understand that a copy of the challenge will be sent to me by first class mail and that I may have as little as forty-eight hours' notice of an opportunity to appear. For purposes of notifying me of a ballot challenge between the time I return my ballot and seven days after election day, please use the following address: _____. (If no address is provided, notice will be mailed to the mailing address listed on the registration rolls.)~~

Ch. 166

_____

~~Elector~~

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY: I AM A REGISTERED VOTER IN _____ COUNTY ARIZONA, I HAVE NOT VOTED AND WILL NOT VOTE IN THIS ELECTION IN ANY OTHER COUNTY OR STATE, I UNDERSTAND THAT KNOWINGLY VOTING MORE THAN ONCE IN ANY ELECTION IS A CLASS 5 FELONY AND I VOTED THE ENCLOSED BALLOT AND SIGNED THIS AFFIDAVIT PERSONALLY UNLESS NOTED BELOW.

IF THE VOTER WAS ASSISTED BY ANOTHER PERSON IN MARKING THE BALLOT, COMPLETE THE FOLLOWING:

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY: AT THE REGISTERED VOTER'S REQUEST I ASSISTED THE VOTER IDENTIFIED IN THIS AFFIDAVIT WITH MARKING THE VOTER'S BALLOT, I MARKED THE BALLOT AS DIRECTLY INSTRUCTED BY THE VOTER, I PROVIDED THE ASSISTANCE BECAUSE THE VOTER WAS PHYSICALLY UNABLE TO MARK THE

BALLOT SOLELY DUE TO ILLNESS, INJURY OR PHYSICAL LIMITATION AND I UNDERSTAND THAT THERE IS NO POWER OF ATTORNEY FOR VOTING AND THAT THE VOTER MUST BE ABLE TO MAKE THEIR SELECTION EVEN IF THEY CANNOT PHYSICALLY MARK THE BALLOT.

Ch. 166

NAME OF VOTER ASSISTANT: _____

ADDRESS OF VOTER ASSISTANT: _____

B. The face of each envelope in which a ballot is sent to a federal postcard applicant or in which a ballot is returned by such applicant to the recorder or other officer in charge of elections shall be in the form prescribed in accordance with the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff). Otherwise, the envelopes shall be the same as those used to send ballots to, or receive ballots from, other early voters.

C. The county recorder or other officer in charge of elections shall supply printed instructions to early voters that direct them to sign the affidavit, mark the ballot and return both in the enclosed self-addressed envelope THAT COMPLIES WITH SECTION 16-545. The instructions shall include the following statement:

Ch. 105

In order to be valid and counted, the ballot and affidavit must be delivered to the office of the county recorder or other officer in charge of elections or may be deposited at any polling place in the county no later than 7:00 p.m. on election day.

WARNING-IT IS A FELONY TO OFFER OR RECEIVE ANY COMPENSATION FOR A BALLOT.

Ch. 105

EXPLANATION OF BLEND
SECTION 16-602

Laws 2011, Chapters 331 and 332

Laws 2011, Ch. 331, section 8 — Effective July 20

Laws 2011, Ch. 332, section 13 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 331 and Ch. 332 text changes to section 16-602 are blended in the form shown on the following pages.

BLEND OF SECTION 16-602
Laws 2011, Chapters 331 and 332

16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee

Ch. 332 — A. For any primary, SPECIAL or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

Ch. 332 — B. For each countywide primary, SPECIAL, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. THE HAND COUNT SHALL BE CONDUCTED AS PRESCRIBED BY THIS SECTION AND IN ACCORDANCE WITH HAND COUNT PROCEDURES ESTABLISHED BY THE SECRETARY OF STATE IN THE OFFICIAL INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452. The hand count is not subject to the live video requirements of section 16-621, subsection C, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or to remove them from the facility. The hand count shall be conducted in the following order:

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1. At least two per cent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the

officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.

2. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary, SPECIAL and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:

(a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.

(b) One contested statewide race for statewide office.

(c) One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.

(d) One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.

(e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.

(f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

3. For the presidential preference election, select by lot two per cent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots.

4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.

5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.

6. Each county chairman of a political party that is entitled to continued representation on the state ballot or the chairman's designee shall select by lot the individual races to be hand counted pursuant to this section.

7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political

party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or officer in charge of elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, no more than seventy-five per cent of the persons performing the hand count shall be from the same political party.

8. If a political party is not represented by a designated chairperson within a county, the state chairperson for that political party, or a person designated by the state chairperson, may perform the actions required by the county chairperson as specified in this section.

C. If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. Those additional precincts shall be selected by lot without the use of a computer.

D. In any expanded count of randomly selected precincts, if the randomly selected precinct hand counts result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, the final hand count shall be extended to include the entire jurisdiction for that race. If the jurisdictional boundary for that race would include any portion of more than one county, the final hand count shall not be extended into the precincts of

that race that are outside of the county that is conducting the expanded hand count. If the expanded hand count results in a difference in that race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the electronic tabulation constitutes the official count for that race.

E. If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until a hand count for that race for the entire jurisdiction results in a count that is identical to one other hand count for that race for the entire jurisdiction and that hand count constitutes the official count for that race.

F. After the electronic tabulation of early ballots and at one or more times selected by the chairman of the political parties entitled to continued representation on the ballot or the chairman's designee, the chairmen or the chairmen's designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to one per cent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection B of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one per cent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

G. During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.

H. Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any

required hand counts and the officer shall provide for security for those ballots.

I. The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The results of those hand counts shall be provided to the secretary of state, who shall make those results publicly available on the secretary of state's ~~web site~~ WEBSITE.

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J. For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering, shall not be affiliated with an election software vendor nor with a candidate, shall sign and be bound by a nondisclosure agreement regarding the source code itself and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

K. The vote count verification committee is established in the office of the secretary of state and all of the following apply:

1. At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, no more than three of whom are members of the same political party.

2. Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.

3. A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.

4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state's ~~web site~~ WEBSITE.

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5. Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1 and its reports and records are subject to title 39, chapter 1.

EXPLANATION OF BLEND
SECTION 16-801

Laws 2011, Chapters 166 and 332

Laws 2011, Ch. 166, section 5 — Effective July 20

Laws 2011, Ch. 332, section 15 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 166 and Ch. 332 text changes to section 16-801 are blended in the form shown on the following page.

BLEND OF SECTION 16-801
Laws 2011, Chapters 166 and 332

16-801. Representation of new party on ballot at primary and general elections

A. A new political party may become eligible for recognition and shall be represented by an official party ballot at the next ensuing regular primary election and accorded a column on the official ballot at the succeeding general election ~~upon~~ ON filing with the secretary of state a petition signed by a number of qualified electors equal to not less than one and one-third per cent of the total votes cast for governor at the last preceding general election at which a governor was elected. FROM THIS NUMBER, AT LEAST FIVE DIFFERENT COUNTIES SHALL BE INCLUDED AS THE COUNTY OF REGISTRATION AMONG THE REQUIRED TOTAL OF QUALIFIED ELECTORS AND AT LEAST TEN PER CENT OF THE REQUIRED TOTAL OF QUALIFIED ELECTORS SHALL BE REGISTERED IN COUNTIES WITH POPULATIONS OF LESS THAN FIVE HUNDRED THOUSAND PERSONS. The petition shall: Ch. 166

~~1. Bear the certification of the county recorder of each county that the signatures on the petition have been examined and that these are signatures of qualified electors of the county.~~

~~2.~~ 1. Be verified by the affidavit of ten qualified electors of the state, asking that the signers thereof be recognized as a new political party. The status as qualified electors of the signers of the affidavit shall be certified by the county recorder of the county in which they reside.

~~3.~~ 2. Be in substantially the form prescribed by section 16-315.

~~4.~~ 3. Be captioned "petition for political party recognition".

B. NOTWITHSTANDING ANY OTHER LAW, ON RECOGNITION AS A POLITICAL PARTY THAT IS REPRESENTED BY AN OFFICIAL PARTY BALLOT AT THE PRIMARY ELECTION AND ACCORDED A BALLOT COLUMN AT THE SUCCEEDING GENERAL ELECTION, A NEW POLITICAL PARTY IS ENTITLED TO REPRESENTATION AS A POLITICAL PARTY ON THE OFFICIAL BALLOT THROUGH THE NEXT TWO REGULARLY SCHEDULED GENERAL ELECTIONS FOR FEDERAL OFFICE IMMEDIATELY FOLLOWING RECOGNITION OF THE POLITICAL PARTY. AFTER THESE TWO REGULARLY SCHEDULED GENERAL ELECTIONS FOR FEDERAL OFFICE[,] THE POLITICAL PARTY IS INELIGIBLE FOR FURTHER REPRESENTATION ON THE BALLOT UNLESS IT QUALIFIES FOR CONTINUED REPRESENTATION ON THE BALLOT AS PRESCRIBED IN SECTION 16-804 OR IT FILES A NEW PETITION FOR RECOGNITION AS A NEW POLITICAL PARTY PURSUANT TO THIS SECTION AND SECTION 16-803. Chs. 166 and 332 Ch. 332

EXPLANATION OF BLEND
SECTION 16-912

Laws 2011, Chapters 332 and 339

Laws 2011, Ch. 332, section 18 — Effective July 20

Laws 2011, Ch. 339, section 6 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 332 and Ch. 339 text changes to section 16-912 are blended in the form shown on the following page.

BLEND OF SECTION 16-912
Laws 2011, Chapters 332 and 339

16-912. Candidates and independent expenditures; campaign literature and advertisement sponsors; identification; civil penalty

A. A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that make any solicitation of contributions to any political committee shall be registered pursuant to this chapter at the time of distribution, placement or solicitation and shall include on the literature or advertisement the words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar exemption statement.

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political committees making the largest contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For purposes of determining the three contributors to be disclosed, the contributions of each political committee to the political committee making the independent expenditure during the one year period before the election being affected are aggregated.

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C. ~~The provisions of~~ Subsection A of this section ~~do~~ DOES not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A of this section cannot be conveniently printed or to signs paid for by a candidate with campaign monies or by a candidate's campaign committee or to a solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to sections 16-920 and 16-921.

D. The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner or, if the advertisement is broadcast on a telecommunications system, the disclosure shall be spoken.

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FOR PRINTED MATERIAL THAT IS DELIVERED OR PROVIDED BY HAND OR BY MAIL, THE DISCLOSURE SHALL BE PRINTED IN A FONT THAT IS AT LEAST 3/32 INCHES TALL IN DARK TYPE ON LIGHT BACKGROUND SURROUNDED BY A DARK BOX.

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FOR COMMUNICATIONS THAT ARE BROADCAST ON A TELECOMMUNICATIONS SYSTEM OR OTHER MEDIUM THAT CAN PROVIDE A VIEWABLE DISCLOSURE AND A SPOKEN DISCLOSURE, THE DISCLOSURE MAY BE MADE IN PRINTED FORMAT ONLY AND A SPOKEN DISCLOSURE IS NOT REQUIRED.

E. A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in section 16-924.

EXPLANATION OF BLEND
SECTION 16-918

Laws 2011, Chapters 117 and 332

Laws 2011, Ch. 117, section 1 — Effective July 20

Laws 2011, Ch. 332, section 20 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 117 and Ch. 332 text changes to section 16-918 are blended in the form shown on the following pages.

BLEND OF SECTION 16-918
Laws 2011, Chapters 117 and 332

16-918. Campaign finance reports; notice; civil penalty; prohibition on candidacy

A. If a political committee fails to file a report in a timely manner as required by this chapter, the filing officer shall send written notice of the delinquency of the report to the political committee and the candidate, in the case of the candidate's campaign committee, or to the designating individual, in the case of an individual's exploratory committee. The notice shall be sent by certified mail within fifteen days after the filing officer determines there may be a failure to file a campaign finance report. The notice shall provide with reasonable particularity the nature of the failure and a statement of the penalties provided in this section.

B. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, is liable for a late penalty of ten dollars for each

Ch. 332 — BUSINESS day after failure to make or file a campaign finance report that is required pursuant to this chapter up to a maximum of four hundred fifty dollars. FOR FILINGS FOR AN OFFICEHOLDER EXPENSE ACCOUNT PURSUANT TO SECTION 41-133, THE LATE PENALTY IS FIVE DOLLARS FOR EACH DAY AFTER FAILURE TO MAKE

Ch. 117 — OR FILE THE CAMPAIGN FINANCE REPORT, AND THE LATE PENALTY SHALL NOT ACCRUE ON DAYS DURING WHICH THE OFFICE OF THE SECRETARY OF STATE IS NOT OPEN FOR BUSINESS. The filing officer shall not accept a campaign report unless any penalties owed as a result of this section or any penalties imposed pursuant to section 16-924 are paid with the report.

C. A political committee, or in the case of a candidate's campaign committee, the candidate, or in the case of an exploratory committee, the designating individual, that has failed to file within fifteen days after receiving a notice of delinquency pursuant to subsection A of this section is liable for a civil penalty of twenty-five dollars for each subsequent day that the filing is late. This penalty shall be assessed pursuant to section 16-924.

D. For the purposes of this section, there is a failure to make and file a campaign finance report by the treasurer, the designating individual, in the case of an exploratory committee, the candidate, in the case of a candidate's campaign committee, and for all other political committees, the chairman, if any of the following occurs:

1. The report is not filed in a timely manner as prescribed by section 16-913.

2. The report is not signed in accordance with section 16-913.

3. A good faith effort is not made to substantially complete the report as prescribed by section 16-915.

E. It is a defense to an enforcement action brought pursuant to this section if good cause is shown by the treasurer, the designating individual, in the case of an exploratory committee, or the candidate, in the case of a candidate's campaign committee, for the failure to make and file a campaign

finance report. For the purposes of this subsection, "good cause" includes an illness or absence from this state at the time the campaign finance report was due or the written notice of delinquency was delivered if the illness or absence reasonably prevented the treasurer, designating individual or candidate from filing the report or receiving the written notice.

F. In addition to the enforcement actions prescribed by this section, a person who was a candidate for nomination or election to any local or state office and who after written notice pursuant to this section failed to make and file a campaign finance report as required by this chapter is not eligible to be a candidate for nomination or election to any local or state office for five years after the last failure to make and file a campaign finance report occurred. This penalty shall be imposed as follows:

1. A candidate's failure to make and file a campaign finance report with a filing officer for a jurisdiction is grounds for that filing officer to refuse the candidate's nomination paper for any public office in that jurisdiction as described in this subsection.

2. A candidate's failure to make and file a campaign finance report with any filing officer is grounds for a filing officer from another jurisdiction to refuse the candidate's nomination paper for any public office on presentation of a certified copy of a final order issued pursuant to section 16-924.

G. For a standing political committee, in addition to any late penalty and civil penalty assessed pursuant to this section, if the standing political committee makes a late filing three or more times, the standing political committee is no longer eligible for consolidated filing status pursuant to section 16-913, subsection K and shall make all of its filings in each reporting jurisdiction in which it is active.

H. For any political committee that has failed to file three consecutive campaign finance reports with the filing officer as prescribed by section 16-913, the filing officer shall send the committee chairman and treasurer a written notice of intent to suspend the political committee. The notice of intent to suspend shall state that failure of the political committee to fully comply with all filing requirements for that committee, including any required payments, within thirty days of the date of the notice shall result in suspension of the political committee's authority to operate in that jurisdiction. On suspension of the political committee's authority to operate, the filing officer is no longer required to provide any further notice of delinquency to the political committee. This subsection does not reduce or eliminate the political committee's continuing obligation to make campaign finance filings and pay any fines, penalties, civil penalties or other sanctions that may continue to accrue as otherwise provided by law. This subsection does not apply to reports required pursuant to article 2 of this chapter or to a candidate's campaign committee designated by that candidate pursuant to section 16-903 during that election cycle.

EXPLANATION OF BLEND
SECTION 16-1019

Laws 2011, Chapters 154 and 318

Laws 2011, Ch. 154, section 1 — Effective July 20

Laws 2011, Ch. 318, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 154 and Ch. 318 text changes to section 16-1019 are blended in the form shown on the following pages.

BLEND OF SECTION 16-1019
Laws 2011, Chapters 154 and 318

16-1019. Political signs; printed materials; tampering; classification

A. It is a class 2 misdemeanor for any person to knowingly remove, alter, deface or cover any political sign of any candidate for public office OR KNOWINGLY REMOVE, ALTER OR DEFACE ANY POLITICAL MAILERS, HANDOUTS, FLYERS OR OTHER PRINTED MATERIALS OF A CANDIDATE THAT ARE DELIVERED BY HAND TO A RESIDENCE for the period commencing forty-five days ~~prior to~~ BEFORE a primary election and ending seven days after the general election.

B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to the removal, alteration, defacing or covering of a political sign OR OTHER PRINTED MATERIALS by the candidate or the authorized agent of the candidate in support of whose election the sign was placed, ~~or~~ by the owner or authorized agent of the owner of private property on which such signs are placed with or without permission of the owner~~,~~ or placed in violation of state law~~,~~ or county, city or town ordinance or regulation.

C. NOTWITHSTANDING ANY OTHER STATUTE, ORDINANCE OR REGULATION, A CITY, TOWN OR COUNTY OF THIS STATE SHALL NOT REMOVE, ALTER, DEFACE OR COVER ANY POLITICAL SIGN IF THE FOLLOWING CONDITIONS ARE MET:

1. THE SIGN IS PLACED IN A PUBLIC RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY THAT JURISDICTION.

2. THE SIGN SUPPORTS OR OPPOSES A CANDIDATE FOR PUBLIC OFFICE OR IT SUPPORTS OR OPPOSES A BALLOT MEASURE.

3. THE SIGN IS NOT PLACED IN A LOCATION THAT IS HAZARDOUS TO PUBLIC SAFETY, OBSTRUCTS CLEAR VISION IN THE AREA OR INTERFERES WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (42 UNITED STATES CODE SECTIONS 12101 THROUGH 12213 AND 47 UNITED STATES CODE SECTIONS 225 AND 611).

4. THE SIGN HAS A MAXIMUM AREA OF SIXTEEN SQUARE FEET, IF THE SIGN IS LOCATED IN AN AREA ZONED FOR RESIDENTIAL USE, OR A MAXIMUM AREA OF THIRTY-TWO SQUARE FEET IF THE SIGN IS LOCATED IN ANY OTHER AREA.

5. THE SIGN CONTAINS THE NAME AND TELEPHONE NUMBER OF THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT PERSON.

D. IF THE CITY, TOWN OR COUNTY DEEMS THAT THE PLACEMENT OF A POLITICAL SIGN CONSTITUTES AN EMERGENCY, THE JURISDICTION MAY IMMEDIATELY RELOCATE THE SIGN. THE JURISDICTION SHALL NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN WITHIN TWENTY-FOUR HOURS AFTER THE RELOCATION. IF A SIGN IS PLACED IN VIOLATION OF SUBSECTION C AND THE PLACEMENT IS NOT DEEMED TO CONSTITUTE AN EMERGENCY, THE CITY, TOWN OR COUNTY MAY NOTIFY THE CANDIDATE OR CAMPAIGN COMMITTEE THAT PLACED THE SIGN OF THE VIOLATION. IF THE SIGN REMAINS IN VIOLATION AT LEAST TWENTY-FOUR HOURS AFTER THE JURISDICTION NOTIFIED THE CANDIDATE OR CAMPAIGN COMMITTEE, THE JURISDICTION MAY REMOVE THE SIGN. THE JURISDICTION SHALL CONTACT THE CANDIDATE OR CAMPAIGN COMMITTEE CONTACT AND SHALL RETAIN THE SIGN FOR AT LEAST TEN BUSINESS DAYS TO ALLOW THE CANDIDATE OR CAMPAIGN COMMITTEE TO RETRIEVE THE SIGN WITHOUT PENALTY.

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E. A CITY, TOWN OR COUNTY EMPLOYEE ACTING WITHIN THE SCOPE OF THE EMPLOYEE'S EMPLOYMENT IS NOT LIABLE FOR AN INJURY CAUSED BY THE FAILURE TO REMOVE A SIGN PURSUANT TO SUBSECTION D UNLESS THE EMPLOYEE INTENDED TO CAUSE INJURY OR WAS GROSSLY NEGLIGENT.

F. SUBSECTION C DOES NOT APPLY TO COMMERCIAL TOURISM, COMMERCIAL RESORT AND HOTEL SIGN FREE ZONES AS THOSE ZONES ARE DESIGNATED BY MUNICIPALITIES. THE TOTAL AREA OF THOSE ZONES SHALL NOT BE LARGER THAN THREE SQUARE MILES, AND EACH ZONE SHALL BE IDENTIFIED AS A SPECIFIC CONTIGUOUS AREA WHERE, BY RESOLUTION OF THE MUNICIPAL GOVERNING BODY, THE MUNICIPALITY HAS DETERMINED THAT BASED ON A PREDOMINANCE OF COMMERCIAL TOURISM, RESORT AND HOTEL USES WITHIN THE ZONE THE PLACEMENT OF POLITICAL SIGNS WITHIN THE RIGHTS-OF-WAY IN THE ZONE WILL DETRACT FROM THE SCENIC AND AESTHETIC APPEAL OF THE AREA WITHIN THE ZONE AND DETER ITS APPEAL TO TOURISTS. NOT MORE THAN TWO ZONES MAY BE IDENTIFIED WITHIN A MUNICIPALITY.

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G. A CITY, TOWN OR COUNTY MAY PROHIBIT THE INSTALLATION OF A SIGN ON ANY STRUCTURE OWNED BY THE JURISDICTION.

H. SUBSECTION C APPLIES ONLY DURING THE PERIOD COMMENCING SIXTY DAYS BEFORE A PRIMARY ELECTION AND ENDING FIFTEEN DAYS AFTER THE GENERAL ELECTION, EXCEPT THAT FOR A SIGN FOR A CANDIDATE IN A PRIMARY ELECTION WHO DOES NOT ADVANCE TO THE GENERAL ELECTION, THE PERIOD ENDS FIFTEEN DAYS AFTER THE PRIMARY ELECTION.

I. THIS SECTION DOES NOT APPLY TO STATE HIGHWAYS OR ROUTES, OR OVERPASSES OVER THOSE STATE HIGHWAYS OR ROUTES.

EXPLANATION OF BLEND
SECTION 23-901

Laws 2011, Chapters 27 and 157

Laws 2011, Ch. 27, section 6 — Effective July 20, 2011 (Retroactive to July 1, 2011)

Laws 2011, Ch. 157, section 4 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 157 text changes to section 23-901 are blended effective on January 1, 2013 in the form shown on the following pages. However, both the blend version and the Ch. 27 version of section 23-901 will be published since the Ch. 27 version becomes effective before the Ch. 157 version. The publisher will automatically delete the Ch. 27 version on publication of the appropriate pocket part.

BLEND OF SECTION 23-901
Laws 2011, Chapters 27 and 157

23-901. Definitions

In this chapter, unless the context otherwise requires:

1. "Award" means the finding or decision of an administrative law judge or the commission as to the amount of compensation or benefit due an injured employee or the dependents of a deceased employee.

2. "Client" means an individual, association, company, firm, partnership, corporation or any other legally recognized entity that is subject to this chapter and that enters into a professional employer agreement with a professional employer organization.

3. "Co-employee" means every person employed by an injured employee's employer.

4. "Commission" means the industrial commission of Arizona.

5. "Compensation" means the compensation and benefits provided by this chapter.

6. "Employee", "workman", "worker" and "operative" means:

(a) Every person in the service of the state or a county, city, town, municipal corporation or school district, including regular members of lawfully constituted police and fire departments of cities and towns, whether by election, appointment or contract of hire.

(b) Every person in the service of any employer subject to this chapter, including aliens and minors legally or illegally permitted to work for hire, but not including a person whose employment is both:

(i) Casual.

(ii) Not in the usual course of the trade, business or occupation of the employer.

(c) Lessees of mining property and their employees and contractors engaged in the performance of work ~~which~~ THAT is a part of the business conducted by the lessor and over which the lessor retains supervision or control are within the meaning of this paragraph employees of the lessor, and are deemed to be drawing wages as are usually paid employees for similar work. The lessor may deduct from the proceeds of ores mined by the lessees the premium required by this chapter to be paid for such employees.

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(d) Regular members of volunteer fire departments organized pursuant to title 48, chapter 5, article 1, regular firemen of any volunteer fire department, including private fire protection service organizations, organized pursuant to title 10, chapters 24 through 40, volunteer firemen serving as members of a fire department of any incorporated city or town or an unincorporated area without pay or without full pay and on a part-time basis, and voluntary policemen and volunteer firemen serving in any incorporated city, town or unincorporated area without pay or without full pay and on a part-time basis, are deemed to be employees, but for the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for regular members of volunteer fire departments organized pursuant to title 48, chapter 5, article 1, or organized pursuant

to title 10, chapters 24 through 40, regular members of any private fire protection service organization, volunteer firemen and volunteer policemen of these departments or organizations shall be the salary equal to the beginning salary of the same rank or grade in the full-time service with the city, town, volunteer fire department or private fire protection service organization, provided if there is no full-time equivalent then the salary equivalent shall be as determined by resolution of the governing body of the city, town or volunteer fire department or corporation.

(e) Members of the department of public safety reserve, organized pursuant to section 41-1715, are deemed to be employees. For the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for a member of the department of public safety reserve who is a peace officer shall be the salary received by officers of the department of public safety for their first month of regular duty as an officer. For members of the department of public safety reserve who are not peace officers, the basis for computing premiums and compensation benefits is four hundred dollars a month.

(f) Any person placed in on-the-job evaluation or in on-the-job training under the department of economic security's temporary assistance for needy families program or vocational rehabilitation program shall be deemed to be an employee of the department for the purpose of coverage under the state workers' compensation laws only. The basis for computing premium payments and compensation benefits shall be two hundred dollars per month. Any person receiving vocational rehabilitation services under the department of economic security's vocational rehabilitation program whose major evaluation or training activity is academic, whether as an enrolled attending student or by correspondence, or who is confined to a hospital or penal institution, shall not be deemed to be an employee of the department for any purpose. ~~Any dividend which the department's vocational rehabilitation program may be entitled to receive from the state compensation fund because of a favorable loss experience for any policy period shall not revert to the state general fund but shall be applied to the department's current premium obligations for workers' compensation coverage for such program.~~

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(g) Regular members of a volunteer sheriff's reserve, which may be established by resolution of the county board of supervisors, to assist the sheriff in the performance of the sheriff's official duties. A roster of the current members shall monthly be certified to the clerk of the board of supervisors by the sheriff and shall not exceed the maximum number authorized by the board. Certified members of an authorized volunteer sheriff's reserve shall be deemed to be employees of the county for the purpose of coverage under the Arizona workers' compensation laws and occupational disease disability laws and shall be entitled to receive the benefits of these laws for any compensable injuries or disabling conditions ~~which~~ THAT arise out of and occur in the course of the performance of duties authorized and directed by the sheriff. Compensation benefits and premium payments shall be based upon the salary received by a regular full-time deputy sheriff of the county involved for the first month of regular patrol duty as an officer for each certified member of a volunteer sheriff's reserve. This subdivision shall not be construed to provide compensation coverage for any member of a sheriff's posse who is not a certified member of an authorized volunteer

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sheriff's reserve except as a participant in a search and rescue mission or a search and rescue training mission.

(h) A working member of a partnership may be deemed to be an employee entitled to the benefits provided by this chapter upon written acceptance, by endorsement, at the discretion of the insurance carrier for the partnership of an application for coverage by the working partner. The basis for computing premium payments and compensation benefits for the working partner shall be an assumed average monthly wage of not less than six hundred dollars nor more than the maximum wage provided in section 23-1041 and is subject to the discretionary approval of the insurance carrier. Any compensation for permanent partial or permanent total disability payable to the partner shall be computed on the lesser of the assumed monthly wage agreed to by the insurance carrier on the acceptance of the application for coverage or the actual average monthly wage received by the partner at the time of injury.

(i) The sole proprietor of a business subject to this chapter may be deemed to be an employee entitled to the benefits provided by this chapter on written acceptance, by endorsement, at the discretion of the insurance carrier of an application for coverage by the sole proprietor. The basis for computing premium payments and compensation benefits for the sole proprietor shall be an assumed average monthly wage of not less than six hundred dollars nor more than the maximum wage provided by section 23-1041 and is subject to the discretionary approval of the insurance carrier. Any compensation for permanent partial or permanent total disability payable to the sole proprietor shall be computed on the lesser of the assumed monthly wage agreed to by the insurance carrier on the acceptance of the application for coverage or the actual average monthly wage received by the sole proprietor at the time of injury.

(j) A member of the Arizona national guard, Arizona state guard or unorganized militia shall be deemed a state employee and entitled to coverage under the Arizona workers' compensation law at all times while the member is receiving the payment of the member's military salary from the state of Arizona under competent military orders or upon order of the governor. Compensation benefits shall be based upon the monthly military pay rate to which the member is entitled at the time of injury, but not less than a salary of four hundred dollars per month, nor more than the maximum provided by the workers' compensation law. No Arizona compensation benefits shall inure to a member compensable under federal law.

(k) Certified ambulance drivers and attendants who serve without pay or without full pay on a part-time basis are deemed to be employees and entitled to the benefits provided by this chapter and the basis for computing wages for premium payments and compensation benefits for certified ambulance personnel shall be four hundred dollars per month.

(l) Volunteer workers of a licensed health care institution may be deemed to be employees and entitled to the benefits provided by this chapter upon written acceptance by the insurance carrier of an application by the health care institution for coverage of such volunteers. The basis for computing wages for premium payments and compensation benefits for volunteers shall be four hundred dollars per month.

(m) Personnel who participate in a search or rescue operation or a search or rescue training operation that carries a mission identifier

assigned by the division of emergency management as provided in section 35-192.01 and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management in a given quarter multiplied by the amount determined by the appropriate risk management formula.

(n) Personnel who participate in emergency management training, exercises or drills that are duly enrolled or registered with the division of emergency management or any political subdivision as provided in section 26-314, subsection C and who serve without compensation as volunteer state employees. The basis for computation of wages for premium purposes and compensation benefits is the total volunteer man-hours recorded by the division of emergency management or political subdivision during a given training session, exercise or drill multiplied by the amount determined by the appropriate risk management formula.

(o) Regular members of the Arizona game and fish department reserve, organized pursuant to section 17-214. The basis for computing wages for premium payments and compensation benefits for a member of the reserve is the salary received by game rangers and wildlife managers of the Arizona game and fish department for their first month of regular duty.

(p) Every person employed pursuant to a professional employer agreement.

~~(q) Members of the department of administration capitol police reserve, organized pursuant to section 41-794, are deemed to be employees. For the purposes of this chapter, the basis for computing wages for premium payments and compensation benefits for a member of the department of administration capitol police reserve who is a peace officer shall be the salary received by officers of the department of administration for their first month of regular duty as an officer.~~

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7. "General order" means an order applied generally throughout the state to all persons under jurisdiction of the commission.

8. "Heart-related or perivascular injury, illness or death" means myocardial infarction, coronary thrombosis or any other similar sudden, violent or acute process involving the heart or perivascular system, or any death resulting therefrom, and any weakness, disease or other condition of the heart or perivascular system, or any death resulting therefrom.

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9. "Insurance carrier" means ~~the state compensation fund and~~ every insurance carrier duly authorized by the director of insurance to write workers' compensation or occupational disease compensation insurance in the state of Arizona.

10. "Interested party" means the employer, the employee, or if the employee is deceased, the employee's estate, the surviving spouse or dependents, the commission, the insurance carrier or their representative.

11. "Mental injury, illness or condition" means any mental, emotional, psychotic or neurotic injury, illness or condition.

12. "Order" means and includes any rule, direction, requirement, standard, determination or decision other than an award or a directive by the commission or an administrative law judge relative to any entitlement to compensation benefits, or to the amount thereof, and any procedural ruling relative to the processing or adjudicating of a compensation matter.

13. "Personal injury by accident arising out of and in the course of employment" means any of the following:

(a) Personal injury by accident arising out of and in the course of employment.

(b) An injury caused by the wilful act of a third person directed against an employee because of the employee's employment, but does not include a disease unless resulting from the injury.

Ch. 157 (c) An occupational disease ~~which~~ THAT is due to causes and conditions characteristic of and peculiar to a particular trade, occupation, process or employment, and not the ordinary diseases to which the general public is exposed, and subject to section 23-901.01.

14. "Professional employer agreement" means a written contract between a client and a professional employer organization:

(a) In which the professional employer organization expressly agrees to co-employ all or a majority of the employees providing services for the client. In determining whether the professional employer organization employs all or a majority of the employees of a client, any person employed pursuant to the terms of the professional employer agreement after the initial placement of client employees on the payroll of the professional employer organization shall be included.

(b) That is intended to be ongoing rather than temporary in nature.

(c) In which employer responsibilities for worksite employees, including hiring, firing and disciplining, are expressly allocated between the professional employer organization and the client in the agreement.

15. "Professional employer organization" means any person engaged in the business of providing professional employer services. Professional employer organization does not include a temporary help firm or an employment agency.

16. "Professional employer services" means the service of entering into co-employment relationships under this chapter to which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

17. "Special order" means an order other than a general order.

~~18. "State compensation fund" includes the state compensation fund, accident benefit fund and occupational disease compensation fund in existence on January 2, 1969 and shall thereafter include all funds under the~~ Ch. 157 ~~jurisdiction of the board of directors of the state compensation fund which have been derived from the assessment of premiums, interest, penalties and investment earnings for the payment of all workers' compensation and occupational disease compensation benefits.~~

~~19.~~ 18. "Weakness, disease or other condition of the heart or perivascular system" means arteriosclerotic heart disease, cerebral vascular disease, peripheral vascular disease, cardiovascular disease, angina pectoris, congestive heart trouble, coronary insufficiency, ischemia and all other similar weaknesses, diseases and conditions, and also previous episodes or instances of myocardial infarction, coronary thrombosis or any similar sudden, violent or acute process involving the heart or perivascular system.

~~20.~~ 19. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

EXPLANATION OF BLEND
SECTION 23-1070

Laws 2011, Chapters 93 and 157

Laws 2011, Ch. 93, section 1 — Effective July 20, 2011

Laws 2011, Ch. 157, section 15 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 93 and Ch. 157 text changes to section 23-1070 are blended effective on January 1, 2013 in the form shown on the following pages. However, both the blend version and the Ch. 93 version of section 23-1070 will be published since the Ch. 93 version becomes effective before the Ch. 157 version. The publisher will automatically delete the Ch. 93 version on publication of the appropriate pocket part.

BLEND OF SECTION 23-1070
Laws 2011, Chapters 93 and 157

23-1070. Medical, surgical and hospital benefits provided by employer; pilot program

Ch. 93 — A. An employer, other than ~~the~~ THIS state or a political subdivision ~~thereof,~~ OF THIS STATE, who secures compensation to his employees in the manner provided in ~~either~~ SECTION 23-961, subsection A, paragraph 1~~,~~ — or ~~subsection A, paragraph~~ 2 ~~of section 23-961~~, alone or jointly with other employers ~~may~~, in lieu of making premium payments for medical, surgical and hospital benefits, MAY provide such benefits to injured employees and may collect one-half of the cost thereof from his employees, not to exceed one dollar per month from any employee, which may be deducted from the wages of the employee.

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B. An employer electing to provide such benefits shall notify his insurance carrier and the commission of the election and render a detailed statement of the arrangements made therefor to the commission.

Ch. 157 — C. An employer who maintains a hospital for his employees or who contracts with a physician for the hospital care of injured employees ~~shall~~, on or before January 30 each year, SHALL make a verified written report to the commission for the preceding year showing the total amount of hospital fees collected and showing separately the amount contributed by the employees and the amount contributed by the employers. The report shall also contain an itemized account of the expenditures, investments or other disposition of the fees, and a statement showing the balance remaining.

D. An employer who fails to notify his insurance carrier and the commission of his election to provide such benefits, or who maintains a hospital or contracts for hospital service as provided in subsection C of this section, and fails to make the financial report required therein, is liable for such benefits as provided in section 23-1062.

Ch. 157 — E. If the medical, surgical or hospital aid or treatment being furnished by an employer is such that there is reasonable ground to believe that the health, life or recovery of any employee is endangered or impaired thereby, the commission ~~may~~, upon application of the employee or upon its own motion, MAY order a change of physicians or other conditions. If the employer fails to comply with the order promptly, the injured employee may elect to have medical, surgical or hospital aid or treatment provided by or through the ~~state compensation~~ SPECIAL fund ESTABLISHED BY SECTION 23-1065. In that event the claim of the injured employee against the employer shall be assigned to the ~~state compensation~~ SPECIAL fund for the benefit thereof, and the ~~state compensation~~ SPECIAL fund shall furnish to the insured employee medical, surgical or hospital aid or treatment as provided in this chapter.

F. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A PILOT PROGRAM IS ESTABLISHED TO ALLOW A CITY WITH A POPULATION OF MORE THAN ONE HUNDRED FIFTY THOUSAND PERSONS AND A SELF-INSURED COUNTY INSURANCE POOL TO PROVIDE MEDICAL, SURGICAL AND HOSPITAL BENEFITS PURSUANT TO THIS SECTION. THE PURPOSE OF THE PILOT PROGRAM IS TO DETERMINE WHETHER PUBLIC SECTOR ENTITIES THAT ARE SELF-INSURED CAN, THROUGH A DIRECTED CARE AND MEDICAL MANAGEMENT PROGRAM, CONTAIN COSTS AND IMPROVE HEALTH CARE AND RETURN TO WORK RESULTS FOR INJURED EMPLOYEES. THE INDUSTRIAL COMMISSION SHALL SELECT THE QUALIFIED CITY. THE ENTITIES PARTICIPATING IN THE PILOT PROGRAM SHALL CONSULT WITH THE INDUSTRIAL COMMISSION ON THE PROTOCOL FOR ASSESSMENT AND REPORTING AND SHALL SUBMIT ALL BASELINE DATA TO THE COMMISSION BEFORE THE PILOT PROGRAM CAN BEGIN. NO EARLIER THAN JANUARY 1, 2012 AND NOT LATER THAN JANUARY 1, 2013, THE PILOT PROGRAM PARTICIPANTS MAY BEGIN PROVIDING MEDICAL, SURGICAL AND HOSPITAL BENEFITS PURSUANT TO THIS SECTION ON APPROVAL BY THE INDUSTRIAL COMMISSION. THIS SUBSECTION DOES NOT EXEMPT PILOT PROGRAM PARTICIPANTS FROM ANY OTHER REQUIREMENTS FOR PROCUREMENT OF A MEDICAL NETWORK TO DIRECT CARE. THE PILOT PROGRAM PARTICIPANTS SHALL REPORT IN ACCORDANCE WITH THE PROTOCOL FOR ASSESSMENT AND REPORTING, WITH A FINAL REPORT TWO YEARS AFTER THE START OF THE PILOT PROGRAM. THE PILOT PROGRAM ENDS AND PILOT PROGRAM PARTICIPANTS MAY NOT PROVIDE MEDICAL, SURGICAL AND HOSPITAL BENEFITS PURSUANT TO THIS SECTION FROM AND AFTER DECEMBER 31, 2014.

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EXPLANATION OF BLEND
SECTION 26-263 (as amended by Laws 2010, Ch. 208, section 4)

Laws 2011, Chapters 34 and 238

Laws 2011, Ch. 34, section 1 — Effective July 20

Laws 2011, Ch. 238, section 29 — Effective October 1

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 34 and Ch. 238 text changes to section 26-263 (as amended by Laws 2010, Ch. 208, sec. 4) are blended in the form shown on the following page.

BLEND OF SECTION 26-263 (as amended by Laws 2010, Ch. 208, section 4)
Laws 2011, Chapters 34 and 238

26-263. Appropriations; purposes; exemption

Ch. 34 A. The sum of $90,000 and 1 FTE ~~is~~ ARE appropriated from the state general fund in fiscal ~~years 2004-2005 and 2005-2006~~ YEAR 2011-2012 and each FISCAL year thereafter to the department of emergency and military affairs.

Ch. 238 B. The sum of $85,000 is appropriated from the state general fund in fiscal ~~years 2004-2005 and 2005-2006~~ YEAR 2011-2012 and each FISCAL year thereafter to the attorney general's office for implementation of ~~sections~~ SECTION 9-461.06, ~~11-806, 11-824~~ TITLE 11, CHAPTER 6, ARTICLE 1 and SECTION 28-8481.

Ch. 34 ~~C. For fiscal years 2004-2005 and 2005-2006 and each year thereafter, the sum of $4,825,000 is appropriated from the state general fund to the military installation fund established by, and for the purposes prescribed by, section 26-262.~~

~~D.~~ C. The appropriations made in this section are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 28-1383

Laws 2011, Chapters 33 and 341

Laws 2011, Ch. 33, section 7 — Effective July 1, 2012

Laws 2011, Ch. 341, section 11 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 33 and Ch. 341 text changes to section 28-1383 are blended effective from and after June 30, 2012 in the form shown on the following pages. However, both the blend version and the Ch. 341 version of section 28-1383 will be published since the Ch. 341 version becomes effective before the Ch. 33 version. The publisher will automatically delete the Ch. 341 version on publication of the appropriate pocket part.

BLEND OF SECTION 28-1383
Laws 2011, Chapters 33 and 341

28-1383. Aggravated driving or actual physical control while under the influence; violation; classification; definition

A. A person is guilty of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs if the person does any of the following:

1. Commits a violation of section 28-1381, section 28-1382 or this section while the person's driver license or privilege to drive is suspended, canceled, revoked or refused or while a restriction is placed on the person's driver license or privilege to drive as a result of violating section 28-1381 or 28-1382 or under section 28-1385.

2. Within a period of eighty-four months commits a third or subsequent violation of section 28-1381, section 28-1382 or this section or is convicted of a violation of section 28-1381, section 28-1382 or this section and has previously been convicted of any combination of convictions of section 28-1381, section 28-1382 or this section or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section.

3. While a person under fifteen years of age is in the vehicle, commits a violation of either:

(a) Section 28-1381.

(b) Section 28-1382.

4. While the person is ordered by the court or required pursuant to section 28-3319 by the department to equip any motor vehicle the person operates with a certified ignition interlock device, ~~does either of the following:~~

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~~(a) While under arrest refuses to submit to any test chosen by a law enforcement officer pursuant to section 28-1321, subsection A.~~

~~(b)~~ commits a violation of section 28-1381, section 28-1382 or this section.

B. The dates of the commission of the offenses are the determining factor in applying the eighty-four month provision provided in subsection A, paragraph 2 of this section regardless of the sequence in which the offenses were committed. For the purposes of this section, a third or subsequent violation for which a conviction occurs does not include a conviction for an offense arising out of the same series of acts. The time that a probationer is found to be on absconder status or the time that a person is incarcerated in any state, federal, county or city jail or correctional facility is excluded when determining the eighty-four month period provided in subsection A, paragraph 2 and subsection E of this section.

C. The notice to a person of the suspension, cancellation, revocation or refusal of a driver license or privilege to drive is effective as provided in section 28-3318 or pursuant to the laws of the state issuing the license.

D. A person is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than four months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS, if the person is convicted under either of the following: Ch. 33

1. Subsection A, paragraph 1 of this section.

2. Subsection A, paragraph 2 of this section and within an eighty-four month period has been convicted of two prior violations of section 28-1381, section 28-1382 or this section, or any combination of those sections, or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section.

E. A person who is convicted under subsection A, paragraph 2 of this section and who within an eighty-four month period has been convicted of three or more prior violations of section 28-1381, section 28-1382 or this section, or any combination of those sections, or acts in another jurisdiction that if committed in this state would be a violation of section 28-1381, section 28-1382 or this section is not eligible for probation, pardon, commutation or suspension of sentence or release on any other basis until the person has served not less than eight months in ~~prison~~ JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41-1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS. Ch. 33

F. A person who is convicted under subsection A, paragraph 3, subdivision (a) of this section shall serve at least the minimum term of incarceration required pursuant to section 28-1381.

G. A person who is convicted under subsection A, paragraph 3, subdivision (b) of this section shall serve at least the minimum term of incarceration required pursuant to section 28-1382.

H. A person who is convicted of a violation of this section shall attend and complete alcohol or other drug screening, education or treatment from an approved facility. If the person fails to comply with this subsection and is placed on probation, in addition to the provisions of section 13-901 the court may order that the person be incarcerated as a term of probation as follows:

1. For a person sentenced pursuant to subsection D of this section, for an individual period of not more than four months and a total period of not more than one year.

2. For a person sentenced pursuant to subsection E of this section, for an individual period of not more than eight months and a total period of not more than two years.

I. The time that a person spends in custody pursuant to subsection H of this section shall not be counted towards the sentence imposed if the person's probation is revoked and the person is sentenced to prison after revocation of probation.

J. On a conviction for a violation of this section, the court:

1. Shall report the conviction to the department. On receipt of the report, the department shall revoke the driving privilege of the person. The department shall not issue the person a new driver license within ~~three years~~ ONE YEAR of the date of the conviction and~~, for a conviction of a violation of subsection A, paragraph 1, 2 or 4 or paragraph 3, subdivision (b) of this section,~~ shall require the person to equip any motor vehicle the person operates with a certified ignition interlock device pursuant to section 28-3319. In addition, the court may order the person to equip any motor vehicle the person operates with a certified ignition interlock device for more than ~~twelve~~ TWENTY-FOUR months beginning on the date of reinstatement of the person's driving privilege following a suspension or revocation or on the date of the department's receipt of the report of conviction, whichever occurs later. The person who operates a motor vehicle with a certified ignition interlock device under this paragraph shall comply with article 5 of this chapter.

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2. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of two hundred fifty dollars. If the conviction occurred in the superior court or a justice court, the court shall transmit the monies received pursuant to this paragraph to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the monies received pursuant to this paragraph to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the driving under the influence abatement fund established by section 28-1304. Any fine imposed for a violation of this section and any assessments, restitution and incarceration costs shall be paid before the assessment prescribed in this paragraph.

3. Shall order the person to pay a fine of not less than seven hundred fifty dollars.

4. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the prison construction and operations fund established by section 41-1651. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

5. In addition to any other penalty prescribed by law, shall order the person to pay an additional assessment of one thousand five hundred dollars to be deposited by the state treasurer in the public safety equipment fund established by section 41-1723. This assessment is not subject to any surcharge. If the conviction occurred in the superior court or a justice court, the court shall transmit the assessed monies to the county treasurer. If the conviction occurred in a municipal court, the court shall transmit the assessed monies to the city treasurer. The city or county treasurer shall transmit the monies received to the state treasurer.

K. After completing the period of suspension required by section 28-1385, a person whose driving privilege is revoked for a violation of subsection A, paragraph 3 of this section may apply to the department for a special ignition interlock restricted driver license pursuant to section 28-1401.

L. Aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs committed under:

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1. Subsection A, paragraph 1, ~~or~~ 2 or ~~paragraph~~ 4~~, subdivision (b)~~ of this section is a class 4 felony.

2. Subsection A, paragraph 3 ~~or paragraph 4, subdivision (a)~~ of this section is a class 6 felony.

M. For the purposes of this section, "suspension, cancellation, revocation or refusal" means any suspension, cancellation, revocation or refusal.

EXPLANATION OF BLEND
SECTION 28-1387

Laws 2011, Chapters 90 and 91

Laws 2011, Ch. 90, section 19 — Effective July 20

Laws 2011, Ch. 91, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 90 and Ch. 91 text changes to section 28-1387 are blended in the form shown on the following pages.

BLEND OF SECTION 28-1387
Laws 2011, Chapters 90 and 91

28-1387. Prior convictions; alcohol or other drug screening, education and treatment; license suspension; supervised probation; civil liability; procedures

A. The court shall allow the allegation of a prior conviction or any other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383 filed twenty or more days before the date the case is actually tried and may allow the allegation of a prior conviction or any other pending charge of a violation of section 28-1381, 28-1382 or 28-1383 or an act in another jurisdiction that if committed in this state would be a violation of section 28-1381, 28-1382 or 28-1383 filed at any time before the date the case is actually tried if this state makes available to the defendant when the allegation is filed a copy of any information obtained concerning the prior conviction or other pending charge. Any conviction may be used to enhance another conviction irrespective of the dates on which the offenses occurred within the eighty-four month provision. For the purposes of this article, an order of a juvenile court adjudicating a person delinquent is equivalent to a conviction.

B. In addition to any other penalties prescribed by law, the judge shall order a person who is convicted of a violation of section 28-1381, 28-1382 or 28-1383 to complete alcohol or other drug screening that is provided by a facility approved by the department of health services or a probation department. If a judge determines that the person requires further alcohol or other drug education or treatment, the person may be required pursuant to court order to obtain alcohol or other drug education or treatment under the court's supervision from an approved facility. The judge may review an education or treatment determination at the request of the state, the defendant or the probation officer or on the judge's initiative. The person shall pay the costs of the screening, education or treatment unless, after considering the person's ability to pay all or part of the costs, the court waives all or part of the costs. If a person is referred to a screening, education or treatment facility, the facility shall report to the court whether the person has successfully completed the screening, education or treatment program. The court may accept evidence of a person's completion of ~~an~~ alcohol or other drug screening~~, education or treatment program~~ pursuant to section 28-1445 as sufficient to meet the requirements of this section or section 28-1381, 28-1382 or 28-1383 or may order the person to complete additional alcohol or other drug screening, education or treatment programs. If a person has previously been ordered to complete an alcohol or other drug screening, education or treatment program pursuant to this section, the judge shall order the person to complete an alcohol or other drug screening, education or treatment program unless the court determines that alternative sanctions are more appropriate.

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C. After a person who is sentenced pursuant to section 28-1381, subsection I has served twenty-four consecutive hours in jail or after a person who is sentenced pursuant to section 28-1381, subsection K or section 28-1382, subsection D or E has served forty-eight consecutive hours in jail and after the court receives confirmation that the person is employed or is a student, the court ~~may~~ SHALL provide in the sentence that the defendant, if the defendant is employed or is a student and can continue the defendant's employment or schooling, may continue the employment or schooling for not more than twelve hours a day nor more than ~~five~~ SIX days a week, UNLESS THE COURT FINDS GOOD CAUSE TO NOT ALLOW THE RELEASE AND PLACES THOSE FINDINGS ON THE RECORD. The person shall spend the remaining day, days or parts of days in jail until the sentence is served and shall be allowed out of jail only long enough to complete the actual hours of employment or schooling.

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D. Unless the license of a person convicted under section 28-1381 or 28-1382 has been or is suspended pursuant to section 28-1321 or 28-1385, the department on receipt of the abstract of conviction of a violation of section 28-1381 or 28-1382 shall suspend the license of the affected person for not less than ninety consecutive days.

E. When the department receives notification that the person meets the criteria provided in section 28-1385, subsection G, the department shall suspend the driving privileges of the person for not less than thirty consecutive days and shall restrict the driving privileges of the person for not less than sixty consecutive additional days to travel between any of the following:

1. The person's place of employment and residence and during specified periods of time while at employment.

2. The person's place of residence and the person's secondary or postsecondary school, according to the person's employment or educational schedule.

3. The person's place of residence and a screening, education or treatment facility for scheduled appointments.

4. The person's place of residence and the office of the person's probation officer for scheduled appointments.

F. If a person is placed on probation for violating section 28-1381 or 28-1382, the probation shall be supervised unless the court finds that supervised probation is not necessary or the court does not have supervisory probation services.

G. Any political subdivision processing or using the services of a person ordered to perform community restitution pursuant to section 28-1381 or 28-1382 does not incur any civil liability to the person ordered to perform community restitution as a result of these activities unless the political subdivision or its agent or employee acts with gross negligence.

H. If a person fails to complete the community restitution ordered pursuant to section 28-1381, subsection K or section 28-1382, subsection E, the court may order alternative sanctions if the court determines that alternative sanctions are more appropriate.

I. Except for another violation of this article, the state shall not dismiss a charge of violating any provision of this article unless there is an insufficient legal or factual basis to pursue that charge.

EXPLANATION OF BLEND
SECTION 28-2351

Laws 2011, Chapters 81, 320, 323 and 324

Laws 2011, Ch. 81, section 1	Effective July 20
Laws 2011, Ch. 320, section 2	Effective July 20
Laws 2011, Ch. 323, section 1	Effective July 20
Laws 2011, Ch. 324, section 1	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 81, Ch. 320, Ch. 323 and Ch. 324 text changes to section 28-2351 are blended in the form shown on the following page.

BLEND OF SECTION 28-2351
Laws 2011, Chapters 81, 320, 323 and 324

28-2351. License plate provided; design

A. The department shall provide to every owner one license plate for each vehicle registered. At the request of the owner and on payment of any required fee, the department shall provide either one or two license plates for a vehicle for which a special plate is requested pursuant to this chapter, except that the department shall provide one license plate if the special plate is issued pursuant to section 28-2416 or 28-2416.01.

B. The license plate shall display the number assigned to the vehicle and to the owner of the vehicle and the name of this state, which may be abbreviated. The director shall coat the license plate with a reflective material that is consistent with the determination of the department regarding the color and design of license plates and special plates. The director shall design the license plate and the letters and numerals on the license plate to be of sufficient size to be plainly readable during daylight from a distance of one hundred feet. In addition to the standard license plate issued for a trailer before August 12, 2005, the director shall issue a license plate for trailers that has a design that is similar to the standard size license plate for trailers but that is the same size as the license plate for motorcycles. The trailer owner shall notify the department which size license plate the owner wants for the trailer.

C. Notwithstanding any other law, the department shall not contract with a nongovernmental entity to purchase or secure reflective material for the plates issued by the department unless the department has made a reasonable effort to secure qualified bids or proposals from as many individual responsible respondents as possible.

D. The department shall determine the color and design of the license plate. All other plates issued by the department, except the plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through [~~28-2436~~ 28-2448], 28-2452, 28-2453, 28-2454 and 28-2455 and article 14 of this chapter, shall be the same color as and similar in design to the license plate as determined by the department.

Chs. 81, 320, 323—and 324

E. A passenger motor vehicle rented without a driver shall receive the same type of license plate as issued for a private passenger motor vehicle.

EXPLANATION OF BLEND
SECTION 28-2403

Laws 2011, Chapters 81, 320, 323 and 324

Laws 2011, Ch. 81, section 2	Effective July 20
Laws 2011, Ch. 320, section 3	Effective July 20
Laws 2011, Ch. 323, section 2	Effective July 20
Laws 2011, Ch. 324, section 2	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 81, Ch. 320, Ch. 323 and Ch. 324 text changes to section 28-2403 are blended in the form shown on the following page.

BLEND OF SECTION 28-2403
Laws 2011, Chapters 81, 320, 323 and 324

28-2403. Special plates; transfers; violation; classification

A. Except as otherwise provided in this article, the department shall issue or renew special plates in lieu of the regular license plates pursuant to the following conditions and procedures and only if the requirements prescribed by this article for the requested special plates are met:

1. Except as provided in sections 28-2416 and 28-2416.01, a person who is the registered owner of a vehicle registered with the department or who applies for an original or renewal registration of a vehicle may submit to the department a completed application form as prescribed by the department with the fee prescribed by section 28-2402 for special plates in addition to the registration fee prescribed by section 28-2003.

Chs. 81, 320, 323 and 324

2. Except for plates issued pursuant to sections 28-2404, 28-2412, 28-2413, 28-2414, 28-2416, 28-2416.01, 28-2417 through [~~28-2436~~ 28-2448], 28-2452, 28-2453, 28-2454 and 28-2455 and article 14 of this chapter, the special plates shall be the same color as and similar to the design of the regular license plates that is determined by the department.

3. Except as provided in section 28-2416, the department shall issue special plates only to the owner or lessee of a vehicle that is currently registered, including any vehicle that has a declared gross weight, as defined in section 28-5431, of twenty-six thousand pounds or less.

4. Except as provided in sections 28-2416 and 28-2416.01, the department shall charge the fee prescribed by section 28-2402 for each annual renewal of special plates in addition to the registration fee prescribed by section 28-2003.

B. Except as provided in sections 28-2416 and 28-2416.01, on notification to the department and on payment of the transfer fee prescribed by section 28-2402, a person who is issued special plates may transfer the special plates to another vehicle the person owns or leases. Persons who are issued special plates for hearing impaired persons pursuant to section 28-2408 and international symbol of access special plates pursuant to section 28-2409 are exempt from the transfer fee. If a person who is issued special plates sells, trades or otherwise releases ownership of the vehicle on which the plates have been displayed, the person shall immediately report the transfer of the plates to the department or the person shall surrender the plates to the department as prescribed by the director. It is unlawful for a person to whom the plates have been issued to knowingly permit them to be displayed on a vehicle except the vehicle authorized by the department.

C. The special plates shall be affixed to the vehicle for which registration is sought in lieu of the regular license plates.

D. A person is guilty of a class 3 misdemeanor who:

1. Violates subsection B of this section.

2. Fraudulently gives false or fictitious information in the application for or renewal of special plates or placards issued pursuant to this article.

3. Conceals a material fact or otherwise commits fraud in the application for or renewal of special plates or placards issued pursuant to this article.

EXPLANATION OF BLEND
SECTION 28-2430

Laws 2011, Chapters 320 and 323

Laws 2011, Ch. 320, section 4 — Effective July 20

Laws 2011, Ch. 323, section 3 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 323 text changes to section 28-2430 are blended in the form shown on the following page.

Section 28-2430 was amended an additional time by Laws 2011, Ch. 324 that will require separate publication in addition to this blend.

BLEND OF SECTION 28-2430
Laws 2011, Chapters 320 and 323

28-2430. In God we trust special plates

Chs. 320 and 323

A. If ~~an entity receives thirty-two thousand dollars through donations for the issuance of the in God we trust special plate and~~ A NONPROFIT CORPORATION THAT IS INCORPORATED IN THIS STATE gives the department ~~the~~ thirty-two thousand dollars, the department shall issue the in God we trust special plates. The entity that provides the thirty-two thousand dollars shall design the in God we trust special plates. The design and color of the in God we trust special plates are subject to the approval of the department. The director may allow a request for in God we trust special plates to be combined with a request for personalized special plates. If the director allows such a combination, the request shall be in a form prescribed by the director and is subject to the fees for the personalized special plates in addition to the fees required for the in God we trust special plates.

B. Of the twenty-five dollar fee required by section 28-2402 for the original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is an annual donation.

Chs. 320 and 323

C. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administration fees ~~and all donations collected pursuant to this section~~ in the state highway fund established by section 28-6991 AND SHALL DISTRIBUTE ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION AS AUTHORIZED IN A WRITTEN RESOLUTION OF THE INCORPORATED NONPROFIT CORPORATION THAT PROVIDED THE THIRTY-TWO THOUSAND DOLLARS FOR IMPLEMENTATION OF THIS SECTION. THE INCORPORATED NONPROFIT CORPORATION SHALL FILE A COPY OF THIS RESOLUTION WITH THE DEPARTMENT. THE INCORPORATED NONPROFIT CORPORATION MUST USE THE DONATIONS TO PROMOTE THE NATIONAL MOTTO "IN GOD WE TRUST", FIRST AMENDMENT RIGHTS AND THE HERITAGE OF THIS STATE AND NATION.

EXPLANATION OF BLEND
SECTION 28-2437

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2437 are blended in the form shown on the following page.

BLEND OF SECTION 28-2437
Laws 2011, Chapters 320 and 324

28-2437. Law enforcement special plates; fund

A. IF, BY DECEMBER 31, 2011, AN ENTITY DESCRIBED IN SUBSECTION E OF THIS SECTION PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE LAW ENFORCEMENT SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE LAW ENFORCEMENT SPECIAL PLATES. THE DESIGN AND COLOR OF THE LAW ENFORCEMENT SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR LAW ENFORCEMENT SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE LAW ENFORCEMENT SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE LAW ENFORCEMENT SPECIAL PLATE FUND ESTABLISHED BY THIS SECTION.

Chs. 320 and 324

D. THE LAW ENFORCEMENT SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

E. THE DIRECTOR SHALL ANNUALLY ALLOCATE MONIES FROM THE FUND TO THE ENTITY IN THIS STATE THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. THE ENTITY MUST BE AN INCORPORATED NONPROFIT CORPORATION THAT IS QUALIFIED UNDER SECTION 501(c)(5) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES AND MUST BE A PROFESSIONAL ASSOCIATION THAT IS COMPOSED OF SINGULAR INDEPENDENT POLICE, CORRECTIONS AND DETENTION LABOR ASSOCIATIONS IN THIS STATE AND THAT HAS A PRIMARY MISSION OF REPRESENTING THOSE ASSOCIATIONS BEFORE THE STATE LEGISLATURE AND LOCAL GOVERNMENTS ON ISSUES THAT AFFECT THE WORKING LAW ENFORCEMENT OFFICER, INCLUDING ISSUES RELATING TO MEMBER BENEFITS, MEMBER RIGHTS, MEMBER PAY, EQUIPMENT, LEGISLATION AND FAIR TREATMENT.

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

EXPLANATION OF BLEND
SECTION 28-2438

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2438 are blended in the form shown on the following page.

BLEND OF SECTION 28-2438
Laws 2011, Chapters 320 and 324

28-2438. Youth development organization special plates; fund

A. IF, BY DECEMBER 31, 2011, AN ENTITY DESCRIBED IN SUBSECTION E OF THIS SECTION PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATES. THE DESIGN AND COLOR OF THE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATE FUND ESTABLISHED BY THIS SECTION.

`s. 320
`d 324

D. THE YOUTH DEVELOPMENT ORGANIZATION SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

E. THE DIRECTOR SHALL ANNUALLY ALLOCATE MONIES FROM THE FUND TO THE ENTITY IN THIS STATE THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. THE ENTITY MUST BE AN INCORPORATED NONPROFIT CORPORATION THAT IS QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES AND MUST BE ONE OF THE NATION'S LARGEST AND MOST PROMINENT VALUES-BASED YOUTH DEVELOPMENT ORGANIZATIONS THAT PROVIDES A PROGRAM FOR YOUNG PEOPLE THAT BUILDS CHARACTER, THAT TRAINS THEM IN THE RESPONSIBILITIES OF PARTICIPATING CITIZENSHIP AND THAT DEVELOPS PERSONAL FITNESS. THE INCORPORATED NONPROFIT CORPORATION MUST HAVE BEEN IN EXISTENCE FOR AT LEAST ONE CENTURY AND MUST HELP BUILD THE FUTURE LEADERS OF THIS COUNTRY BY COMBINING EDUCATIONAL ACTIVITIES AND LIFELONG VALUES WITH FUN.

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

EXPLANATION OF BLEND
SECTION 28-2440

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2440 are blended in the form shown on the following page.

BLEND OF SECTION 28-2440
Laws 2011, Chapters 320 and 324

28-2440. Multiple sclerosis awareness special plates

A. IF, BY DECEMBER 31, 2011, THIRTY-TWO THOUSAND DOLLARS IS PAID TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE MULTIPLE SCLEROSIS AWARENESS SPECIAL PLATES. THE DIRECTOR OF THE DEPARTMENT, OR THE DIRECTOR'S DESIGNEE, SHALL DESIGN THE MULTIPLE SCLEROSIS AWARENESS SPECIAL PLATES. THE DIRECTOR MAY ALLOW A REQUEST FOR MULTIPLE SCLEROSIS AWARENESS SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR MULTIPLE SCLEROSIS AWARENESS SPECIAL PLATES.

Chs. 320 and 329

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE MULTIPLE SCLEROSIS AWARENESS FUND ESTABLISHED BY SECTION 36-120.

EXPLANATION OF BLEND
SECTION 28-2441

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2441 are blended in the form shown on the following page.

BLEND OF SECTION 28-2441
Laws 2011, Chapters 320 and 324

28-2441. Hunger relief special plates; fund

A. IF, BY JUNE 30, 2012, AN ENTITY PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE HUNGER RELIEF SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE HUNGER RELIEF SPECIAL PLATES. THE DESIGN AND COLOR OF THE HUNGER RELIEF SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR HUNGER RELIEF SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE HUNGER RELIEF SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE HUNGER RELIEF SPECIAL PLATE FUND ESTABLISHED BY SUBSECTION D OF THIS SECTION.

D. THE HUNGER RELIEF SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS RECEIVED SHALL BE REIMBURSED TO THE ENTITY THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL ANNUALLY ALLOCATE ALL MONIES FROM THE FUND TO AN ORGANIZATION THAT OPERATES STATEWIDE TO COORDINATE FOOD BANK SERVICES AND THAT IS QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES. THE ORGANIZATION SHALL ESTABLISH A PROCESS TO DISTRIBUTE THE MONIES ANNUALLY TO ORGANIZATIONS THAT PROVIDE FOOD DISTRIBUTION TO HUNGRY PEOPLE IN THIS STATE AND THAT ARE QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES. TO THE EXTENT POSSIBLE, THE DISTRIBUTING ORGANIZATION SHALL DISTRIBUTE MONIES COLLECTED IN A GEOGRAPHIC REGION TO ORGANIZATIONS SERVING INDIVIDUALS IN THAT REGION. THE DIRECTOR SHALL FORWARD ALL MONIES DEPOSITED IN THE HUNGER RELIEF SPECIAL PLATE FUND TO THE ORGANIZATION ON AN ANNUAL BASIS. THE ORGANIZATION MAY RETAIN NOT MORE THAN TEN PER CENT OF THE MONIES FOR DOCUMENTED EXPENSES RELATED TO AN APPLICATION AND AWARD PROCESS.

Chs. 320 and 324

E. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

EXPLANATION OF BLEND
SECTION 28-2442

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2442 are blended in the form shown on the following page.

BLEND OF SECTION 28-2442
Laws 2011, Chapters 320 and 324

28-2442. Childhood cancer research special plates

A. IF, BY DECEMBER 31, 2012, THIRTY-TWO THOUSAND DOLLARS IS PAID TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE CHILDHOOD CANCER RESEARCH SPECIAL PLATES. THE PERSON OR ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS FOR IMPLEMENTATION OF THIS SECTION SHALL DESIGN THE CHILDHOOD CANCER RESEARCH SPECIAL PLATES. THE DESIGN AND COLOR OF THE CHILDHOOD CANCER RESEARCH SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR CHILDHOOD CANCER RESEARCH SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR CHILDHOOD CANCER RESEARCH SPECIAL PLATES.

Chs. 320 and 324

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE CHILDHOOD CANCER AND RARE CHILDHOOD DISEASE RESEARCH FUND ESTABLISHED BY SECTION 36-121.

EXPLANATION OF BLEND
SECTION 28-2443

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2443 are blended in the form shown on the following page.

BLEND OF SECTION 28-2443
Laws 2011, Chapters 320 and 324

28-2443. Litter prevention and cleanup special plates; fund

A. IF, BY DECEMBER 31, 2011, AN ENTITY PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE LITTER PREVENTION AND CLEANUP SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE LITTER PREVENTION AND CLEANUP SPECIAL PLATES. THE DESIGN AND COLOR OF THE LITTER PREVENTION AND CLEANUP SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR LITTER PREVENTION AND CLEANUP SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE LITTER PREVENTION AND CLEANUP SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

Chs. 320 and 324

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE LITTER PREVENTION AND CLEANUP SPECIAL PLATE FUND ESTABLISHED BY THIS SECTION.

D. THE LITTER PREVENTION AND CLEANUP SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS IN THE FUND SHALL BE REIMBURSED TO THE ENTITY THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. NOT MORE THAN TEN PER CENT OF MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

E. THE DIRECTOR SHALL ANNUALLY DISTRIBUTE MONIES IN THE FUND TO AN ENTITY THAT IS QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE, THAT IS ASSOCIATED WITH THE DEPARTMENT TO ASSIST WITH LITTER PREVENTION AND LITTER CLEANUP AND THAT OPERATES STATEWIDE.

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

EXPLANATION OF BLEND
SECTION 28-2444

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2444 are blended in the form shown on the following page.

BLEND OF SECTION 28-2444
Laws 2011, Chapters 320 and 324

28-2444. Arizona professional hockey club special plates; fund

A. IF, BY DECEMBER 31, 2011, AN ENTITY PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATES. THE DESIGN AND COLOR OF THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATE FUND ESTABLISHED BY THIS SECTION.

Chs. 320 and 324

D. THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS IN THE FUND SHALL BE REIMBURSED TO THE ENTITY THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. NOT MORE THAN TEN PER CENT OF THE MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL ALLOCATE MONIES FROM THE FUND THROUGH A PRIVATE ARIZONA PROFESSIONAL HOCKEY ORGANIZATION'S FOUNDATION THAT IS QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES. THE DIRECTOR SHALL FORWARD ALL MONIES DEPOSITED IN THE ARIZONA PROFESSIONAL HOCKEY CLUB SPECIAL PLATE FUND, EXCLUDING ADMINISTRATIVE FEES, TO THE FOUNDATION ON AN ANNUAL BASIS.

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

EXPLANATION OF BLEND
SECTION 28-2445

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2445 are blended in the form shown on the following page.

BLEND OF SECTION 28-2445
Laws 2011, Chapters 320 and 324

28-2445. Arizona public broadcast television special plates; fund

A. IF, BY DECEMBER 31, 2011, AN ENTITY PAYS THIRTY-TWO THOUSAND DOLLARS TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATES. THE DESIGN AND COLOR OF THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATE FUND ESTABLISHED BY THIS SECTION.

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D. THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES DEPOSITED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS IN THE FUND SHALL BE REIMBURSED TO THE ENTITY THAT PAID THE IMPLEMENTATION FEE TO THE DEPARTMENT PURSUANT TO SUBSECTION A OF THIS SECTION. NOT MORE THAN TEN PER CENT OF THE MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL ALLOCATE MONIES FROM THE FUND TO A FOUNDATION OF PUBLIC BROADCAST TELEVISION IN THIS STATE THAT IS LICENSED AS A FULL-POWER NONCOMMERCIAL EDUCATIONAL STATION BY THE FEDERAL COMMUNICATIONS COMMISSION AND THAT PROVIDES A NONCOMMERCIAL AND NONSECTARIAN EDUCATIONAL BROADCAST SERVICE THAT IS AVAILABLE TO TELEVISION VIEWERS LOCATED IN CENTRAL AND NORTHERN ARIZONA. THE FOUNDATION MUST BE A CHARITABLE ORGANIZATION THAT IS QUALIFIED UNDER SECTION 501(c)(3) OF THE UNITED STATES INTERNAL REVENUE CODE FOR FEDERAL INCOME TAX PURPOSES. THE DIRECTOR SHALL FORWARD ALL MONIES DEPOSITED INTO THE ARIZONA PUBLIC BROADCAST TELEVISION SPECIAL PLATE FUND, EXCLUDING ADMINISTRATIVE FEES, TO THE FOUNDATION ON AN ANNUAL BASIS.

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

EXPLANATION OF BLEND
SECTION 28-2446

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 5 — Effective July 20

Laws 2011, Ch. 324, section 4 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 28-2446 are blended in the form shown on the following page.

BLEND OF SECTION 28-2446
Laws 2011, Chapters 320 and 324

28-2446. Global graduate management school special plates; fund

A. IF, BY DECEMBER 31, 2011, THIRTY-TWO THOUSAND DOLLARS IS PAID TO THE DEPARTMENT FOR THE IMPLEMENTATION OF THIS SECTION, THE DEPARTMENT SHALL ISSUE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATES. THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS SHALL DESIGN THE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATES. THE DESIGN AND COLOR OF THE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATES ARE SUBJECT TO THE APPROVAL OF THE DEPARTMENT. THE DIRECTOR MAY ALLOW A REQUEST FOR GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATES TO BE COMBINED WITH A REQUEST FOR PERSONALIZED SPECIAL PLATES. IF THE DIRECTOR ALLOWS SUCH A COMBINATION, THE REQUEST SHALL BE IN A FORM PRESCRIBED BY THE DIRECTOR AND IS SUBJECT TO THE FEES FOR THE PERSONALIZED SPECIAL PLATES IN ADDITION TO THE FEES REQUIRED FOR THE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATES.

B. OF THE TWENTY-FIVE DOLLAR FEE REQUIRED BY SECTION 28-2402 FOR THE ORIGINAL SPECIAL PLATES AND FOR RENEWAL OF SPECIAL PLATES, EIGHT DOLLARS IS A SPECIAL PLATE ADMINISTRATION FEE AND SEVENTEEN DOLLARS IS AN ANNUAL DONATION.

C. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL SPECIAL PLATE ADMINISTRATION FEES IN THE STATE HIGHWAY FUND ESTABLISHED BY SECTION 28-6991 AND ALL DONATIONS COLLECTED PURSUANT TO THIS SECTION IN THE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATE FUND ESTABLISHED BY SUBSECTION D OF THIS SECTION.

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D. THE GLOBAL GRADUATE MANAGEMENT SCHOOL SPECIAL PLATE FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL ADMINISTER THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS IN THE FUND SHALL BE REIMBURSED TO THE ENTITY THAT PROVIDES THE THIRTY-TWO THOUSAND DOLLARS PURSUANT TO SUBSECTION A OF THIS SECTION. NOT MORE THAN TEN PER CENT OF MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL ANNUALLY ALLOCATE MONIES FROM THE FUND, EXCLUDING ADMINISTRATIVE FEES, TO A GRADUATE MANAGEMENT SCHOOL IN THIS STATE THAT IS FOCUSED EXCLUSIVELY ON GLOBAL BUSINESS, THAT IS REGARDED AS THE WORLD'S LEADING INSTITUTION IN THE EDUCATION OF GLOBAL MANAGERS AND THAT HAS OPERATIONS IN THE UNITED STATES AND IN OTHER NATIONS. THE GRADUATE MANAGEMENT SCHOOL SHALL USE THE ALLOCATED MONIES FOR THE GRADUATE MANAGEMENT SCHOOL'S OPERATIONS AND ACTIVITIES, INCLUDING EDUCATING GLOBAL LEADERS WHO CREATE SUSTAINABLE PROSPERITY WORLDWIDE AND FACILITATING THE DEVELOPMENT OF THE GLOBAL MINDSET.

E. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

EXPLANATION OF BLEND
SECTION 28-6501

Laws 2011, Chapters 81, 320, 323 and 324

Laws 2011, Ch. 81, section 4	Effective July 20
Laws 2011, Ch. 320, section 6	Effective July 20
Laws 2011, Ch. 323, section 5	Effective July 20
Laws 2011, Ch. 324, section 5	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 81, Ch. 320, Ch. 323 and Ch. 324 text changes to section 28-6501 are blended in the form shown on the following page.

BLEND OF SECTION 28-6501
Laws 2011, Chapters 81, 320, 323 and 324

28-6501. Definition of highway user revenues

In this article, unless the context otherwise requires or except as otherwise provided by statute, "highway user revenues" means all monies received in this state from licenses, taxes, penalties, interest and fees authorized by the following:

1. Chapters 2, 7, 8 and 15 of this title, except for:

(a) The special plate administration fees prescribed in sections 28-2404, 28-2412 through [~~28-2436~~ 28-2448] and 28-2514.

(b) The donations prescribed in sections 28-2404, 28-2412 through 28-2415, 28-2417 through [~~28-2436~~ 28-2448], 28-2453, 28-2454 and 28-2455.

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2. Section 28-1177.

3. Chapters 10 and 11 of this title.

4. Chapter 16, articles 1, 2 and 4 of this title, except as provided in sections 28-5926 and 28-5927.

EXPLANATION OF BLEND
SECTION 28-6991

Laws 2011, Chapters 81, 190, 320, 323 and 324

Laws 2011, Ch. 81, section 5	Effective July 20
Laws 2011, Ch. 190, section 24	Effective July 20
Laws 2011, Ch. 320, section 7	Effective July 20
Laws 2011, Ch. 323, section 6	Effective July 20
Laws 2011, Ch. 324, section 6	Effective July 20

Explanation

Since these five enactments are not incompatible, the Laws 2011, Ch. 81, Ch. 190, Ch. 320, Ch. 323 and Ch. 324 text changes to section 28-6991 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6991
Laws 2011, Chapters 81, 190, 320, 323 and 324

28-6991. State highway fund; sources

A state highway fund is established that consists of:

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

2. Monies appropriated by the legislature.

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

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

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

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

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

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

9. Monies generated pursuant to section 28-410.

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

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

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

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

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

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

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

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2412 through 28-2416, 28-2416.01, 28-2417 through [~~28-2436~~ 28-2448] and 28-2514.

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

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

14. Donations received pursuant to section 28-2269.

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

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

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. Monies deposited pursuant to section 28-2065.

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~~19. Donations deposited pursuant to section 28-2430.~~

~~20.~~ 19. Monies deposited pursuant to section 28-7311.

~~21.~~ 20. Monies deposited pursuant to section 28-7059.

Ch. 190

21. MONIES DEPOSITED PURSUANT TO SECTION 28-1105.

Ch. 323

22. MONIES DEPOSITED PURSUANT TO SECTION 28-2448, SUBSECTION D.

EXPLANATION OF BLEND
SECTION 28-6993

Laws 2011, Chapters 81, 320, 323 and 324

Laws 2011, Ch. 81, section 6	Effective July 20
Laws 2011, Ch. 320, section 8	Effective July 20
Laws 2011, Ch. 323, section 7	Effective July 20
Laws 2011, Ch. 324, section 7	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 81, Ch. 320, Ch. 323 and Ch. 324 text changes to section 28-6993 are blended in the form shown on the following pages.

BLEND OF SECTION 28-6993
Laws 2011, Chapters 81, 320, 323 and 324

28-6993. State highway fund; authorized uses

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

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

2. To pay for both:

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

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

3. To pay the cost of both:

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

(b) Highways under cooperative agreements with the United States that are entered into pursuant to this chapter and an act of Congress providing for the construction of rural post roads.

4. To pay land damages incurred by reason of establishing, opening, altering, relocating, widening or abandoning portions of a state route or state highway.

5. To reimburse the department revolving account.

6. To pay premiums on authorized indemnity bonds and on compensation insurance under the workers' compensation act.

7. To defray lawful expenses and costs required to administer and carry out the intent, purposes and provisions of this title, including repayment of obligations entered into pursuant to this title, payment of interest on obligations entered into pursuant to this title, repayment of loans and other financial assistance, including repayment of advances and interest on advances made to the department pursuant to section 28-7677, and payment of all other obligations and expenses of the board and department pursuant to chapter 21 of this title.

8. To pay lawful bills and charges incurred by the state engineer.

9. To acquire, construct or improve entry roads to state parks or roads within state parks.

10. To acquire, construct or improve entry roads to state prisons.

11. To pay the cost of relocating a utility facility pursuant to section 28-7156.

12. For the purposes provided in subsections C, D and E of this section and sections 28-1143, 28-2353 and 28-3003.

Ch. 323 — 13. TO PAY THE COST OF ISSUING AN ARIZONA CENTENNIAL SPECIAL PLATE PURSUANT TO SECTION 28-2448.

B. For each fiscal year, the department of transportation shall allocate and transfer monies in the state highway fund to the department of public safety for funding a portion of highway patrol costs in eight installments in each of the first eight months of a fiscal year that do not exceed ten million dollars.

C. Subject to legislative appropriation, the department may use the monies in the state highway fund as prescribed in section 28-6991, paragraph 12 to carry out the duties imposed by this title for registration or titling of vehicles, to operate joint title, registration and driver licensing offices, to cover the administrative costs of issuing the air quality compliance sticker, modifying the year validating tab and issuing the windshield sticker and to cover expenses and costs in issuing special plates pursuant to sections 28-2404, 28-2412 through [~~28-2436~~ 28-2448] and 28-2514.

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D. The department shall use monies deposited in the state highway fund pursuant to chapter 5, article 5 of this title only as prescribed by that article.

E. Monies deposited in the state highway fund pursuant to section 28-2269 shall be used only as prescribed by that section.

F. Monies deposited in the state highway fund pursuant to section 28-710, subsection D, paragraph 2 shall only be used for state highway work zone traffic control devices.

G. The department may exchange monies distributed to the state highway fund pursuant to section 28-6538, subsection A, paragraph 1 for local government surface transportation program federal monies suballocated to councils of government and metropolitan planning organizations if the local government scheduled to receive the federal monies concurs. An exchange of state highway fund monies pursuant to this subsection shall be in an amount that is at least equal to ninety per cent of the federal obligation authority that exists in the project for which the exchange is proposed.

EXPLANATION OF BLEND
SECTION 32-1236

Laws 2011, Chapters 86 and 87

Laws 2011, Ch. 86, section 3	Effective July 20
Laws 2011, Ch. 87, section 1	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 86 and Ch. 87 text changes to section 32-1236 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1236
Laws 2011, Chapters 86 and 87

32-1236. Dentist triennial licensure; continuing education; license reinstatement; license for each place of practice; notice of change of address or place of practice; retired and disabled licensees; penalties

Ch. 86 — A. Except as provided in section 32-4301, A LICENSE EXPIRES on ~~or before~~ June 30 of every third year. ~~,~~ — ON OR BEFORE JUNE 30 OF EVERY THIRD YEAR, every licensed dentist shall submit to the board a ~~passport-size photograph taken of the dentist within the previous six months~~ COMPLETE RENEWAL APPLICATION and pay a LICENSE RENEWAL fee of

Ch. 87 — NOT MORE THAN six hundred fifty dollars, ESTABLISHED BY A FORMAL VOTE OF THE BOARD. AT LEAST ONCE EVERY THREE YEARS, BEFORE ESTABLISHING THE FEE FOR THE SUBSEQUENT THREE FISCAL YEARS, THE BOARD SHALL REVIEW THE AMOUNT OF THE FEE IN A PUBLIC MEETING. ANY CHANGE IN THE AMOUNT OF THE FEE SHALL BE APPLIED PROSPECTIVELY TO A LICENSEE AT THE TIME OF LICENSURE RENEWAL FOR THE SUBSEQUENT THREE FISCAL YEARS. The fee prescribed by this subsection does not apply to a LICENSEE IN disabled or retired ~~licensee~~ STATUS.

Ch. 86 — B. A LICENSEE SHALL INCLUDE A WRITTEN AFFIDAVIT WITH THE RENEWAL APPLICATION THAT AFFIRMS THAT THE LICENSEE COMPLIES WITH BOARD RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS. A LICENSEE IS NOT REQUIRED TO COMPLETE THE WRITTEN AFFIDAVIT IF THE LICENSEE RECEIVED AN INITIAL LICENSE WITHIN THE YEAR IMMEDIATELY PRECEDING THE EXPIRATION DATE OF THE LICENSE OR THE LICENSEE IS IN DISABLED STATUS. IF THE LICENSEE IS NOT IN COMPLIANCE WITH BOARD RULES RELATING TO CONTINUING EDUCATION, THE BOARD MAY GRANT AN EXTENSION OF TIME TO COMPLETE THESE REQUIREMENTS IF THE LICENSEE INCLUDES A WRITTEN REQUEST FOR AN EXTENSION WITH THE RENEWAL APPLICATION INSTEAD OF THE WRITTEN AFFIDAVIT AND THE RENEWAL APPLICATION IS RECEIVED ON OR BEFORE JUNE 30 OF THE EXPIRATION YEAR. THE BOARD SHALL CONSIDER THE EXTENSION REQUEST BASED ON CRITERIA PRESCRIBED BY THE BOARD BY RULE. IF THE BOARD DENIES AN EXTENSION REQUEST, THE LICENSE EXPIRES ON AUGUST 30.

~~B.~~ C. A person applying for licensure for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A of this section. Subsequent licensure renewal shall be conducted pursuant to this section.

Ch. 86 — ~~C. A person who fails to pay a fee prescribed by this section forfeits the license. A license may be reinstated in the fiscal year in which it is forfeited by submitting a written application with payment of the fee plus a penalty of one hundred dollars. During the second fiscal year following forfeiture, reinstatement may be effected by submitting a written application and payment of the fees and all accumulated penalty fees. If a person fails to pay the fees for reinstatement before the beginning of the third fiscal year following the forfeiture of the license, the board shall require that person to successfully complete the regular examination before the board reinstates the license. Whenever issued, reinstatement is as of the date of~~

~~application and entitles the applicant to licensure only for the remainder of the applicable three year period.~~

D. AN EXPIRED LICENSE MAY BE REINSTATED BY SUBMITTING A COMPLETE RENEWAL APPLICATION WITHIN THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY FOLLOWING THE EXPIRATION OF THE LICENSE WITH PAYMENT OF THE RENEWAL FEE AND A ONE HUNDRED DOLLAR PENALTY. WHENEVER ISSUED, REINSTATEMENT IS AS OF THE DATE OF APPLICATION AND ENTITLES THE APPLICANT TO LICENSURE ONLY FOR THE REMAINDER OF THE APPLICABLE THREE YEAR PERIOD. IF A PERSON DOES NOT REINSTATE A LICENSE PURSUANT TO THIS SUBSECTION, THE PERSON MUST REAPPLY FOR LICENSURE PURSUANT TO THIS CHAPTER.

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~~D.~~ E. Each licensee must provide to the board in writing both of the following:

1. A primary mailing address.
2. The address for each place of practice.

~~E.~~ F. A licensee maintaining more than one place of practice shall obtain from the board a duplicate license for each office. A fee set by the board shall be charged for each duplicate license. The licensee shall notify the board in writing within ten days of opening the additional place or places of practice. The board shall impose a penalty of fifty dollars for failure to notify the board.

~~F.~~ G. A licensee who is over sixty-five years of age and who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

~~G.~~ H. A licensee applying for retired or disabled status shall relinquish any prescribing privileges and shall provide evidence that the licensee has surrendered to the United States drug enforcement administration any registration issued pursuant to the federal controlled ~~substance~~ SUBSTANCES act and has surrendered to the board any registration issued pursuant to section 36-2606. If the licensee holds a permit to dispense drugs and devices pursuant to section 32-1298, the licensee shall surrender that permit to the board.

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~~H.~~ I. A licensee who changes the licensee's primary mailing address or place of practice address shall notify the board of that change in writing within ten days. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

EXPLANATION OF BLEND
SECTION 32-1287

Laws 2011, Chapters 86 and 87

Laws 2011, Ch. 86, section 6	Effective July 20
Laws 2011, Ch. 87, section 2	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 86 and Ch. 87 text changes to section 32-1287 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1287
Laws 2011, Chapters 86 and 87

32-1287. Dental hygienist triennial licensure; continuing education; license reinstatement; notice of change of address; penalties; retired and disabled licensees

Ch. 86 — A. Except as provided in section 32-4301, A LICENSE EXPIRES on ~~or before~~ June 30 of every third year. ~~,~~ ON OR BEFORE JUNE 30 OF EVERY THIRD YEAR, every licensed dental hygienist shall SUBMIT TO THE BOARD A COMPLETE RENEWAL APPLICATION AND pay a license renewal fee of

Ch. 87 — NOT MORE THAN three hundred twenty-five dollars, ESTABLISHED BY A FORMAL VOTE OF THE BOARD. AT LEAST ONCE EVERY THREE YEARS, BEFORE ESTABLISHING THE FEE FOR THE SUBSEQUENT THREE FISCAL YEARS, THE BOARD SHALL REVIEW THE AMOUNT OF THE FEE IN A PUBLIC MEETING. ANY CHANGE IN THE AMOUNT OF THE FEE SHALL BE APPLIED PROSPECTIVELY TO A LICENSEE AT THE TIME OF LICENSURE RENEWAL FOR THE SUBSEQUENT THREE FISCAL YEARS. The fee prescribed by this section does not apply to a retired or disabled hygienist.

Ch. 86 — B. A LICENSEE SHALL INCLUDE A WRITTEN AFFIDAVIT WITH THE RENEWAL APPLICATION THAT AFFIRMS THAT THE LICENSEE COMPLIES WITH BOARD RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS. A LICENSEE IS NOT REQUIRED TO COMPLETE THE WRITTEN AFFIDAVIT IF THE LICENSEE RECEIVED AN INITIAL LICENSE WITHIN THE YEAR IMMEDIATELY PRECEDING THE EXPIRATION DATE OF THE LICENSE OR THE LICENSEE IS IN DISABLED STATUS. IF THE LICENSEE IS NOT IN COMPLIANCE WITH BOARD RULES RELATING TO CONTINUING EDUCATION, THE BOARD MAY GRANT AN EXTENSION OF TIME TO COMPLETE THESE REQUIREMENTS IF THE LICENSEE INCLUDES A WRITTEN REQUEST FOR AN EXTENSION WITH THE RENEWAL APPLICATION INSTEAD OF THE WRITTEN AFFIDAVIT AND THE RENEWAL APPLICATION IS RECEIVED ON OR BEFORE JUNE 30 OF THE EXPIRATION YEAR. THE BOARD SHALL CONSIDER THE EXTENSION REQUEST BASED ON CRITERIA PRESCRIBED BY THE BOARD BY RULE. IF THE BOARD DENIES AN EXTENSION REQUEST, THE LICENSE EXPIRES ON AUGUST 30 OF THE EXPIRATION YEAR.

~~B.~~ C. A person applying for a license for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent registrations shall be conducted pursuant to this section.

Ch. 86 — ~~C. A person who fails to pay a fee prescribed by this section forfeits the license. A license may be reinstated in the fiscal year in which it is forfeited by submitting a written application with payment of the fee plus a penalty of one hundred dollars. During the second fiscal year following forfeiture, reinstatement may be effected by submitting a written application and payment of the fees and all accumulated penalty fees. If a person fails to pay the fees for reinstatement before the beginning of the third fiscal year following forfeiture of the license, the board shall require that the person successfully complete the regular examination before the board reinstates the license. Whenever issued, reinstatement is as of the date of~~

~~application and entitles the applicant to licensure only for the remainder of the applicable three year period.~~

D. AN EXPIRED LICENSE MAY BE REINSTATED BY SUBMITTING A COMPLETE RENEWAL APPLICATION WITHIN THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY FOLLOWING THE EXPIRATION OF THE LICENSE WITH PAYMENT OF THE RENEWAL FEE AND A ONE HUNDRED DOLLAR PENALTY. WHENEVER ISSUED, REINSTATEMENT IS AS OF THE DATE OF APPLICATION AND ENTITLES THE APPLICANT TO LICENSURE ONLY FOR THE REMAINDER OF THE APPLICABLE THREE YEAR PERIOD. IF A PERSON DOES NOT REINSTATE A LICENSE PURSUANT TO THIS SUBSECTION, THE PERSON MUST REAPPLY FOR LICENSURE PURSUANT TO THIS CHAPTER.

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~~D.~~ E. A licensee shall notify the board in writing within ten days after the licensee changes the primary mailing address listed with the board. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

~~E.~~ F. A licensee who is over sixty-five years of age and who is fully retired and a licensee who is permanently disabled may contribute services to a recognized charitable institution and still retain that classification for triennial registration purposes on payment of a reduced renewal fee as prescribed by the board by rule.

EXPLANATION OF BLEND
SECTION 32-1297.06

Laws 2011, Chapters 86 and 87

Laws 2011, Ch. 86, section 10 — Effective July 20

Laws 2011, Ch. 87, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 86 and Ch. 87 text changes to section 32-1297.06 are blended in the form shown on the following pages.

BLEND OF SECTION 32-1297.06
Laws 2011, Chapters 86 and 87

32-1297.06. Denturist certification; continuing education; certificate reinstatement; certificate for each place of practice; notice of change of address or place of practice; penalties

Ch. 86 A. Except as provided in section 32-4301, A CERTIFICATION EXPIRES on ~~or before~~ June 30 of every third year. ~~,~~ ON OR BEFORE JUNE 30 OF EVERY THIRD YEAR, every certified denturist shall SUBMIT TO THE BOARD A COMPLETE RENEWAL APPLICATION AND SHALL pay a certificate renewal fee of

Ch. 87 NOT MORE THAN three hundred dollars, ESTABLISHED BY A FORMAL VOTE OF THE BOARD. AT LEAST ONCE EVERY THREE YEARS, BEFORE ESTABLISHING THE FEE FOR THE SUBSEQUENT THREE FISCAL YEARS, THE BOARD SHALL REVIEW THE AMOUNT OF THE FEE IN A PUBLIC MEETING. ANY CHANGE IN THE AMOUNT OF THE FEE SHALL BE APPLIED PROSPECTIVELY TO A LICENSEE AT THE TIME OF LICENSURE RENEWAL FOR THE SUBSEQUENT THREE FISCAL YEARS. This requirement does not apply to a disabled ~~or~~ retired ~~denturist~~ STATUS.

Ch. 86 B. A CERTIFICATE HOLDER SHALL INCLUDE A WRITTEN AFFIDAVIT WITH THE RENEWAL APPLICATION THAT AFFIRMS THAT THE CERTIFICATE HOLDER COMPLIES WITH BOARD RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS. A CERTIFICATE HOLDER IS NOT REQUIRED TO COMPLETE THE WRITTEN AFFIDAVIT IF THE CERTIFICATE HOLDER RECEIVED AN INITIAL CERTIFICATION WITHIN THE YEAR IMMEDIATELY PRECEDING THE EXPIRATION DATE OF THE CERTIFICATE OR THE CERTIFICATE HOLDER IS IN DISABLED STATUS. IF THE CERTIFICATE HOLDER IS NOT IN COMPLIANCE WITH BOARD RULES RELATING TO CONTINUING EDUCATION, THE BOARD MAY GRANT AN EXTENSION OF TIME TO COMPLETE THESE REQUIREMENTS IF THE CERTIFICATE HOLDER INCLUDES A WRITTEN REQUEST FOR AN EXTENSION WITH THE RENEWAL APPLICATION INSTEAD OF THE WRITTEN AFFIDAVIT AND THE RENEWAL APPLICATION IS RECEIVED ON OR BEFORE JUNE 30 OF THE EXPIRATION YEAR. THE BOARD SHALL CONSIDER THE EXTENSION REQUEST BASED ON CRITERIA PRESCRIBED BY THE BOARD BY RULE. IF THE BOARD DENIES AN EXTENSION REQUEST, THE CERTIFICATE EXPIRES ON AUGUST 30 OF THE EXPIRATION YEAR.

~~B.~~ C. A person applying for a certificate for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent certifications shall be conducted pursuant to this section.

Ch. 86 ~~C. A person who does not pay a fee as prescribed by this section forfeits the certificate. A certificate may be reinstated in the fiscal year in which it is forfeited by submitting a written application with payment of the renewal fee plus a one hundred dollar penalty. During the second fiscal year following forfeiture, reinstatement may be effected by submitting a written application and payment of the fees and all accumulated penalty fees. If a person fails to pay the fees for reinstatement before the beginning of the third fiscal year following the forfeiture of that person's certificate, the board shall require that the person successfully complete the regular~~

~~examination before the board reinstates the certificate. Whenever issued, reinstatement is as of the date of application and entitles the applicant to certification only for the remainder of the applicable three year period.~~

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D. AN EXPIRED CERTIFICATE MAY BE REINSTATED BY SUBMITTING A COMPLETE RENEWAL APPLICATION WITHIN THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY FOLLOWING THE EXPIRATION OF THE CERTIFICATE WITH PAYMENT OF THE RENEWAL FEE AND A ONE HUNDRED DOLLAR PENALTY. WHENEVER ISSUED, REINSTATEMENT IS AS OF THE DATE OF APPLICATION AND ENTITLES THE APPLICANT TO CERTIFICATION ONLY FOR THE REMAINDER OF THE APPLICABLE THREE YEAR PERIOD. IF A PERSON DOES NOT REINSTATE A CERTIFICATE PURSUANT TO THIS SUBSECTION, THE PERSON MUST REAPPLY FOR CERTIFICATION PURSUANT TO THIS CHAPTER.

~~D.~~ E. Each certificate holder must provide to the board in writing both of the following:

1. A primary mailing address.
2. The address for each place of practice.

~~E.~~ F. A certificate holder maintaining more than one place of practice shall obtain from the board a duplicate certificate for each office. The board shall set and charge a fee for each duplicate certificate. A certificate holder shall notify the board in writing within ten days of opening an additional place of practice.

~~F.~~ G. A certificate holder shall notify the board in writing within ten days after changing a primary mailing address or place of practice address listed with the board. The board shall impose a fifty dollar penalty if a certificate holder fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a certificate holder fails to notify it of the change within thirty days.

EXPLANATION OF BLEND
SECTION 32-2183 (as amended by Laws 2010, Ch. 144, section 2)

Laws 2011, Chapters 238 and 328

Laws 2011, Ch. 238, section 31	Effective October 1
Laws 2011, Ch. 328, section 7	Effective October 1

Explanation

Since the Ch. 328 version includes all of the changes made by the Ch. 238 version, the Laws 2011, Ch. 328 amendment of section 32-2183 (as amended by Laws 2010, Ch. 144, sec. 2) is the blend of both the Laws 2011, Ch. 238 and Ch. 328 versions.

BLEND OF SECTION 32-2183 (as amended by Laws 2010, Ch. 144, section 2)
Laws 2011, Chapters 238 and 328

32-2183. Subdivision public reports; denial of issuance; unlawful sales; voidable sale or lease; order prohibiting sale or lease; investigations; hearings; summary orders

A. Upon examination of a subdivision, the commissioner, unless there are grounds for denial, shall issue to the subdivider a public report authorizing the sale or lease in this state of the lots, parcels or fractional interests within the subdivision. The report shall contain the data obtained in accordance with section 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. If any of the lots, parcels or fractional interests within the subdivision are located within territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, under a military training route as delineated in the military training route map prepared pursuant to section 37-102, under restricted air space as delineated in the restricted air space map prepared pursuant to section 37-102 or contained in the military electronics range as delineated in the military electronics range map prepared pursuant to section 37-102, the report shall include, in bold twelve point font block letters on the first page of the report, the statements required pursuant to section 28-8484, subsection A, section 32-2183.05 or section 32-2183.06 and, if the department has been provided a map prepared pursuant to section 28-8484, subsection B or section 37-102, the report shall include a copy of the map. The military airport report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2001 or on or before December 31 of the year in which the lots, parcels or fractional interests within a subdivision become territory in the vicinity of a military airport or ancillary military facility. The military training route report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2004. The restricted air space report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2006. The military electronics range report requirements do not require the amendment or reissuance of any public report issued on or before December 31, 2008. The commissioner shall require the subdivider to reproduce the report, make the report available to each prospective customer and furnish each buyer or lessee with a copy before the buyer or lessee signs any offer to purchase or lease, taking a receipt therefor.

B. This section shall not be construed to require a public report issued sixty or fewer days prior to the filing of the military electronics range map prepared pursuant to section 37-102 to meet the military electronics range notification requirements of this section.

C. A public report issued sixty-one or more days after the filing of the military electronics range map prepared pursuant to section 37-102 shall meet all of the requirements of subsection A of this section.

D. Notwithstanding subsection A of this section, a subdivider may elect to prepare a final public report for use in the sale of improved lots as defined in section 32-2101, as follows:

1. The subdivider shall prepare the public report and provide a copy of the report to the commissioner with the submission of the notification required by sections 32-2181 and 32-2184 and shall comply with all other requirements of this article.

2. An initial filing fee of five hundred dollars or an amended filing fee of two hundred fifty dollars shall accompany the notification required by paragraph 1 of this subsection.

3. The department shall assign a registration number to each notification and public report submitted pursuant to this subsection and shall maintain a database of all of these submissions. The subdivider shall place the number on each public report.

4. On receipt of the notification and public report, the department shall review and issue within ten business days either a certification that the notification and public report are administratively complete or a denial letter if it appears that the application or project is not in compliance with all legal requirements, that the applicant has a background of violations of state or federal law or that the applicant or project presents an unnecessary risk of harm to the public. If the commissioner has received the notification and public report but has not issued a certification or a denial letter within ten business days pursuant to this paragraph, the notification and public report are administratively complete.

5. A subdivider may commence sales or leasing activities as permitted under this article after obtaining a certificate of administrative completeness from the commissioner.

6. Before or after the commissioner issues a certificate of administrative completeness or, if applicable, after the notification and public report are deemed to be administratively complete pursuant to paragraph 4 of this subsection, the department may examine any public report, subdivision or applicant that has applied for or received the certificate. If the commissioner determines that the subdivider or subdivision is not in compliance with any requirement of state law or that grounds exist under this chapter to suspend, deny or revoke a public report, the commissioner may commence an administrative action under section 32-2154 or 32-2157. If the subdivider immediately corrects the deficiency and comes into full compliance with state law, the commissioner shall vacate any action that the commissioner may have commenced pursuant to section 32-2154 or 32-2157.

7. The department shall provide forms and guidelines for the submission of the notification and public report pursuant to this section.

E. The commissioner may suspend, revoke or deny issuance of a public report on any of the following grounds:

1. Failure to comply with this article or the rules of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to deliver title or other interest contracted for.

4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for completion of

all streets, sewers, electric, gas and water utilities, drainage and flood control facilities, community and recreational facilities and other improvements included in the offering.

5. Failure to make a showing that the lots, parcels or fractional interests can be used for the purpose for which they are offered.

6. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary holding ten per cent or more direct or indirect beneficial interest or, if a corporation, any stockholder owning ten per cent or more of the stock in the corporation has:

(a) Been convicted of a felony or misdemeanor involving fraud or dishonesty or involving conduct of any business or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

(b) Been permanently or temporarily enjoined by order, judgment or decree from engaging in or continuing any conduct or practice in connection with the sale or purchase of real estate or cemetery property, time-share intervals, membership camping contracts or campgrounds, or securities or involving consumer fraud or the racketeering laws of this state.

(c) Had an administrative order entered against him by a real estate regulatory agency or security regulatory agency.

(d) Had an adverse decision or judgment entered against him involving fraud or dishonesty or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.

(e) Disregarded or violated this chapter or the rules of the commissioner pertaining to this chapter.

(f) Controlled an entity to which subdivision (b), (c), (d) or (e) applies.

7. Procurement or an attempt to procure a public report by fraud, misrepresentation or deceit or by filing an application for a public report that is materially false or misleading.

8. Failure of the declaration for a condominium created pursuant to title 33, chapter 9, article 2 to comply with the requirements of section 33-1215 or failure of the plat for the condominium to comply with the requirements of section 33-1219. The commissioner may require an applicant for a public report to submit a notarized statement signed by the subdivider or an engineer or attorney licensed to practice in this state certifying that the condominium plat and declaration of condominium are in compliance with the requirements of sections 33-1215 and 33-1219. If the notarized statement is provided, the commissioner is entitled to rely on this statement.

9. Failure of any blanket encumbrance or valid supplementary agreement executed by the holder of the blanket encumbrance to contain provisions that enable the purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance, on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the commissioner containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

10. Failure to demonstrate permanent access to the subdivision lots or parcels.

11. The use of the lots presents an unreasonable health risk.

F. It is unlawful for a subdivider to sell any lot in a subdivision unless one of the following occurs:

1. All proposed or promised subdivision improvements are completed.

2. The completion of all proposed or promised subdivision improvements is assured by financial arrangements acceptable to the commissioner. The financial arrangements may be made in phases for common community and recreation facilities required by a municipality or county as a stipulation for approval of a plan for a master planned community.

3. The municipal or county government agrees to prohibit occupancy and the subdivider agrees not to close escrow for lots in the subdivision until all proposed or promised subdivision improvements are completed.

4. The municipal or county government enters into an assurance agreement with any trustee not to convey lots until improvements are completed within the portion of the subdivision containing these lots, if the improvements can be used and maintained separately from the improvements required for the entire subdivision plat. The agreement shall be recorded in the county in which the subdivision is located.

G. If the subdivision is within an active management area, as defined in section 45-402, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless the subdivider has been issued a certificate of assured water supply by the director of water resources and has paid all applicable fees pursuant to sections 48-3772 and 48-3774.01, or unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply by the director of water resources pursuant to section 45-576 or is exempt from the requirement pursuant to section 45-576.

H. In areas outside of active management areas, if the subdivision is located in a county that has adopted the provision authorized by section ~~11-806.01, subsection F~~ 11-823, SUBSECTION A or in a city or town that has enacted an ordinance pursuant to section 9-463.01, subsection O, the commissioner shall deny issuance of a public report or the use of any exemption pursuant to section 32-2181.02, subsection B unless one of the following applies:

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1. The director of water resources has reported pursuant to section 45-108 that the subdivision has an adequate water supply.

2. The subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an adequate water supply by the director of water resources pursuant to section 45-108.

3. The plat was approved pursuant to an exemption authorized by section 9-463.01, subsection K, pursuant to an exemption authorized by section ~~11-806.01, subsection G~~ 11-823, SUBSECTION B, paragraph 1, pursuant to an exemption granted by the director of water resources under section 45-108.02 and the exemption has not expired or pursuant to an exemption granted by the director of water resources under section 45-108.03.

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4. The subdivision received final plat approval from the city, town or county before the requirement for an adequate water supply became effective in the city, town or county, and there have been no material changes to the plat since the final plat approval. If changes were made to the plat after the final plat approval, the director of water resources shall determine whether the changes are material pursuant to the rules adopted by the director to implement section 45-108.

I. A subdivider shall not sell or lease or offer for sale or lease in this state any lots, parcels or fractional interests in a subdivision without first obtaining a public report from the commissioner except as provided in section 32-2181.01 or 32-2181.02, AND A CERTIFICATE OF ADMINISTRATIVE COMPLETENESS ISSUED PURSUANT TO THIS SECTION. Unless exempt, the sale or lease of subdivided lands prior to issuance of the public report or failure to deliver the public report to the purchaser or lessee shall render the sale or lease rescindable by the purchaser or lessee. An action by the purchaser or lessee to rescind the transaction shall be brought within three years of the date of execution of the purchase or lease agreement by the purchaser or lessee. In any rescission action, the prevailing party is entitled to reasonable attorney fees as determined by the court.

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J. On a print advertisement in a magazine or newspaper or on an internet advertisement that advertises a specific lot or parcel of a subdivider, the subdivider shall include a disclosure stating that "a public report is available on the state real estate department's website".

K. Any applicant objecting to the denial of a public report, within thirty days after receipt of the order of denial, may file a written request for a hearing. The commissioner shall hold the hearing within twenty days after receipt of the request for a hearing unless the party requesting the hearing has requested a postponement. If the hearing is not held within twenty days after a request for a hearing is received, plus the period of any postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

L. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that the subdivider or the subdivider's agent is violating this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, the commissioner may investigate the subdivision project and examine the books and records of the subdivider. For the purpose of examination, the subdivider shall keep and maintain records of all sales transactions and funds received by the subdivider pursuant to the sales transactions and shall make them accessible to the commissioner upon reasonable notice and demand.

M. On the commissioner's own motion, or when the commissioner has received a complaint and has satisfactory evidence that any person has violated this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report or special order of exemption, or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony,

before or after the commissioner issues the public report as provided in subsection A of this section, the commissioner may conduct an investigation of the matter, issue a summary order as provided in section 32-2157, or
Ch. 328 — PROVIDE NOTICE AND hold a public hearing and, after the hearing, may issue the order or orders the commissioner deems necessary to protect the public interest and ensure compliance with the law, rules or public report or the commissioner may bring action in any court of competent jurisdiction against the person to enjoin the person from continuing the violation or engaging in or doing any act or acts in furtherance of the violation. The court may make orders or judgments, including the appointment of a receiver, necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, that may have been acquired by means of any practice in this article declared to be unlawful.

N. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that the person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of the person or for a writ of ne exeat, or both.

O. The court, on receipt of an application for the appointment of a receiver or for a writ of ne exeat, or both, shall examine the verified application of the commissioner and other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ of ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ, or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require notice be given as the court deems satisfactory.

P. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served on the person engaged in or engaging in a practice declared to be unlawful under this article by delivering the order to the last address of the person that is on file with the state real estate department. The order shall inform the person that the person has the right to request a hearing within ten days of the date of the order and, if requested, the hearing shall be held within thirty days from the date of the order.

EXPLANATION OF BLEND
SECTION 32-2931

Laws 2011, Chapters 186 and 235

Laws 2011, Ch. 186, section 12 — Effective July 20

Laws 2011, Ch. 235, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 186 and Ch. 235 text changes to section 32-2931 are blended in the form shown on the following page.

The Laws 2011, Ch. 235 version of section 32-2931, subsection B, paragraph 1 added the word "or" after "homeopathic physician" and the Ch. 186 version added the word "or" before "homeopathic physician". Since this would not produce a substantive change, the blend version reflects the Ch. 186 version.

BLEND OF SECTION 32-2931
Laws 2011, Chapters 186 and 235

32-2931. Violations; classification

A. The following acts are class 5 felonies:

1. Practicing medicine as a homeopathic ~~physician~~ DOCTOR PURSUANT TO THIS CHAPTER without being licensed or exempt from licensure ~~under~~ PURSUANT TO this chapter.

2. Securing a license to ENGAGE IN THE practice OF homeopathic medicine PURSUANT TO THIS CHAPTER by fraud or deceit.

3. Impersonating a member of the board.

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B. The following acts are class 2 misdemeanors:

1. Using the designation "doctor of homeopathy", "homeopathic ~~medical~~ doctor", "MEDICAL DOCTOR-HOMEOPATHIC", "DOCTOR OF OSTEOPATHY-HOMEOPATHIC" OR "homeopathic physician"[~~,~~] ~~"doctor of medicine (homeopathic)"~~ [~~or "homeopath"~~] without being licensed ~~under~~ PURSUANT TO this chapter.

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2. Using any words, initials or symbols that lead the public to believe that a person is licensed to ENGAGE IN THE practice OF homeopathic medicine in this state if this is not true.

EXPLANATION OF BLEND
SECTION 33-1248

Laws 2011, Chapters 50 and 156

Laws 2011, Ch. 50, section 1 — Effective July 20

Laws 2011, Ch. 156, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 50 and Ch. 156 text changes to section 33-1248 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1248
Laws 2011, Chapters 50 and 156

33-1248. Open meetings; exceptions

A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the UNIT OWNERS' association and THE board of directors, AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. The board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a member or a member's designated representative to speak ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT before the board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to any other opportunities to speak. The board shall provide for a reasonable number of persons to speak on each side of an issue. PERSONS ATTENDING MAY AUDIOTAPE OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE AUDIOTAPING OR VIDEOTAPING OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND THE MEMBERSHIP, BUT SUCH RULES SHALL NOT PRECLUDE SUCH AUDIOTAPING OR VIDEOTAPING BY THOSE ATTENDING. Any portion of a meeting may be closed only if that portion of the meeting is limited to consideration of one or more of the following:

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1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.

2. Pending or contemplated litigation.

3. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association.

4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.

5. DISCUSSION OF A UNIT OWNER'S APPEAL OF ANY VIOLATION CITED OR PENALTY IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED UNIT OWNER THAT THE MEETING BE HELD IN AN OPEN SESSION.

B. Notwithstanding any provision in the condominium documents, all meetings of the UNIT OWNERS' association and the board shall be held in this Ch. 156 state. A meeting of the UNIT OWNERS' association shall be held at least once each year. Special meetings of the UNIT OWNERS' association may be called by the president, by a majority of the board of directors or by unit owners having at least twenty-five per cent, or any lower percentage specified in the bylaws, of the votes in the association. ~~Unless otherwise provided in the articles or the bylaws of the association,~~ Not fewer than ten nor more than fifty days in advance of any meeting of the unit owners, the secretary shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting of the unit owners shall state the time and place of the meeting. The notice of any special meeting of the unit owners shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer. The failure of any unit owner to receive actual notice of a meeting of the unit owners does not affect the validity of any action taken at that meeting.

C. Ch. 156 ~~Unless otherwise provided in the articles or bylaws of the association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER CONDOMINIUM DOCUMENTS, for meetings of the board of directors that are held after the termination of declarant control of the association, notice to unit owners of meetings of the board of directors shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the association is prima facie evidence that notice was given as prescribed by this section. Notice to unit owners of meetings of the board of directors is not required if emergency circumstances require action by the board before notice can be given. Any notice of a board meeting shall state the time and place of the meeting. The failure of any unit owner to receive actual notice of a meeting of the board of directors does not affect the validity of any action taken at that meeting.

D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER CONDOMINIUM DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE FOLLOWING APPLY:

Ch. 156 1. THE AGENDA SHALL BE AVAILABLE TO ALL UNIT OWNERS ATTENDING.

2. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

3. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS BOARD MEMBERS AND UNIT OWNERS TO HEAR ALL PARTIES WHO ARE SPEAKING DURING THE MEETING.

4. ANY QUORUM OF THE BOARD OF DIRECTORS THAT MEETS INFORMALLY TO DISCUSS ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN MEETING AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE BOARD VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

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E. IT IS THE POLICY OF THIS STATE AS REFLECTED IN THIS SECTION THAT ALL MEETINGS OF A CONDOMINIUM, WHETHER MEETINGS OF THE UNIT OWNERS' ASSOCIATION OR MEETINGS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, BE CONDUCTED OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR THOSE MEETINGS THAT CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE UNIT OWNERS OF THE MATTERS TO BE DISCUSSED OR DECIDED AND TO ENSURE THAT UNIT OWNERS HAVE THE ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS, BUT BEFORE A VOTE OF THE BOARD OF DIRECTORS IS TAKEN. TOWARD THIS END, ANY PERSON OR ENTITY THAT IS CHARGED WITH THE INTERPRETATION OF THESE PROVISIONS SHALL TAKE INTO ACCOUNT THIS DECLARATION OF POLICY AND SHALL CONSTRUE ANY PROVISION OF THIS SECTION IN FAVOR OF OPEN MEETINGS.

~~D.~~ F. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

EXPLANATION OF BLEND
SECTION 33-1261

Laws 2011, Chapters 152, 154, 156 and 292

Laws 2011, Ch. 152, section 1	Effective July 20
Laws 2011, Ch. 154, section 2	Effective July 20
Laws 2011, Ch. 156, section 2	Effective July 20
Laws 2011, Ch. 292, section 1	Effective July 20

Explanation

Since these four enactments are not incompatible, the Laws 2011, Ch. 152, Ch. 154, Ch. 156 and Ch. 292 text changes to section 33-1261 are blended in the form shown on the following pages.

The Laws 2011, Ch. 156 version of section 33-1261 in subsection C added the word "is" before "specifically" and the Ch. 292 version added the word "as" before "specifically". Since this would not produce a substantive change, the blend version reflects the Ch. 292 version.

The Laws 2011, Ch. 156 version of section 33-1261 in subsection H added the word "An" before "association" and the Ch. 292 version added the word "Any" before "association". Since this would not produce a substantive change, the blend version reflects the Ch. 156 version.

BLEND OF SECTION 33-1261
Laws 2011, Chapters 152, 154, 156 and 292

33-1261. Flag display; for sale, rent or lease signs; political activities; applicability

A. Notwithstanding any provision in the condominium documents, an association shall not prohibit the outdoor display of any of the following:

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by a unit owner on that unit owner's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

Ch. 152 — 5. THE GADSDEN FLAG.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles but shall not prohibit the installation of a flagpole.

Chs. 156 and 292 — C. Notwithstanding any provision in the condominium documents, an association shall not prohibit OR CHARGE A FEE FOR THE USE OR PLACEMENT OF the indoor or outdoor display of a for sale, FOR RENT OR FOR LEASE sign and a sign rider by a unit owner on that owner's property IN ANY COMBINATION, including a sign that indicates the unit owner is offering the property for sale by owner. The size of a sign offering a property for sale, FOR RENT OR FOR LEASE shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. THIS SUBSECTION APPLIES ONLY TO A COMMERCIALLY PRODUCED SIGN AND AN ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALLY PRODUCED. With respect to real estate for sale, FOR RENT or FOR lease in the condominium, an association shall not prohibit IN ANY WAY OTHER THAN AS SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the following:

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Chs. 156 and 292

1. Temporary open house signs or a unit owner's for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the condominium, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common elements of the condominium.

3. An owner's or an owner's agent's FOR RENT OR for lease sign unless an association's documents prohibit or restrict leasing of a unit or units. An association shall not further regulate a FOR RENT OR for lease sign or require the use of a particular FOR RENT OR for lease sign other than the FOR RENT OR for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches and on or in the unit owner's property. If RENTAL OR leasing of a unit is allowed, the association may prohibit AN open house FOR RENTAL OR leasing being held before 8:00 a.m. or after 6:00 p.m.

Ch. 156

D. Notwithstanding any provision in the condominium documents, an association shall not prohibit ~~but may reasonably regulate~~ DOOR TO DOOR POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION REGARDING CANDIDATES OR BALLOT ISSUES, AND SHALL NOT PROHIBIT the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property ~~dedicated to the public~~ NORMALLY OPEN TO VISITORS within the association, EXCEPT THAT AN ASSOCIATION MAY DO THE FOLLOWING:

1. RESTRICT OR PROHIBIT DOOR TO DOOR POLITICAL ACTIVITY REGARDING CANDIDATES OR BALLOT ISSUES FROM SUNSET TO SUNRISE.

2. REQUIRE THE PROMINENT DISPLAY OF AN IDENTIFICATION TAG FOR EACH PERSON ENGAGED IN THE ACTIVITY, ALONG WITH THE PROMINENT IDENTIFICATION OF THE CANDIDATE OR BALLOT ISSUE THAT IS THE SUBJECT OF THE SUPPORT OR OPPOSITION.

Ch. 154

E. AN ASSOCIATION SHALL NOT MAKE ANY REGULATIONS REGARDING THE NUMBER OF CANDIDATES SUPPORTED, THE NUMBER OF PUBLIC OFFICERS SUPPORTED OR OPPOSED IN A RECALL OR THE NUMBER OF PROPOSITIONS SUPPORTED OR OPPOSED ON A POLITICAL SIGN.

F. AN ASSOCIATION SHALL NOT REQUIRE POLITICAL SIGNS TO BE COMMERCIALLY PRODUCED OR PROFESSIONALLY MANUFACTURED OR PROHIBIT THE UTILIZATION OF BOTH SIDES OF A POLITICAL SIGN.

G. A condominium is not required to comply with ~~this~~ subsection D if the condominium restricts vehicular or pedestrian access to the condominium. Nothing in this ~~subsection~~ SECTION requires a condominium to make its common elements OTHER THAN ROADWAYS AND SIDEWALKS THAT ARE NORMALLY OPEN TO VISITORS available for the circulation of political petitions to anyone who is not an owner or resident of the community.

H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF THIS SECTION[,] FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION 33-1256 AGAINST THAT UNIT FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE DATE OF THE VIOLATION.

Chs. 156 and 292

Ch. 292

~~E.~~ I. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

EXPLANATION OF BLEND
SECTION 33-1261

Laws 2011, Chapters 65, 152 and 154

Laws 2011, Ch. 65, section 3	Effective January 1, 2012
Laws 2011, Ch. 152, section 1	Effective July 20, 2011
Laws 2011, Ch. 154, section 2	Effective July 20, 2011

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 65, Ch. 152 and Ch. 154 text changes to section 33-1261 are blended from and after December 31, 2011 in the form shown on the following pages.

BLEND OF SECTION 33-1261
Laws 2011, Chapters 65, 152 and 154

33-1261. Flag display; for sale signs; political activities; applicability

A. Notwithstanding any provision in the condominium documents, an association shall not prohibit the outdoor display of any of the following:

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by a unit owner on that unit owner's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

Ch. 152 — 5. THE GADSDEN FLAG.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles but shall not prohibit the installation of a flagpole.

C. Notwithstanding any provision in the condominium documents, an Ch. 65 — association shall not prohibit OR CHARGE ANY FEE FOR THE USE OF, THE PLACEMENT OF OR the indoor or outdoor display of a for sale sign and a sign rider by a unit owner on that owner's property, including a sign that indicates the unit owner is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. With respect to real estate for sale or lease in the Ch. 65 — condominium, an association shall not prohibit IN ANY WAY OTHER THAN AS SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the following:

1. Temporary open house signs or a unit owner's for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the condominium, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common elements of the condominium.

3. An owner's or an owner's agent's for lease sign unless an association's documents prohibit or restrict leasing of a unit or units. An association shall not further regulate a for lease sign or require the use of a particular for lease sign other than the for lease sign shall not be any

larger than the industry standard size sign of eighteen by twenty-four inches and on or in the unit owner's property. If leasing of a unit is allowed, the association may prohibit open house leasing being held before 8:00 a.m. or after 6:00 p.m.

D. Notwithstanding any provision in the condominium documents, an association shall not prohibit ~~but may reasonably regulate~~ DOOR TO DOOR POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION REGARDING CANDIDATES OR BALLOT ISSUES, AND SHALL NOT PROHIBIT the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property ~~dedicated to the public~~ NORMALLY OPEN TO VISITORS within the association, EXCEPT THAT AN ASSOCIATION MAY DO THE FOLLOWING:

1. RESTRICT OR PROHIBIT DOOR TO DOOR POLITICAL ACTIVITY REGARDING CANDIDATES OR BALLOT ISSUES FROM SUNSET TO SUNRISE.

2. REQUIRE THE PROMINENT DISPLAY OF AN IDENTIFICATION TAG FOR EACH PERSON ENGAGED IN THE ACTIVITY, ALONG WITH THE PROMINENT IDENTIFICATION OF THE CANDIDATE OR BALLOT ISSUE THAT IS THE SUBJECT OF THE SUPPORT OR OPPOSITION.

Ch. 154

E. AN ASSOCIATION SHALL NOT MAKE ANY REGULATIONS REGARDING THE NUMBER OF CANDIDATES SUPPORTED, THE NUMBER OF PUBLIC OFFICERS SUPPORTED OR OPPOSED IN A RECALL OR THE NUMBER OF PROPOSITIONS SUPPORTED OR OPPOSED ON A POLITICAL SIGN.

F. AN ASSOCIATION SHALL NOT REQUIRE POLITICAL SIGNS TO BE COMMERCIALLY PRODUCED OR PROFESSIONALLY MANUFACTURED OR PROHIBIT THE UTILIZATION OF BOTH SIDES OF A POLITICAL SIGN.

G. A condominium is not required to comply with ~~this~~ subsection D if the condominium restricts vehicular or pedestrian access to the condominium. Nothing in this ~~subsection~~ SECTION requires a condominium to make its common elements OTHER THAN ROADWAYS AND SIDEWALKS THAT ARE NORMALLY OPEN TO VISITORS available for the circulation of political petitions to anyone who is not an owner or resident of the community.

Ch. 65

H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION C OF THIS SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION 33-1256 AGAINST THAT UNIT FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE DATE OF THIS VIOLATION.

~~E.~~ I. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

EXPLANATION OF BLEND
SECTION 33-1804

Laws 2011, Chapters 50 and 156

Laws 2011, Ch. 50, section 2 — Effective July 20

Laws 2011, Ch. 156, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 50 and Ch. 156 text changes to section 33-1804 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1804
Laws 2011, Chapters 50 and 156

33-1804. Open meetings; exceptions

A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the MEMBERS' association and THE board of directors, AND ANY REGULARLY SCHEDULED COMMITTEE MEETINGS, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. The board may place reasonable time restrictions on those persons speaking during the meeting but shall permit a member or member's designated representative to speak ONCE AFTER THE BOARD HAS DISCUSSED A SPECIFIC AGENDA ITEM BUT before the board takes formal action on ~~an~~ THAT item ~~under discussion~~ in addition to any other opportunities to speak. The board shall provide for a reasonable number of persons to speak on each side of an issue. PERSONS ATTENDING MAY TAPE RECORD OR VIDEOTAPE THOSE PORTIONS OF THE MEETINGS OF THE BOARD OF DIRECTORS AND MEETINGS OF THE MEMBERS THAT ARE OPEN. THE BOARD OF DIRECTORS OF THE ASSOCIATION MAY ADOPT REASONABLE RULES GOVERNING THE TAPING OF OPEN PORTIONS OF THE MEETINGS OF THE BOARD AND THE MEMBERSHIP, BUT SUCH RULES SHALL NOT PRECLUDE SUCH TAPE RECORDING OR VIDEOTAPING BY THOSE ATTENDING. Any portion of a meeting may be closed only if that closed portion of the meeting is limited to consideration of one or more of the following:

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Ch. 156

Ch. 50

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.

2. Pending or contemplated litigation.

3. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association.

4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.

5. DISCUSSION OF A MEMBER'S APPEAL OF ANY VIOLATION CITED OR PENALTY IMPOSED BY THE ASSOCIATION EXCEPT ON REQUEST OF THE AFFECTED MEMBER THAT THE MEETING BE HELD IN AN OPEN SESSION.

B. Notwithstanding any provision in the community documents, all meetings of the MEMBERS' association and the board shall be held in this Ch. 156 state. A meeting of the MEMBERS' association shall be held at least once each year. Special meetings of the MEMBERS' association may be called by the president, by a majority of the board of directors or by members having at least twenty-five per cent, or any lower percentage specified in the bylaws, of the votes in the association. ~~Unless otherwise provided in the articles or bylaws of the association,~~ Not fewer than ten nor more than fifty days in advance of any meeting of the members the secretary shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address for each lot, parcel or unit owner or to any other mailing address designated in writing by a member. The notice shall state the time and place of the meeting. A notice of any special meeting of the members shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, changes in assessments that require approval of the members and any proposal to remove a director or an officer. The failure of any member to receive actual notice of a meeting of the members does not affect the validity of any action taken at that meeting.

C. Ch. 156 ~~Unless otherwise provided in the articles or bylaws of the association~~ NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER COMMUNITY DOCUMENTS, for meetings of the board of directors that are held after the termination of declarant control of the association, notice to members of meetings of the board of directors shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the corporation is prima facie evidence that notice was given as prescribed by this section. Notice to members of meetings of the board of directors is not required if emergency circumstances require action by the board before notice can be given. Any notice of a board meeting shall state the time and place of the meeting. The failure of any member to receive actual notice of a meeting of the board of directors does not affect the validity of any action taken at that meeting.

D. NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS OR OTHER COMMUNITY DOCUMENTS, FOR MEETINGS OF THE BOARD OF DIRECTORS THAT ARE HELD AFTER THE TERMINATION OF DECLARANT CONTROL OF THE ASSOCIATION, ALL OF THE FOLLOWING APPLY:

1. THE AGENDA SHALL BE AVAILABLE TO ALL MEMBERS ATTENDING.

2. AN EMERGENCY MEETING OF THE BOARD OF DIRECTORS MAY BE CALLED TO Ch. 156 DISCUSS BUSINESS OR TAKE ACTION THAT CANNOT BE DELAYED UNTIL THE NEXT REGULARLY SCHEDULED BOARD MEETING. THE MINUTES OF THE EMERGENCY MEETING SHALL STATE THE REASON NECESSITATING THE EMERGENCY MEETING. THE MINUTES OF THE EMERGENCY MEETING SHALL BE READ AND APPROVED AT THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

3. A QUORUM OF THE BOARD OF DIRECTORS MAY MEET BY MEANS OF A TELEPHONE CONFERENCE IF A SPEAKERPHONE IS AVAILABLE IN THE MEETING ROOM THAT ALLOWS BOARD MEMBERS AND ASSOCIATION MEMBERS TO HEAR ALL PARTIES WHO ARE SPEAKING DURING THE MEETING.

4. ANY QUORUM OF THE BOARD OF DIRECTORS THAT MEETS INFORMALLY TO DISCUSS ASSOCIATION BUSINESS, INCLUDING WORKSHOPS, SHALL COMPLY WITH THE OPEN MEETING AND NOTICE PROVISIONS OF THIS SECTION WITHOUT REGARD TO WHETHER THE BOARD VOTES OR TAKES ANY ACTION ON ANY MATTER AT THAT INFORMAL MEETING.

E. IT IS THE POLICY OF THIS STATE AS REFLECTED IN THIS SECTION THAT ALL MEETINGS OF A PLANNED COMMUNITY, WHETHER MEETINGS OF THE MEMBERS' ASSOCIATION OR MEETINGS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, BE CONDUCTED OPENLY AND THAT NOTICES AND AGENDAS BE PROVIDED FOR THOSE MEETINGS THAT CONTAIN THE INFORMATION THAT IS REASONABLY NECESSARY TO INFORM THE MEMBERS OF THE MATTERS TO BE DISCUSSED OR DECIDED AND TO ENSURE THAT MEMBERS HAVE THE ABILITY TO SPEAK AFTER DISCUSSION OF AGENDA ITEMS, BUT BEFORE A VOTE OF THE BOARD OF DIRECTORS IS TAKEN. TOWARD THIS END, ANY PERSON OR ENTITY THAT IS CHARGED WITH THE INTERPRETATION OF THESE PROVISIONS SHALL TAKE INTO ACCOUNT THIS DECLARATION OF POLICY AND SHALL CONSTRUE ANY PROVISION OF THIS SECTION IN FAVOR OF OPEN MEETINGS.

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EXPLANATION OF BLEND
SECTION 33-1808

Laws 2011, Chapters 152 and 154

Laws 2011, Ch. 152, section 2 — Effective July 20

Laws 2011, Ch. 154, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 152 and Ch. 154 text changes to section 33-1808 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1808
Laws 2011, Chapters 152 and 154

33-1808. Flag display; political signs; caution signs; for sale signs; political activities

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor FRONT YARD OR BACKYARD display of any of the following: Ch. 152

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. THE GADSDEN FLAG.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles, MAY LIMIT THE MEMBER TO DISPLAYING NO MORE THAN TWO FLAGS AT ONCE AND MAY LIMIT THE HEIGHT OF THE FLAGPOLE TO NO MORE THAN THE HEIGHT OF THE ROOFTOP OF THE MEMBER'S HOME but shall not prohibit the installation of a flagpole IN THE FRONT YARD OR BACKYARD OF THE MEMBER'S PROPERTY. Ch. 152

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than ~~forty-five~~ FIFTY-FIVE days before the day of an election and later than ~~seven~~ FIFTEEN days after an election day. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of twenty-four inches by twenty-four inches on a member's property. For the purposes of this subsection, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer. Ch. 154

D. Notwithstanding any provision in the community documents, an association shall not prohibit the use of cautionary signs regarding children if the signs are used and displayed as follows:

1. The signs are displayed in residential areas only.

2. The signs are removed within one hour of children ceasing to play.

3. The signs are displayed only when children are actually present within fifty feet of the sign.

4. The temporary signs are no taller than three feet in height.

5. The signs are professionally manufactured or produced.

E. Notwithstanding any provision in the community documents, an association shall not prohibit children who reside in the planned community from engaging in recreational activity on residential roadways that are under the jurisdiction of the association and on which the posted speed limit is twenty-five miles per hour or less.

F. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a for sale sign and a sign rider by an association member on that member's property, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. With respect to real estate for sale or lease in the planned community, an association shall not prohibit or otherwise regulate any of the following:

Chs. 152 and 154

1. Temporary open house signs or a ~~unit owner's~~ MEMBER'S for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the planned community, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common areas of the planned community.

3. An owner's or an owner's agent's for lease sign unless an association's documents prohibit or restrict leasing of a member's property. An association shall not further regulate a for lease sign or require the use of a particular for lease sign other than the for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches on or in the member's property. If leasing of a member's property is not prohibited or restricted, the association may prohibit open house leasing being held before 8:00 a.m. or after 6:00 p.m.

G. Notwithstanding any provision in the community documents, an association shall not prohibit ~~but may reasonably regulate~~ DOOR TO DOOR POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION REGARDING CANDIDATES OR BALLOT ISSUES, AND SHALL NOT PROHIBIT the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property ~~dedicated to the public~~ NORMALLY OPEN TO VISITORS within the association, EXCEPT THAT AN ASSOCIATION MAY DO THE FOLLOWING:

Ch. 154

1. RESTRICT OR PROHIBIT THE DOOR TO DOOR POLITICAL ACTIVITY FROM SUNSET TO SUNRISE.

2. REQUIRE THE PROMINENT DISPLAY OF AN IDENTIFICATION TAG FOR EACH PERSON ENGAGED IN THE ACTIVITY, ALONG WITH THE PROMINENT IDENTIFICATION OF THE CANDIDATE OR BALLOT ISSUE THAT IS THE SUBJECT OF THE SUPPORT OR OPPOSITION.

H. A PLANNED COMMUNITY SHALL NOT MAKE ANY REGULATIONS REGARDING THE NUMBER OF CANDIDATES SUPPORTED, THE NUMBER OF PUBLIC OFFICERS SUPPORTED OR OPPOSED IN A RECALL OR THE NUMBER OF PROPOSITIONS SUPPORTED OR OPPOSED ON A POLITICAL SIGN.

Ch. 154

I. A PLANNED COMMUNITY SHALL NOT REQUIRE POLITICAL SIGNS TO BE COMMERCIALLY PRODUCED OR PROFESSIONALLY MANUFACTURED OR PROHIBIT THE UTILIZATION OF BOTH SIDES OF A POLITICAL SIGN.

J. A planned community is not required to comply with ~~this~~ subsection G if the planned community restricts vehicular or pedestrian access to the planned community. Nothing in this ~~subsection~~ SECTION requires a planned community to make its common elements OTHER THAN ROADWAYS AND SIDEWALKS THAT ARE NORMALLY OPEN TO VISITORS available for the circulation of political petitions to anyone who is not an owner or resident of the community.

EXPLANATION OF BLEND
SECTION 33-1808

Laws 2011, Chapters 152 and 156

Laws 2011, Ch. 152, section 2 — Effective July 20

Laws 2011, Ch. 156, section 4 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 152 and Ch. 156 text changes to section 33-1808 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1808
Laws 2011, Chapters 152 and 156

33-1808. Flag display; political signs; caution signs; for sale, rent or lease signs; political petitions

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor FRONT YARD OR BACKYARD display of any of the following: Ch. 152

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. THE GADSDEN FLAG. Ch. 152

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles, MAY LIMIT THE MEMBER TO DISPLAYING NO MORE THAN TWO FLAGS AT ONCE AND MAY LIMIT THE HEIGHT OF THE FLAGPOLE TO NO MORE THAN THE HEIGHT OF THE ROOFTOP OF THE MEMBER'S HOME but shall not prohibit the installation of a flagpole IN THE FRONT YARD OR BACKYARD OF THE MEMBER'S PROPERTY.

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than ~~forty-five~~ SEVENTY-ONE days before the day of an election and later than ~~seven~~ THREE days after an election day. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation ~~is no more restrictive than~~ CONFORMS TO any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall ~~permit at least one~~ NOT LIMIT THE NUMBER OF political ~~sign with~~ SIGNS, EXCEPT THAT the maximum AGGREGATE TOTAL dimensions of ~~twenty-four inches by twenty-four inches~~ ALL POLITICAL SIGNS on a member's property SHALL NOT EXCEED NINE SQUARE FEET. THIS SUBSECTION APPLIES ONLY TO A COMMERCIALLY PRODUCED SIGN AND AN ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALLY PRODUCED. For the purposes of this subsection, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer. Ch. 156

D. Notwithstanding any provision in the community documents, an association shall not prohibit the use of cautionary signs regarding children if the signs are used and displayed as follows:

1. The signs are displayed in residential areas only.

2. The signs are removed within one hour of children ceasing to play.

3. The signs are displayed only when children are actually present within fifty feet of the sign.

4. The temporary signs are no taller than three feet in height.

5. The signs are professionally manufactured or produced.

E. Notwithstanding any provision in the community documents, an association shall not prohibit children who reside in the planned community from engaging in recreational activity on residential roadways that are under the jurisdiction of the association and on which the posted speed limit is twenty-five miles per hour or less.

F. Notwithstanding any provision in the community documents, an association shall not prohibit OR CHARGE A FEE FOR THE USE OR PLACEMENT OF the indoor or outdoor display of a for sale, FOR RENT OR FOR LEASE sign and a sign rider by an association member on that member's property IN ANY COMBINATION, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale, FOR RENT OR FOR LEASE shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. THIS SUBSECTION APPLIES ONLY TO A COMMERCIALLY PRODUCED SIGN AND AN ASSOCIATION MAY PROHIBIT THE USE OF SIGNS THAT ARE NOT COMMERCIALLY PRODUCED. With respect to real estate for sale, FOR RENT or FOR lease in the planned community, an association shall not prohibit IN ANY WAY OTHER THAN IS SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the following:

Ch. 156

1. Temporary open house signs or a ~~unit owner's~~ MEMBER'S for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

Chs. 152 and 156

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the planned community, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common areas of the planned community.

3. An owner's or an owner's agent's FOR RENT OR for lease sign unless an association's documents prohibit or restrict leasing of a member's property. An association shall not further regulate a FOR RENT OR for lease sign or require the use of a particular FOR RENT OR for lease sign other than the FOR RENT OR for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches on or in the member's property. If RENTAL OR leasing of a member's property is not prohibited or restricted, the association may prohibit AN open house FOR RENTAL OR leasing being held before 8:00 a.m. or after 6:00 p.m.

Ch. 156

G. Notwithstanding any provision in the community documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A planned community is not required to comply with this subsection if the planned community restricts vehicular or pedestrian access to the planned community. Nothing in this subsection requires a planned community to make its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

Ch. 156

H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION 33-1807 AGAINST THAT MEMBER'S PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE DATE OF THE VIOLATION.

EXPLANATION OF BLEND
SECTION 33-1808

Laws 2011, Chapters 152 and 292

Laws 2011, Ch. 152, section 2 — Effective July 20

Laws 2011, Ch. 292, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 152 and Ch. 292 text changes to section 33-1808 are blended in the form shown on the following pages.

BLEND OF SECTION 33-1808
Laws 2011, Chapters 152 and 292

33-1808. Flag display; political signs; caution signs; for sale signs; political petitions

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor FRONT YARD OR BACKYARD display of any of the following: Ch. 152

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. THE GADSDEN FLAG.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles, MAY LIMIT THE MEMBER TO DISPLAYING NO MORE THAN TWO FLAGS AT ONCE AND MAY LIMIT THE HEIGHT OF THE FLAGPOLE TO NO MORE THAN THE HEIGHT OF THE ROOFTOP OF THE MEMBER'S HOME but shall not prohibit the installation of a flagpole IN THE FRONT YARD OR BACKYARD OF THE MEMBER'S PROPERTY. Ch. 152

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of twenty-four inches by twenty-four inches on a member's property. For the purposes of this subsection, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

D. Notwithstanding any provision in the community documents, an association shall not prohibit the use of cautionary signs regarding children if the signs are used and displayed as follows:

1. The signs are displayed in residential areas only.

2. The signs are removed within one hour of children ceasing to play.

3. The signs are displayed only when children are actually present within fifty feet of the sign.

4. The temporary signs are no taller than three feet in height.

5. The signs are professionally manufactured or produced.

E. Notwithstanding any provision in the community documents, an association shall not prohibit children who reside in the planned community from engaging in recreational activity on residential roadways that are under the jurisdiction of the association and on which the posted speed limit is twenty-five miles per hour or less.

F. Notwithstanding any provision in the community documents, an Ch. 292 association shall not prohibit OR CHARGE A FEE FOR THE USE OR PLACEMENT OF the indoor or outdoor display of a for sale sign and a sign rider by an association member on that member's property, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. With respect to real estate for sale or lease in the Ch. 292 planned community, an association shall not prohibit IN ANY WAY OTHER THAN AS SPECIFICALLY AUTHORIZED BY THIS SECTION or otherwise regulate any of the following:

Chs. 152 and 292 1. Temporary open house signs or a ~~unit owner's~~ MEMBER'S for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the planned community, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common areas of the planned community.

3. An owner's or an owner's agent's for lease sign unless an association's documents prohibit or restrict leasing of a member's property. An association shall not further regulate a for lease sign or require the use of a particular for lease sign other than the for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches on or in the member's property. If leasing of a member's property is not prohibited or restricted, the association may prohibit open house leasing being held before 8:00 a.m. or after 6:00 p.m.

G. Notwithstanding any provision in the community documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A planned community is not required to comply with this subsection if the planned community restricts vehicular or pedestrian access to the planned community. Nothing in this subsection requires a planned community to make

its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

Ch. 292

H. ANY ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS SECTION, FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION 33-1807 AGAINST THAT MEMBER'S PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE DATE OF THE VIOLATION.

EXPLANATION OF BLEND
SECTION 33-1808

Laws 2011, Chapters 65 and 152

Laws 2011, Ch. 65, section 6 — Effective January 1, 2012

Laws 2011, Ch. 152, section 2 — Effective July 20, 2011

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 65 and Ch. 152 text changes to section 33-1808 are blended effective from and after December 31, 2011 in the form shown on the following pages.

BLEND OF SECTION 33-1808
Laws 2011, Chapters 65 and 152

33-1808. Flag display; political signs; caution signs; for sale signs; political petitions

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor FRONT YARD OR BACKYARD display of any of the following: Ch. 152

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. THE GADSDEN FLAG.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles, MAY LIMIT THE MEMBER TO DISPLAYING NO MORE THAN TWO FLAGS AT ONCE AND MAY LIMIT THE HEIGHT OF THE FLAGPOLE TO NO MORE THAN THE HEIGHT OF THE ROOFTOP OF THE MEMBER'S HOME but shall not prohibit the installation of a flagpole IN THE FRONT YARD OR BACKYARD OF THE MEMBER'S PROPERTY. Ch. 152

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. An association may regulate the size and number of political signs that may be placed on a member's property if the association's regulation is no more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property. If the city, town or county in which the property is located does not regulate the size and number of political signs on residential property, the association shall permit at least one political sign with the maximum dimensions of twenty-four inches by twenty-four inches on a member's property. For the purposes of this subsection, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

D. Notwithstanding any provision in the community documents, an association shall not prohibit the use of cautionary signs regarding children if the signs are used and displayed as follows:

1. The signs are displayed in residential areas only.

2. The signs are removed within one hour of children ceasing to play.

3. The signs are displayed only when children are actually present within fifty feet of the sign.

4. The temporary signs are no taller than three feet in height.

5. The signs are professionally manufactured or produced.

E. Notwithstanding any provision in the community documents, an association shall not prohibit children who reside in the planned community from engaging in recreational activity on residential roadways that are under the jurisdiction of the association and on which the posted speed limit is twenty-five miles per hour or less.

F. Notwithstanding any provision in the community documents, an association shall not prohibit OR CHARGE ANY FEE FOR THE USE OF, THE PLACEMENT OF OR the indoor or outdoor display of a for sale sign and a sign rider by an association member on that member's property, including a sign that indicates the member is offering the property for sale by owner. The size of a sign offering a property for sale shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. With respect to real estate for sale or lease in the planned community, an association shall not prohibit or otherwise regulate IN ANY WAY OTHER THAN SPECIFICALLY AUTHORIZED BY THIS SECTION any of the following:

Ch. 65

Ch. 65

Chs. 65 and 152

1. Temporary open house signs or a ~~unit owner's~~ MEMBER'S for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the planned community, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common areas of the planned community.

3. An owner's or an owner's agent's for lease sign unless an association's documents prohibit or restrict leasing of a member's property. An association shall not further regulate a for lease sign or require the use of a particular for lease sign other than the for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches on or in the member's property. If leasing of a member's property is not prohibited or restricted, the association may prohibit open house leasing being held before 8:00 a.m. or after 6:00 p.m.

G. Notwithstanding any provision in the community documents, an association shall not prohibit but may reasonably regulate the circulation of political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property dedicated to the public within the association. A planned community is not required to comply with this subsection if the planned community restricts vehicular or pedestrian access to the planned community. Nothing in this subsection requires a planned community to make its common elements available for the circulation of political petitions to anyone who is not an owner or resident of the community.

H. AN ASSOCIATION OR MANAGING AGENT THAT VIOLATES SUBSECTION F OF THIS SECTION FORFEITS AND EXTINGUISHES THE LIEN RIGHTS AUTHORIZED UNDER SECTION 33-1807 AGAINST THAT PROPERTY FOR A PERIOD OF SIX CONSECUTIVE MONTHS FROM THE DATE OF THE VIOLATION.

Ch. 65

EXPLANATION OF BLEND
SECTION 35-142

Laws 2011, Chapters 27, 83 and 194

Laws 2011, Ch. 27, section 15	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 83, section 22	Effective July 20
Laws 2011, Ch. 194, section 1	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 27, Ch. 83 and Ch. 194 text changes to section 35-142 are blended in the form shown on the following pages.

BLEND OF SECTION 35-142
Laws 2011, Chapters 27, 83 and 194

35-142. Monies kept in funds separate from state general fund; receipt and withdrawal

A. All monies received for and belonging to the state shall be deposited in the state treasury and credited to the state general fund except the following, which shall be placed and retained in separate funds:

1. The unexpendable principal of monies received from federal land grants shall be placed in separate funds and the account of each such separate fund shall bear a title indicating the source and the institution or purpose to which such fund belongs.

2. The interest, rentals and other expendable money received as income from federal land grants shall be placed in separate accounts, each account bearing a title indicating the source and the institution or purpose to which the fund belongs. Such expendable monies shall be expended only as authorized, regulated and controlled by the general appropriation act or other act of the legislature.

3. All private or quasi-private monies authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

4. All monies legally pledged to retirement of building indebtedness or bonds issued by those institutions authorized to incur such indebtedness or to issue such bonds shall be placed in separate accounts.

5. Monies of a multi-county water conservation district authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

6. All monies collected by the Arizona game and fish department shall be deposited in a special fund known as the state game and fish protection fund for the use of the Arizona game and fish commission in carrying out the provisions of title 17.

7. All federal monies that are received by the department of economic security for family assistance benefits and medical eligibility as a result of efficiencies developed by the department of economic security and that would otherwise revert to the state general fund pursuant to section 35-190 shall be retained for use by the department of economic security in accordance with the terms and conditions imposed by the federal funding source in an account or accounts established or authorized by the state treasurer.

8. Monies designated by law as special state funds shall not be considered a part of the general fund. Unless otherwise prescribed by law, the state treasurer shall be the custodian of all such funds.

9. All monies received and any accounts established and maintained by the director of the Arizona state retirement system or the administrator of

the public safety personnel retirement system, the corrections officer retirement plan and the elected officials' retirement plan.

Ch. 194

10. MONIES RECEIVED BY A STATE AGENCY OR INSTITUTION AS A GIFT, DEVISE OR DONATION SHALL NOT BE CONSIDERED A PART OF THE STATE GENERAL FUND OR TRANSFERRED TO THE STATE GENERAL FUND UNLESS THE GIFT, DEVISE OR DONATION SPECIFICALLY AUTHORIZES A GENERAL STATE USE FOR THE MONIES. A STATE AGENCY OR INSTITUTION THAT RECEIVES A MONETARY GIFT, DEVISE OR DONATION SHALL ACCOUNT FOR THOSE MONIES SEPARATELY.

B. No money shall be received or held by the state treasurer except as authorized by law, and in every instance the treasurer shall issue a receipt for money received and shall record the transaction in the statewide accounting system. No money shall be withdrawn from the treasury except on the warrant or electronic funds transfer voucher of the department of administration.

C. All federal monies granted and paid to the state by the federal government shall be accounted for in the accounts or funds of the state in the necessary detail to meet federal and state accounting, budgetary and auditing requirements, and all appropriations for matching such federal monies shall be transferred from the general fund to such separate funds as needed, except as otherwise required by the federal government.

D. Nothing in this section requires the establishment of separate accounts or funds for such federal monies unless otherwise required by federal or state law. The department of administration has the authority to use the most efficient system of accounts and records, consistent with legal requirements and standard and necessary fiscal safeguards.

E. Nothing in this section precludes the creation by the department of administration of a clearing account or other acceptable accounting method to effect prompt payment of claims from an approved budget or appropriation. The department of administration shall report each account or fund established or cancelled to the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting.

F. Nothing in this section or any other section precludes the use of monies kept in funds separate from the general fund, the interest from which accrues to the general fund, for payment of claims against the general fund, provided sufficient monies remain available for payment of claims against such funds.

G. The department of administration may issue warrants for qualified expenditures of federal program monies before they are deposited in the state treasury. The receipt of federal monies shall be timed to coincide, as closely as administratively feasible, with the redemption of warrants by the state treasurer. The department of administration shall limit expenditures to the amount that has been made available for the use under the grant award by the federal government. The state agency initiating the expenditures is responsible for ensuring that expenditures qualify for coverage under the guidelines of the federal grant award.

H. The department of administration shall establish the policies and procedures for all state agencies for drawing federal monies. When the established method results in federal monies being held by this state, the department of administration may use the interest earned on the monies to pay the federal government for any related interest liability. If an interest

liability is incurred due to a state agency varying from the established policies and procedures, the department of administration shall charge the appropriate agency account or fund. ~~Interest payment charges to agencies shall be reported by the department of administration to the joint legislative budget committee on or before March 1.~~ Any federal interest liability owed to this state as a result of the delayed federal disbursements shall be used to offset this state's interest liability to the federal government. Any remaining interest earnings shall be deposited in the state general fund.

Ch. 83

I. Any state agency or authorized agent of a state agency may accept credit cards pursuant to an agreement entered into by the state treasurer pursuant to section 35-315 for the payment of any amount due to that agency or agent or this state.

J. Except for the department of revenue for tax payments, agencies or authorized agents on behalf of state agencies that accept credit cards shall deduct any applicable discount fee and processing fee associated with the transaction amount before depositing the net amount in the appropriate state fund. No other reduction is permitted against the transaction amount. The net amount deposited in the appropriate state fund shall be considered as the full deposit required by law of monies received by the agency or the authorized agent. Payment of any applicable discount fee and processing fee shall be accounted for in the annual report submitted to the governor's office of strategic planning and budgeting in accordance with section 41-1273. The transaction amount of any credit card transaction shall not be reduced by any discount fee or processing fee in an amount in excess of the merchant card settlement fees reflected in the state banking contract with the state treasurer's office.

K. Any state agency that contracts with an authorized agent for the electronic processing of transactions pursuant to title 41, chapter 23 may include a provision in the contract to allow the authorized agent to impose a convenience fee. If allowed, the convenience fee shall be charged to the cardholder in addition to the transaction amount, except for the following:

1. Except as provided in subsection R of this section, any permits, licenses or other authorizations needed to pursue a trade or occupation in this state.

2. Except as provided in subsection R of this section, any permits, licenses or other authorizations needed to establish, expand or operate a business in this state.

3. Except as provided in subsection R of this section, any permits, licenses or other authorizations needed to register a vehicle or license a driver in this state.

L. Each state agency or its authorized agent shall:

1. Deduct the amount of the convenience fee before depositing the transaction amount or the transaction amount reduced by the discount fee or the processing fee, or both, into the appropriate state fund.

2. Not deduct any part of the convenience fee from the transaction amount before depositing the net amount into the appropriate state fund.

3. Deduct the amount of the discount fee or the processing fee, or both, from the transaction amount before depositing the net amount into the appropriate state fund.

M. The net amount deposited in the appropriate state fund pursuant to subsection K or L of this section shall be considered as the full deposit of monies that is required by law and that is received by the agency.

N. Notwithstanding section 35-142.01, convenience fees received by a state agency or its authorized agent are limited to, and may be used to offset, the costs imposed by the authorized agent in processing the transactions.

O. When the percentage of electronic transactions first exceeds at least thirty per cent of a state agency's total transactions, the state agency shall perform a cost benefit report, including costs of convenience fees, the amount of revenue generated and any realized cost savings. ~~The state agency shall submit the cost benefit report to the joint legislative budget committee within six months after reaching the thirty per cent threshold.~~ Ch. 83

P. State agencies shall report the number of transactions, the number of electronic transactions, the total dollar amount of transactions processed, the total dollar amount of any discount fee, the total dollar amount of any processing fee and the total dollar amount of any convenience fee charged, deducted or paid pursuant to subsections J and K of this section annually by October 1 to the governor, the ~~government information technology agency~~ DEPARTMENT OF ADMINISTRATION and the joint legislative budget committee. Ch. 27

Q. Nothing in this section or any other provision of law authorizes any state agency, authorized agent of any state agency or budget unit to establish a bank account for any government monies. All monies received by or on behalf of this state shall be deposited with and in the custody of the state treasurer or in an account that is authorized by the state treasurer pursuant to this section. This subsection does not apply to monies received and any accounts established and maintained by the director of the Arizona state retirement system or the administrator of the public safety personnel retirement system, the corrections officer retirement plan and the elected officials' retirement plan.

R. If a state agency provides an alternative method of payment, the convenience fee may be charged to the cardholder in addition to the transaction amount.

EXPLANATION OF BLEND
SECTION 35-323

Laws 2011, Chapters 108 and 187

Laws 2011, Ch. 108, section 1 — Effective July 20

Laws 2011, Ch. 187, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 108 and Ch. 187 text changes to section 35-323 are blended in the form shown on the following pages.

BLEND OF SECTION 35-323
Laws 2011, Chapters 108 and 187

35-323. Investing public monies; bidding; security and other requirements

A. The treasurer shall invest and reinvest public monies in securities and deposits with a maximum maturity of five years. All public monies shall be invested in eligible investments. Eligible investments are:

1. Certificates of deposit in eligible depositories.

2. Certificates of deposit in one or more federally insured banks or savings and loan associations in accordance with the procedures prescribed in section 35-323.01.

3. Interest bearing savings accounts in banks and savings and loan institutions doing business in this state whose accounts are insured by federal deposit insurance for their industry, but only if deposits in excess of the insured amount are secured by the eligible depository to the same extent and in the same manner as required under this article.

4. Repurchase agreements with a maximum maturity of one hundred eighty days.

5. The pooled investment funds established by the state treasurer pursuant to section 35-326.

6. Obligations issued or guaranteed by the United States or any of the senior debt of its agencies, sponsored agencies, corporations, sponsored corporations or instrumentalities.

Ch. 108 — 7. Bonds, NOTES or other evidences of indebtedness of this state or any of its counties, incorporated cities or towns or school districts.

8. Bonds, notes or evidences of indebtedness of any county, municipal district, municipal utility or special taxing district of any state that are payable from revenues, earnings or a special tax specifically pledged for the payment of the principal and interest on the obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment on principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if such obligations were issued less than five years before the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor any other obligations of the issuer within five years of the investment.

9. Bonds, notes or evidences of indebtedness issued by any county improvement district or municipal improvement district of any state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the improvement district. An investment shall not be made if:

(a) The face value of all such obligations, and similar obligations outstanding, exceeds fifty per cent of the market value of the real property, and if improvements on which the bonds or the assessments for the payment of principal and interest on the bonds are liens inferior only to the liens for general ad valorem taxes.

(b) A default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if the obligations were issued less than five years before the date of investment, a default in the payment of principal or interest has occurred on the obligations to be purchased or on any other obligation of the issuer within five years of the investment.

Chs. 108 and 187

10. Commercial paper of prime quality that is rated within the top two ratings by a nationally recognized rating agency ~~or its successors~~. All commercial paper must be issued by corporations organized and doing business in the United States.

Chs. 108 and 187

11. Bonds, debentures and notes that are issued by corporations organized and doing business in the United States and that are rated within the top three ratings by a nationally recognized rating agency ~~or its successors~~.

12. Negotiable or brokered certificates of deposit issued by a nationally or state chartered bank or savings and loan association.

Ch. 187

13. SECURITIES OF OR ANY OTHER INTERESTS IN ANY OPEN-END OR CLOSED-END MANAGEMENT TYPE INVESTMENT COMPANY OR INVESTMENT TRUST, INCLUDING EXCHANGE TRADED FUNDS WHOSE UNDERLYING INVESTMENTS ARE INVESTED IN SECURITIES ALLOWED BY STATE LAW, REGISTERED UNDER THE INVESTMENT COMPANY ACT OF 1940 (54 STAT. 789; 15 UNITED STATES CODE SECTIONS 80a-1 THROUGH 80a-64), AS AMENDED.

B. Certificates of deposit shall be purchased from the eligible depository bidding the highest permissible rate of interest. No monies over one hundred thousand dollars may be awarded at any interest rate less than one hundred three per cent of the equivalent bond yield of the offer side of United States treasury bills having a similar term. If the eligible depository offering to pay the highest rate of interest has bid only for a portion of the monies to be awarded, the remainder of the monies shall be awarded to eligible depositories bidding the next highest rates of interest.

C. An eligible depository is not eligible to receive total aggregate deposits from this state and all its subdivisions in an amount exceeding twice its capital structure as outlined in the last call of condition of the superintendent of financial institutions.

D. If two or more eligible depositories submit bids of an identical rate of interest for all or any portion of the monies to be deposited, the award of the deposit of the monies shall be made to the eligible depository among those submitting identical bids having, at the time of the bid opening, the lowest ratio of total public deposits in relation to its capital structure.

E. Each bid submitted, and not withdrawn prior to the time specified, constitutes an irrevocable offer to pay interest as specified in the bid on the deposit, or portion bid for, and the award of a deposit in accordance with this section obligates the depository to accept the deposit and pay interest as specified in the bid pursuant to which the deposit is awarded.

F. The treasurer shall maintain a record of all bids received and shall make available to the board of deposit at its next regularly scheduled meeting a correct list showing the bidders, the bids received and the amount awarded. These records shall be available to the public and shall be kept in the possession of the treasurer for not less than two years from the date of the report.

G. Any eligible depository, before receiving a deposit in excess of the insured amount under this article, shall deliver collateral for the purposes of this subsection equal to at least one hundred one per cent of the deposit. The collateral shall be any of the following:

1. A bond executed by a surety company that is approved by the treasury department of the United States and authorized to do business in this state. The bond shall be approved as to form by the legal advisor of the treasurer.

2. Securities or instruments of the following character:

(a) United States government or agency obligations.

(b) State, county, school district and other district municipal bonds.

(c) Registered warrants of this state, a county or other political subdivisions of this state, when offered as security for monies of the state, county or political subdivision by which they are issued.

(d) First mortgages and trust deeds on improved, unencumbered real estate located in this state. No single first mortgages or trust deeds may represent more than ten per cent of the total collateral. The treasurer may require that the first mortgages or trust deeds comprising the total collateral security be twice the amount the eligible depository receives on deposit. First mortgages or trust deeds qualify as collateral subject to the following limitations:

(i) The promissory note or other evidences of indebtedness secured by such first mortgage or trust deed shall have been in existence for at least three years and shall not have been in default during this period.

(ii) An eligible depository shall at its own expense execute, deposit with the treasurer and record with the appropriate county recorder a complete sale and assignment with recourse in a form approved by the attorney general, together with an unconditional assumption of obligation to promptly pay to the entitled parties public monies in its custody upon lawful demand and tender of resale and assignment.

Eligible depositories may deposit the security described in this subdivision with the state treasurer, and county, city or town treasurers may accept the security described in this subdivision at their option.

3. The safekeeping receipt of a federal reserve bank or any bank located in a reserve city, or any bank authorized to do business in this state, whose combined capital, surplus and outstanding capital notes and debentures on the date of the safekeeping receipt are ten million dollars or more, evidencing the deposit therein of any securities or instruments described in this section. A safekeeping receipt shall not qualify as security, if issued by a bank to secure its own public deposits, unless issued directly through its trust department. The safekeeping receipt shall show upon its face that it is issued for the account of the treasurer and shall be delivered to the treasurer. The safekeeping receipt may provide for the substitution of securities or instruments which qualify under this section with the affirmative act of the treasurer.

H. The securities, instruments or safekeeping receipt for the securities, instruments or warrants shall be accepted at market value if not above par, and, if at any time their market value becomes less than the deposit liability to that treasurer, additional securities or instruments required to guarantee deposits shall be deposited immediately with the

treasurer who made the deposit and deposited by the eligible depository in which the deposit was made.

I. The condition of the surety bond, or the deposit of securities, instruments or a safekeeping receipt, must be such that the eligible depository will promptly pay to the parties entitled public monies in its custody, upon lawful demand, and will, when required by law, pay the monies to the treasurer making the deposit.

J. Notwithstanding the requirements of this section, any institution qualifying as an eligible depository may accept deposits of public monies to the total then authorized insurance of accounts, insured by federal deposit insurance, without depositing a surety bond or securities in lieu of the surety bond.

K. An eligible depository shall report monthly to the treasurer the total deposits of that treasurer and the par value and the market value of any pledged collateral securing those deposits.

L. When a security or instrument pledged as collateral matures or is called for redemption, the cash received for the security or instrument shall be held in place of the security until the depository has obtained a written release or provided substitute securities or instruments.

M. The surety bond, securities, instruments or safekeeping receipt of an eligible depository shall be deposited with the treasurer making the deposit, and the treasurer shall be the custodian of the bond, securities, instruments or safekeeping receipt. The treasurer may then deposit with the depository public monies then in the treasurer's possession in accordance with this article, but not in an amount in excess of the surety bond, securities, instruments or safekeeping receipt deposited, except for federal deposit insurance.

N. The following restrictions on investments are applicable:

1. An investment of public operating fund monies shall not be invested for a maturity of longer than five years.

2. The board of deposit may order the treasurer to sell any of the securities, and any order shall specifically describe the securities and fix the date upon which they are to be sold. Securities so ordered to be sold shall be sold for cash by the treasurer on the date fixed in the order, at the then current market price. The treasurer and the members of the board are not accountable for any loss occasioned by sales of securities at prices lower than their cost. Any loss or expense shall be charged against earnings received from investment of public funds.

O. If the total amount of subdivision monies available for deposit at any time is less than one hundred thousand dollars, the subdivision board of deposit shall award the deposit of the funds to an eligible depository in accordance with an ordinance or resolution of the governing body of the subdivision.

EXPLANATION OF BLEND
SECTION 36-120

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 9 — Effective July 20

Laws 2011, Ch. 324, section 8 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 36-120 are blended in the form shown on the following page.

BLEND OF SECTION 36-120
Laws 2011, Chapters 320 and 324

36-120. Multiple sclerosis awareness fund

Chs. 320 and 324

A. THE MULTIPLE SCLEROSIS AWARENESS FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION 28-2440. THE DIRECTOR SHALL ADMINISTER THE FUND. NOT MORE THAN TEN PER CENT OF MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL DISTRIBUTE MONIES IN THE FUND BEFORE JULY 1 OF EACH YEAR.

B. THE DIRECTOR SHALL ALLOCATE MONIES FROM THE FUND FOR MULTIPLE SCLEROSIS AWARENESS AND OUTREACH SERVICES IN THIS STATE.

C. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

EXPLANATION OF BLEND
SECTION 36-121

Laws 2011, Chapters 320 and 324

Laws 2011, Ch. 320, section 9 — Effective July 20

Laws 2011, Ch. 324, section 8 — Effective July 20

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 320 and Ch. 324 text changes to section 36-121 are blended in the form shown on the following page.

BLEND OF SECTION 36-121
Laws 2011, Chapters 320 and 324

36-121. Childhood cancer and rare childhood disease research fund

A. THE CHILDHOOD CANCER AND RARE CHILDHOOD DISEASE RESEARCH FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO SECTION 28-2442. THE DIRECTOR SHALL ADMINISTER THE FUND. NOT MORE THAN TEN PER CENT OF MONIES DEPOSITED IN THE FUND ANNUALLY SHALL BE USED FOR THE COST OF ADMINISTERING THE FUND. THE FIRST THIRTY-TWO THOUSAND DOLLARS RECEIVED SHALL BE REIMBURSED TO THE PERSON OR ENTITY THAT PAID THE IMPLEMENTATION FEE. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE DIRECTOR SHALL ANNUALLY DISTRIBUTE MONIES IN THE FUND.

Chs. 320 and 324

B. THE DIRECTOR SHALL ALLOCATE MONIES FROM THE FUND TO HEALTH CARE PROVIDERS AND RESEARCH INSTITUTIONS THAT ARE LOCATED IN THIS STATE, THAT ARE NONPROFIT ORGANIZATIONS AND THAT ARE ENGAGED IN PHASE I CLINICAL TRIALS RELATING TO RESEARCH ON PEDIATRIC CANCER OR OTHER RARE PEDIATRIC DISEASES. THE MONIES MAY BE USED IN A COLLABORATIVE STUDY OR RESEARCH PROGRAM WITH OTHER FACILITIES OUTSIDE OF THIS STATE. NONPROFIT ORGANIZATIONS RECEIVING MONIES FROM THE FUND SHALL USE THE MONIES FOR THE PURPOSES PRESCRIBED IN THIS SUBSECTION EVEN IF THE MONIES ARE AGGREGATED WITH OTHER MONIES.

C. MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

EXPLANATION OF BLEND
SECTION 36-261

Laws 2011, Chapters 31 and 89

Laws 2011, Ch. 31, section 2 — Effective July 20 (Retroactive to July 1)

Laws 2011, Ch. 89, section 20 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 31 and Ch. 89 text changes to section 36-261 are blended in the form shown on the following pages.

The Laws 2011, Ch. 89 version made a conforming change in subsection A, paragraph 5 by replacing the word "crippling" with "A CHRONIC ILLNESS OR A PHYSICAL DISABILITY". The Laws 2011, Ch. 31 version replaced the same word with "A CHRONIC ILLNESS OR PHYSICAL DISABILITIES". Since this would not produce a substantive change, the blend version reflects the Ch. 31 version.

The Laws 2011, Ch. 89 version made a technical change in subsection C, paragraph 6 by striking the word "such" and inserting "THESE". The Laws 2011, Ch. 31 version struck "such" and inserted "THE". Since this would not produce a substantive change, the blend version reflects the Ch. 31 version.

BLEND OF SECTION 36-261
Laws 2011, Chapters 31 and 89

36-261. Powers and duties; expenditure limitation

Ch. 31 A. The ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall:

1. Employ a full-time or part-time medical director and a full-time or part-time administrator for children's rehabilitative services who shall have such titles and duties as shall be fixed by the director. Compensation of the medical director and the administrator shall be as determined pursuant to section 38-611.

2. Supervise, control and establish policies for children's rehabilitative services.

3. Adopt all rules and policies for the operation of a children's rehabilitative services program.

Ch. 31 4. Employ ~~such~~ NECESSARY medical and other staff ~~as may be needed~~, including resident physicians, whose compensation shall be as determined pursuant to section 38-611.

Chs. 31 and 89 5. Establish and administer a program of service for children who are ~~crippled~~ CHRONICALLY ILL OR PHYSICALLY DISABLED or who are suffering from conditions ~~which~~ THAT lead to ~~crippling~~ A CHRONIC ILLNESS OR PHYSICAL DISABILITIES. The program shall provide for:

Ch. 31 (a) Development, extension and improvement of services for locating ~~such~~ THESE children.

(b) Furnishing of medical, surgical, corrective and other services and care.

(c) Furnishing of facilities for diagnosis, hospitalization and aftercare.

Chs. 31 and 89 (d) Supervision of the administration of services in the program ~~which~~ THAT are not administered directly by the [~~department~~ ADMINISTRATION]. Ch. 31

(e) The extension and improvement of any services included in the program of services for chronically ill or physically disabled children as required by this section.

(f) Cooperation with medical, health, nursing and welfare groups and organizations and with any agency of the state charged with administration of laws providing for vocational rehabilitation of physically ~~handicapped~~ DISABLED children.

Ch. 31 (g) Cooperation with the federal government through its appropriate agency or instrumentality in developing, extending and improving services for chronically ill or physically disabled children.

(h) Receipt and expenditure of funds made available to the ~~department~~ ADMINISTRATION for services to chronically ill or physically disabled children by the federal government, ~~the~~ THIS state or its political

Ch. 89 subdivisions or from other sources[,] excluding monies received from parents or guardians for the care of children.

(i) Carrying on research and compiling statistics.

(j) Making necessary expenditures in connection with the duties provided in this section.

(k) Establishing and maintaining safeguards relating to the confidential aspect of medical records.

(l) Acceptance and use of federal funds for children's rehabilitative services at the discretion of the ~~department~~ ADMINISTRATION and subject to any limitations imposed by the annual state appropriation bill. Ch. 31

(m) Such other duties ~~and responsibilities~~ found necessary for the effective operation of a program for chronically ill or physically disabled children.

6. Establish a statewide computerized information and referral service for chronically ill or physically disabled children to link those children and their families with local service providers.

7. Deposit in the state general fund all monies received from parents or guardians for the care of children.

8. Deposit in the state general fund all monies received from adults, other responsible persons, agencies or third[-]party payors for care provided pursuant to section 36-797.44. Ch. 89

B. In order to carry out ~~the provisions of~~ subsection A of this section, the director may operate outpatient treatment facilities for chronically ill or physically disabled children and shall contract on the basis of competitive sealed bids for the care and treatment of chronically ill or physically disabled children ~~in accordance with~~ PURSUANT TO subsection C of this section. Ch. 31

C. The director shall prepare and issue a public request for proposal including a proposed contract format, at least once every four years, to contract for the care and treatment of chronically ill or physically disabled children subject to the following authorizations and limitations:

1. The scope of the contracted services shall include inpatient treatment services, physician services and other care and treatment services and outpatient treatment services ~~which~~ THAT shall not be mandated at a single location. Ch. 89

2. Bids may be accepted from hospital and medical service corporations, health care services organizations, hospitals, physicians and any other qualified public or private persons.

3. A bidder's direct costs, as defined in the request for proposal, shall be disclosed in and be the basis of the bid submitted. Direct costs shall not include depreciable real or personal property with an original cost of over one thousand dollars. For bid evaluation purposes only, the director shall specify a uniform assumed collection rate applicable to all bidders. If the director executes fee-for-services health care contracts, the contracts shall provide the maximum payment to be made for specific procedures and services.

4. The ~~department~~ ADMINISTRATION may award a contract at an amount less than the amount bid, by use of any procedure authorized by the procurement code. Ch. 31

5. If the director receives an insufficient number of bids for a category of services or in a medical emergency, the director may contract directly for ~~such~~ THESE services. Ch. 31

6. An invitation for bids, a request for proposals or ANY other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation if it is in the best interests of this state. The reasons for the cancellation or rejection shall be made part of the contract file. If the amount appropriated for services provided pursuant to this section is insufficient to pay for the scope of services as bid, the director may reduce the scope of services to reflect the amount appropriated or may cancel any invitation for bids, requests for proposals or other solicitation and contract directly for ~~such~~ THESE services. [~~Such~~] Reductions or suspensions ~~shall~~ DO not apply to the continuity of care for persons already receiving [~~such~~] THE services. Any decision to reduce services shall be made independently from any other modification of services.

7. ~~The provisions of~~ Title 41, chapter 23 shall apply to the procurement process ~~set forth~~ PRESCRIBED in this section to the extent that ~~they are~~ IT IS not inconsistent with ~~the provisions of~~ this section. The director may vary the bid format and the terms of the request for proposal each bid term.

D. In awarding contracts for inpatient and outpatient treatment services under this section, the ~~department~~ ADMINISTRATION shall use the following criteria in addition to other consistent criteria:

1. Cost to this state.

2. The treatment facility's demonstrated experience in and qualifications for providing pediatric services.

E. If the provision of any services ~~under~~ PURSUANT TO this section requires compliance with chapter 4, article 2 of this title, the contractor shall comply ~~prior to~~ BEFORE commencement of services [~~under~~ PURSUANT TO] this section.

F. SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS, the ~~department~~ ADMINISTRATION [~~may~~] ~~, subject to appropriation~~ ~~therefore~~[~~,~~] MAY provide or arrange for the provision of health services and supervisory care for child patients of other state agencies.

G. The ~~department~~ [~~may~~] ADMINISTRATION, through the children's rehabilitative services division, MAY establish and administer a program for children with sickle cell anemia, as provided for in section 36-797.43.

H. The ~~department~~ [~~may~~] ADMINISTRATION, through the children's rehabilitative services division, MAY establish and administer a program for adults with sickle cell anemia, as provided for in section 36-797.44.

I. The director may provide for the education of inpatients at any facility ~~which~~ THAT contracts with the director to provide care and treatment of chronically ill or physically disabled children. The director shall include in ~~his~~ THE [DIRECTOR'S] annual proposed budget a request for sufficient monies to finance the education of inpatients as authorized in this subsection.

J. The total amount of state monies that may be spent in any fiscal year by the ~~department of health services~~ ADMINISTRATION for children's rehabilitative services shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section ~~shall~~ DOES not ~~be construed to~~ impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Ch. 31

EXPLANATION OF BLEND
SECTION 36-274

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 27

Laws 2011, Second Special Session, Ch. 1, section 17	Effective July 1
Laws 2011, First Regular Session, Ch. 27, section 19	Effective July 20 (Retroactive to July 1)

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 27 text changes to section 36-274 are blended in the form shown on the following page.

BLEND OF SECTION 36-274
Laws 2011, Second Special Session, Chapter 1 and
Laws 2011, First Regular Session, Chapter 27

36-274. Disease control research fund; lapsing; investment

A. The disease control research fund is established consisting of monies received from the state lottery fund pursuant to section 5-522, subsection ~~C~~ D, monies appropriated by the legislature and any gifts, contributions or other monies received by the ~~commission~~ DEPARTMENT from any source TO CARRY OUT THE PURPOSES OF THIS ARTICLE, except monies from the health research fund established by section 36-275. The ~~commission~~ DEPARTMENT shall administer the disease control research fund.

B. The ~~commission~~ DEPARTMENT may expend monies in the disease control research fund for projects or services pursuant to section 36-273 and for expenses incurred by the ~~commission~~ DEPARTMENT in carrying out the purposes of this article, including filing applications and maintaining patents.

C. As a condition of each contract for cancer research projects or services, the ~~commission~~ DEPARTMENT shall require that the recipient shall not use fund monies for any purpose, including any administrative or building purposes, other than the specific cancer research grant project contract.

D. Monies in the disease control research fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

Ch. 1

Ch. 27

EXPLANATION OF BLEND
SECTION 36-501

Laws 2011, Chapters 89 and 219

Laws 2011, Ch. 89, section 21 — Effective July 20

Laws 2011, Ch. 219, section 1 — Effective April 25

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 89 and Ch. 219 text changes to section 36-501 are blended in the form shown on the following pages.

BLEND OF SECTION 36-501
Laws 2011, Chapters 89 and 219

36-501. Definitions

In this chapter, unless the context otherwise requires:

1. "Admitting officer" means a psychiatrist or other physician or psychiatric and mental health nurse practitioner with experience in performing psychiatric examinations who has been designated as an admitting officer of the evaluation agency by the person in charge of the evaluation agency.

2. "Chief medical officer" means the chief medical officer under the supervision of the superintendent of the state hospital.

3. "Contraindicated" means that access is reasonably likely to endanger the life or physical safety of the patient or another person.

4. "Court" means the superior court in the county in this state in which the patient resides or was found before screening or emergency admission under this title.

5. "Danger to others" means that the judgment of a person who has a mental disorder is so impaired that the person is unable to understand the person's need for treatment and as a result of the person's mental disorder the person's continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm.

6. "Danger to self":

(a) Means behavior that, as a result of a mental disorder:

(i) Constitutes a danger of inflicting serious physical harm on oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.

(ii) Without hospitalization will result in serious physical harm or serious illness to the person.

(b) Does not include behavior that establishes only the condition of gravely disabled.

7. "Department" means the department of health services.

8. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.

9. "Detention" means the taking into custody of a patient or proposed patient.

10. "Director" means the director of the department.

11. "Division" means the division of behavioral health in the department.

12. "Evaluation" means a professional multidisciplinary analysis based on data describing the person's identity, biography and medical, psychological and social conditions carried out by a group of persons consisting of not less than the following:

(a) Two licensed physicians, who shall be qualified psychiatrists, if possible, or at least experienced in psychiatric matters[,] and who shall examine and report their findings independently. The person against whom a petition has been filed shall be notified that the person may select one of the physicians. A psychiatric resident in a training program approved by the American medical association or by the American osteopathic association may examine the person in place of one of the psychiatrists if the resident is supervised in the examination and preparation of the affidavit and testimony in court by a qualified psychiatrist appointed to assist in the resident's training, and if the supervising psychiatrist is available for discussion with the attorneys for all parties and for court appearance and testimony if requested by the court or any of the attorneys.

Chs. 89 and 219

(b) Two other individuals, one of whom, if available, shall be a psychologist and in any event a social worker familiar with mental health and human services that may be available placement alternatives appropriate for treatment. An evaluation may be conducted on an inpatient basis, an outpatient basis or a combination of both, and every reasonable attempt shall be made to conduct the evaluation in any language preferred by the person.

13. "Evaluation agency" means a health care agency that is licensed by the department and that has been approved pursuant to this title, providing those services required of such agency by this chapter.

14. "Examination" means ~~an~~ A PROFESSIONAL MULTIDISCIPLINARY exploration of the person's past psychiatric history and of the circumstances leading up to the person's presentation, a psychiatric exploration of the person's present mental condition and a complete physical examination THAT IS CONDUCTED PURSUANT TO SECTION 36-533, SUBSECTION B.

Ch. 219

15. "Family member" means a spouse, parent, adult child, adult sibling or other blood relative of a person undergoing treatment or evaluation pursuant to this chapter.

16. "Gravely disabled" means a condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because the person is unable to provide for the person's own basic physical needs.

17. "Health care decision maker" has the same meaning prescribed in section 12-2801.

18. "Health care entity" means a health care provider, the department, the Arizona health care cost containment system administration or a regional behavioral health authority under contract with the department.

19. "Health care provider" means a health care institution as defined in section 36-401 that is licensed as a behavioral health provider pursuant to department rules or a mental health provider.

20. "Independent evaluator" means a licensed physician, psychiatric and mental health nurse practitioner or psychologist selected by the person to be evaluated or by such person's attorney.

21. "Informed consent" means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the patient or guardian with no minimizing of known dangers of any procedures.

22. "Least restrictive treatment alternative" means the treatment plan and setting that infringe in the least possible degree with the patient's right to liberty and that are consistent with providing needed treatment in a safe and humane manner.

23. "Licensed physician" means any medical doctor or doctor of osteopathy who is either:

(a) Licensed in this state.

(b) A full-time hospital physician licensed in another state and serving on the staff of a hospital operated or licensed by the United States government.

24. "Medical director of an evaluation agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and may include the chief medical officer of the state hospital.

25. "Medical director of a mental health treatment agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and includes the chief medical officer of the state hospital.

26. "Mental disorder" means a substantial disorder of the person's emotional processes, thought, cognition or memory. Mental disorder is distinguished from:

(a) Conditions that are primarily those of drug abuse, alcoholism or

Ch. 89 — ~~mental retardation~~ INTELLECTUAL DISABILITY, unless, in addition to one or more of these conditions, the person has a mental disorder.

(b) The declining mental abilities that directly accompany impending death.

(c) Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

27. "Mental health provider" means any physician or provider of mental health or behavioral health services involved in evaluating, caring for, treating or rehabilitating a patient.

28. "Mental health treatment agency" means the state hospital or a health care agency that is licensed by the department and that provides those services that are required of the agency by this chapter.

29. "Outpatient treatment" or "combined inpatient and outpatient treatment" means any treatment program not requiring continuous inpatient hospitalization.

30. "Outpatient treatment plan" means a treatment plan that does not require continuous inpatient hospitalization.

31. "Patient" means any person undergoing examination, evaluation or behavioral or mental health treatment under this chapter.

32. "Peace officers" means sheriffs of counties, constables, marshals and policemen of cities and towns.

33. "Persistently or acutely disabled" means a severe mental disorder that meets all the following criteria:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

34. "Prepetition screening" means the review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the application and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services.

35. "Prescribed form" means a form established by a court or the rules of the division that have been approved by the director or in accordance with the laws of this state.

36. "Professional" means a physician who is licensed pursuant to title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is certified pursuant to title 32, chapter 15.

37. "Proposed patient" means a person for whom an application for evaluation has been made or a petition for court-ordered evaluation has been filed.

38. "Psychiatric and mental health nurse practitioner" means a registered nurse practitioner as defined in section 32-1601 who has completed an adult or family psychiatric and mental health nurse practitioner program and who is certified as an adult or family psychiatric and mental health nurse practitioner by the state board of nursing.

39. "Psychiatrist" means a licensed physician who has completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association.

40. "Psychologist" means a person who is licensed under title 32, chapter 19.1 and who is experienced in the practice of clinical psychology.

41. "Records" means all communications that are recorded in any form or medium and that relate to patient examination, evaluation or behavioral or mental health treatment. Records include medical records that are prepared by a health care provider or other providers. Records do not include:

(a) Materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

(b) Recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity.

42. "Screening agency" means a health care agency that is licensed by the department and that provides those services required of such agency by this chapter.

43. "Social worker" means a person who has completed two years of graduate training in social work in a program approved by the council of social work education and who has experience in mental health.

44. "State hospital" means the Arizona state hospital.

45. "Superintendent" means the superintendent of the state hospital.

EXPLANATION OF BLEND
SECTION 36-509

Laws 2011, Chapters 262 and 268

Laws 2011, Ch. 262, section 3 — Effective July 20

Laws 2011, Ch. 268, section 7 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 262 and Ch. 268 text changes to section 36-509 are blended in the form shown on the following pages.

BLEND OF SECTION 36-509
Laws 2011, Chapters 262 and 268

36-509. Confidential records; immunity

A. A health care entity must keep records and information contained in records confidential and not as public records, except as provided in this section. Records and information contained in records may only be disclosed to:

1. Physicians and providers of health, mental health or social and welfare services involved in caring for, treating or rehabilitating the patient.

2. Individuals to whom the patient or the patient's health care decision maker has given authorization to have information disclosed.

3. Persons authorized by a court order.

4. Persons doing research only if the activity is conducted pursuant to applicable federal or state laws and regulations governing research.

5. The state department of corrections in cases in which prisoners confined to the state prison are patients in the state hospital on authorized transfers either by voluntary admission or by order of the court.

6. Governmental or law enforcement agencies if necessary to:

(a) Secure the return of a patient who is on unauthorized absence from any agency where the patient was undergoing evaluation and treatment.

(b) Report a crime on the premises.

(c) Avert a serious and imminent threat to an individual or the public.

7. Persons, including family members, actively participating in the patient's care, treatment or supervision. A health care provider may only release information relating to the patient's diagnosis, prognosis, need for hospitalization, anticipated length of stay, discharge plan, medication, medication side effects and short-term and long-term treatment goals. A health care provider may make this release only after the treating professional or that person's designee interviews the patient or the patient's health care decision maker and the patient or the patient's health care decision maker does not object, unless federal or state law permits the disclosure. If the patient does not have the opportunity to object to the disclosure because of incapacity or an emergency circumstance and the patient's health care decision maker is not available to object to the release, the health care provider in the exercise of professional judgment may determine if the disclosure is in the best interests of the patient and, if so, may release the information authorized pursuant to this paragraph. A decision to release or withhold information is subject to review pursuant to section 36-517.01. The health care provider must record the name of any person to whom any information is given under this paragraph.

8. A state agency that licenses health professionals pursuant to title 32, chapter 13, 15, 17, 19.1 or 33 and that requires these records in the course of investigating complaints of professional negligence, incompetence or lack of clinical judgment.

9. A state or federal agency that licenses health care providers.

10. A governmental agency or a competent professional, as defined in section 36-3701, in order to comply with chapter 37 of this title.

11. Human rights committees established pursuant to title 41, chapter 35. Any information released pursuant to this paragraph shall comply with the requirements of section 41-3804 and applicable federal law and shall be released without personally identifiable information unless the personally identifiable information is required for the official purposes of the human rights committee. Case information received by a human rights committee shall be maintained as confidential. For the purposes of this paragraph, "personally identifiable information" includes a person's name, address, date of birth, social security number, tribal enrollment number, telephone or telefacsimile number, driver license number, places of employment, school identification number and military identification number or any other distinguishing characteristic that tends to identify a particular person.

12. A patient or the patient's health care decision maker pursuant to section 36-507.

13. The department of public safety by the court to comply with the requirements of section 36-540, subsection ~~N~~ O. Ch. 262

14. A third party payor or the payor's contractor ~~to obtain reimbursement for health care, mental health care or behavioral health care provided to the patient~~ AS PERMITTED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS, 45 CODE OF FEDERAL REGULATIONS PART 160 AND PART 164, SUBPART E. Ch. 268

15. A private entity that accredits the health care provider and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.

16. The legal representative of a health care entity in possession of the record for the purpose of securing legal advice.

17. A person or entity as otherwise required by state or federal law.

18. A person or entity as permitted by the federal regulations on alcohol and drug abuse treatment (42 Code of Federal Regulations part 2).

19. A person or entity to conduct utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

20. A person maintaining health statistics for public health purposes as authorized by law.

21. A grand jury as directed by subpoena.

22. A PERSON OR ENTITY THAT PROVIDES SERVICES TO THE PATIENT'S HEALTH CARE PROVIDER, AS DEFINED IN SECTION 12-2291, AND WITH WHOM THE HEALTH CARE PROVIDER HAS A BUSINESS ASSOCIATE AGREEMENT THAT REQUIRES THE PERSON OR ENTITY TO PROTECT THE CONFIDENTIALITY OF PATIENT INFORMATION AS REQUIRED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT PRIVACY STANDARDS, 45 CODE OF FEDERAL REGULATIONS PART 164, SUBPART E. Ch. 268

B. Information and records obtained in the course of evaluation, examination or treatment and submitted in any court proceeding pursuant to this chapter or title 14, chapter 5 are confidential and are not public records unless the hearing requirements of this chapter or title 14, chapter 5 require a different procedure. Information and records that are obtained pursuant to this section and submitted in a court proceeding pursuant to title 14, chapter 5 and that are not clearly identified by the parties as

confidential and segregated from nonconfidential information and records are considered public records.

C. Notwithstanding subsections A and B of this section, the legal representative of a patient who is the subject of a proceeding conducted pursuant to this chapter and title 14, chapter 5 has access to the patient's information and records in the possession of a health care entity or filed with the court.

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D. A HEALTH CARE ENTITY THAT ACTS IN GOOD FAITH UNDER THIS ARTICLE IS NOT LIABLE FOR DAMAGES IN ANY CIVIL ACTION FOR THE DISCLOSURE OF RECORDS OR PAYMENT RECORDS THAT IS MADE PURSUANT TO THIS ARTICLE OR AS OTHERWISE PROVIDED BY LAW. THE HEALTH CARE ENTITY IS PRESUMED TO HAVE ACTED IN GOOD FAITH. THIS PRESUMPTION MAY BE REBUTTED BY CLEAR AND CONVINCING EVIDENCE.

EXPLANATION OF BLEND
SECTION 36-2907

Laws 2011, Chapters 13 and 31

Laws 2011, Ch. 13, section 1	Effective July 20
Laws 2011, Ch. 31, section 13	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 13 and Ch. 31 text changes to section 36-2907 are blended in the form shown on the following pages.

BLEND OF SECTION 36-2907
Laws 2011, Chapters 13 and 31

36-2907. Covered health and medical services; modifications; related delivery of service requirements; definition

A. Subject to the limitations and exclusions specified in this section, contractors shall provide the following medically necessary health and medical services:

1. Inpatient hospital services that are ordinarily furnished by a hospital for the care and treatment of inpatients and that are provided under the direction of a physician or a primary care practitioner. For the purposes of this section, inpatient hospital services exclude services in an institution for tuberculosis or mental diseases unless authorized under an approved section 1115 waiver.

2. Outpatient health services that are ordinarily provided in hospitals, clinics, offices and other health care facilities by licensed health care providers. Outpatient health services include services provided by or under the direction of a physician or a primary care practitioner.

3. Other laboratory and x-ray services ordered by a physician or a primary care practitioner.

4. Medications that are ordered on prescription by a physician or a dentist licensed pursuant to title 32, chapter 11. ~~Beginning January 1, 2006,~~ Persons who are dually eligible for title XVIII and title XIX services must obtain available medications through a medicare licensed or certified medicare advantage prescription drug plan, a medicare prescription drug plan or any other entity authorized by medicare to provide a medicare part D prescription drug benefit.

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5. Medical supplies, durable medical equipment and prosthetic devices ordered by a physician or a primary care practitioner. Suppliers of durable medical equipment shall provide the administration with complete information about the identity of each person who has an ownership or controlling interest in their business and shall comply with federal bonding requirements in a manner prescribed by the administration.

6. For persons who are at least twenty-one years of age, treatment of medical conditions of the eye, excluding eye examinations for prescriptive lenses and the provision of prescriptive lenses.

7. Early and periodic health screening and diagnostic services as required by section 1905(r) of title XIX of the social security act for members who are under twenty-one years of age.

8. Family planning services that do not include abortion or abortion counseling. If a contractor elects not to provide family planning services, this election does not disqualify the contractor from delivering all other covered health and medical services under this chapter. In that event, the administration may contract directly with another contractor, including an outpatient surgical center or a noncontracting provider, to deliver family planning services to a member who is enrolled with the contractor that elects not to provide family planning services.

9. Podiatry services ordered by a primary care physician or primary care practitioner.

10. Nonexperimental transplants approved for title XIX reimbursement.

11. Ambulance and nonambulance transportation, except as provided in subsection G of this section.

Ch. 13 12. HOSPICE CARE.

B. The limitations and exclusions for health and medical services provided under this section are as follows:

Chs. 13 and 31 1. ~~Beginning on October 1, 2002,~~ Circumcision of newborn males is not a covered health and medical service.

2. For eligible persons who are at least twenty-one years of age:

(a) Outpatient health services do not include occupational therapy or speech therapy.

(b) Prosthetic devices do not include hearing aids, dentures, bone anchored hearing aids or cochlear implants. Prosthetic devices, except

Ch. 31 prosthetic implants, may be limited to twelve thousand ~~five hundred~~ FIVE HUNDRED dollars per contract year.

(c) Insulin pumps, percussive vests and orthotics are not covered health and medical services.

(d) Durable medical equipment is limited to items covered by medicare.

(e) Podiatry services do not include services performed by a podiatrist.

(f) Nonexperimental transplants do not include the following:

(i) Pancreas only transplants.

(ii) Pancreas after kidney transplants.

(iii) Lung transplants.

(iv) Hemopoetic cell allogenic unrelated transplants.

(v) Heart transplants for non-ischemic cardiomyopathy.

(vi) Liver transplants for diagnosis of hepatitis C.

(g) Beginning October 1, 2011, bariatric surgery procedures, including laparoscopic and open gastric bypass and restrictive procedures, are not covered health and medical services.

(h) Well exams are not a covered health and medical service, except mammograms, pap smears and colonoscopies.

C. The system shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section and as prescribed by rule.

D. The director shall adopt rules necessary to limit, to the extent possible, the scope, duration and amount of services, including maximum limitations for inpatient services that are consistent with federal regulations under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)). To the extent possible and practicable, these rules shall provide for the prior approval of medically necessary services provided pursuant to this chapter.

E. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article. For the purposes of this subsection, "home health services" means the provision of nursing services, home health aide services or medical supplies, equipment and appliances, which are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on the orders

of a physician or a primary care practitioner. Home health agencies shall comply with the federal bonding requirements in a manner prescribed by the administration.

F. The director shall adopt rules for the coverage of behavioral health services for persons who are eligible under section 36-2901, paragraph 6, subdivision (a). The administration shall contract with the department of health services for the delivery of all medically necessary behavioral health services to persons who are eligible under rules adopted pursuant to this subsection. The division of behavioral health in the department of health services shall establish a diagnostic and evaluation program to which other state agencies shall refer children who are not already enrolled pursuant to this chapter and who may be in need of behavioral health services. In addition to an evaluation, the division of behavioral health shall also identify children who may be eligible under section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination.

G. The director shall adopt rules for the provision of transportation services and rules providing for copayment by members for transportation for other than emergency purposes. Subject to approval by the centers for medicare and medicaid services, nonemergency medical transportation shall not be provided ~~to persons who are eligible pursuant to sections 36-2901.01 and 36-2901.04 and who reside in a county with a population of more than five hundred thousand persons~~ EXCEPT FOR STRETCHER VANS AND AMBULANCE TRANSPORTATION. PRIOR AUTHORIZATION IS REQUIRED FOR TRANSPORTATION BY STRETCHER VAN AND FOR MEDICALLY NECESSARY AMBULANCE TRANSPORTATION INITIATED PURSUANT TO A PHYSICIAN'S DIRECTION. Prior authorization is not required for medically necessary ambulance transportation services rendered to members or eligible persons initiated by dialing telephone number 911 or other designated emergency response systems.

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H. The director may adopt rules to allow the administration, at the director's discretion, to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this chapter without documentation as to need by at least two physicians or primary care practitioners.

I. If the director does not receive bids within the amounts budgeted or if at any time the amount remaining in the Arizona health care cost containment system fund is insufficient to pay for full contract services for the remainder of the contract term, the administration, on notification to system contractors at least thirty days in advance, may modify the list of services required under subsection A of this section for persons defined as eligible other than those persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). The director may also suspend services or may limit categories of expense for services defined as optional pursuant to title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)) for persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not apply to the continuity of care for persons already receiving these services.

J. Additional, reduced or modified hospitalization and medical care benefits may be provided under the system to enrolled members who are eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

K. All health and medical services provided under this article shall be provided in the geographic service area of the member, except:

1. Emergency services and specialty services provided pursuant to section 36-2908.

2. That the director may permit the delivery of health and medical services in other than the geographic service area in this state or in an adjoining state if the director determines that medical practice patterns justify the delivery of services or a net reduction in transportation costs can reasonably be expected. Notwithstanding the definition of physician as prescribed in section 36-2901, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state similar to title 32, chapter 13, 15, 17 or 25 and shall complete a provider agreement for this state.

L. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes including, but not limited to, making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

M. The director shall adopt rules that prescribe the coordination of medical care for persons who are eligible for system services. The rules shall include provisions for the transfer of patients, the transfer of medical records and the initiation of medical care.

N. For the purposes of this section, "ambulance" has the same meaning prescribed in section 36-2201.

EXPLANATION OF BLEND
SECTION 38-711

Laws 2011, Chapters 277 and 357

Laws 2011, Ch. 277, section 3 — Effective July 20

Laws 2011, Ch. 357, section 2 — Effective July 20 (Retroactive to July 1)

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 277 and Ch. 357 text changes to section 38-711 are blended in the form shown on the following pages.

BLEND OF SECTION 38-711
Laws 2011, Chapters 277 and 357

38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:

(i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.

(ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay which, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation

within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(a) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(b) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(c) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(d) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(e) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve
Ch. 277 — months total ~~credited service~~ COMPENSATION on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment management" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year using the projected unit credit method.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) FOR A MEMBER WHOSE MEMBERSHIP COMMENCED BEFORE JULY 1, 2011:

~~(a)~~ (i) A member's sixty-fifth birthday.

~~(b)~~ (ii) A member's sixty-second birthday and completion of at least ten years of credited service.

~~(c)~~ (iii) ~~For a member whose membership commenced before July 1, 2011,~~ The first day that the sum of a member's age and years of total credited service equals eighty. ~~For a member whose membership commenced on or after July 1, 2011, the first day that the sum of a member's age and years of total credited service equals eighty-five.~~

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(b) FOR A MEMBER WHOSE MEMBERSHIP COMMENCED ON OR AFTER JULY 1, 2011:

(i) A MEMBER'S SIXTY-FIFTH BIRTHDAY.

(ii) A MEMBER'S SIXTY-SECOND BIRTHDAY AND COMPLETION OF AT LEAST TEN YEARS OF CREDITED SERVICE.

(iii) A MEMBER'S SIXTIETH BIRTHDAY AND COMPLETION OF AT LEAST TWENTY-FIVE YEARS OF CREDITED SERVICE.

(iv) A MEMBER'S FIFTY-FIFTH BIRTHDAY AND COMPLETION OF AT LEAST THIRTY YEARS OF CREDITED SERVICE.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

EXPLANATION OF BLEND
SECTION 38-744

Laws 2011, Chapters 277 and 357

Laws 2011, Ch. 277, section 6 — Effective July 20

Laws 2011, Ch. 357, section 6 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2010, Ch. 277 and Ch. 357 text changes to section 38-744 are blended in the form shown on the following page.

BLEND OF SECTION 38-744
Laws 2011, Chapters 277 and 357

38-744. Leave of absence; credit for leave without pay

A. If an active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 is officially granted a leave of absence from employment without pay and returns to employment with the same employer, unless employment could not be resumed because of disability or nonavailability of a position, the member may elect to be credited with service for retirement purposes for not more than one year of the leave, BUT NOT MORE THAN A TOTAL OF SIXTY MONTHS UNDER THIS SECTION, by paying to ASRS the amounts as provided in subsection B of this section, if the member has not withdrawn contributions from ASRS and the member's employer has certified that the leave of absence benefits or is in the best interests of the employer. Ch. 357

B. A member who elects to be credited with a leave period as provided in subsection A of this section shall pay to ASRS an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

C. A MEMBER WHO PREVIOUSLY WAS A MEMBER OF ANOTHER PUBLIC EMPLOYEE RETIREMENT SYSTEM AND WHO RECEIVES OR IS ELIGIBLE TO RECEIVE A RETIREMENT BENEFIT FROM THAT SYSTEM FOR ANY PERIOD OF EMPLOYMENT IS INELIGIBLE TO RECEIVE RETIREMENT BENEFITS FROM ASRS FOR THE SAME PERIOD. Ch. 277

~~C.~~ D. ~~Beginning July 1, 2010,~~ A member shall have at least ~~five~~ TEN years of credited service in ASRS before electing to receive credit for service pursuant to this section. Ch. 357

~~D.~~ E. For the purposes of subsection A of this section, each employer shall adopt rules establishing guidelines for a leave of absence that benefits or is in the best interests of the employer.

EXPLANATION OF BLEND
SECTION 38-745

Laws 2011, Chapters 277 and 357

Laws 2011, Ch. 277, section 7 — Effective July 20

Laws 2011, Ch. 357, section 7 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 277 and Ch. 357 text changes to section 38-745 are blended in the form shown on the following pages.

BLEND OF SECTION 38-745
Laws 2011, Chapters 277 and 357

38-745. Credit for military service

Ch. 357 — A. An active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 may purchase UP TO SIXTY MONTHS OF credited service in ASRS for active military service if all of the following apply:

1. The member was honorably separated from the military service.

2. The member submits a copy of the member's military service record (DD-214) or its equivalent with the member's application for military service credit.

Ch. 357 — 3. ~~Beginning July 1, 2010,~~ A member has at least ~~five~~ TEN years of credited service in ASRS.

4. THE MEMBER IS NOT YET ELIGIBLE FOR A MILITARY RETIREMENT BENEFIT.

B. The cost to purchase military service credit is an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

C. An active member of ASRS who is called to active military service may receive credited service for not more than sixty months of active military service, except as provided by the uniformed services employment and reemployment rights act (38 United States Code section 4312(c)). The member's employer shall make employer contributions and member contributions for the member if the member meets the following requirements:

1. Was an active member of ASRS on the day before the member began active military service.

2. Is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.

3. Volunteers or is ordered into active military service of the United States as part of a military call-up.

4. One of the following occurs:

(a) Is honorably separated from active military service and returns to employment for the same employer from which the member left for active military service within ninety days after the date active military service is terminated.

(b) Is hospitalized as a result of military service and returns to employment for the same employer from which the member left for active military service within ninety days after release from service related hospitalization.

(c) Becomes disabled as a result of or during the military service and is unable to return to the same employer.

(d) Dies as a result of or during the military service.

D. Contributions made pursuant to subsection C of this section shall be for the period of time beginning on the date the member began active military service and ending on the later of one of the following dates:

Ch. 277 — 1. The date the member ~~is separated from active military service~~ RETURNS TO EMPLOYMENT OR THE DATE THE MEMBER SHOULD HAVE RETURNED TO EMPLOYMENT PURSUANT TO 20 CODE OF FEDERAL REGULATIONS SECTION 1002.115, WHICHEVER DATE IS EARLIER.

Ch. 277 — 2. The date the member is released from service related hospitalization or ~~one year~~ TWO YEARS after initiation of service related hospitalization, whichever date is earlier.

3. One year after the date of disability.

4. The date the member dies as a result of or during active military service.

E. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C of this section, the member shall be credited with service for retirement purposes for the period of time of active military service of not more than sixty months.

F. The employer shall make contributions pursuant to subsection C of this section as follows:

1. Contributions shall be based on the compensation that a member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine a member's rate of compensation for the period that the member was ordered into active military service, the employer shall make contributions based on the member's average rate of compensation during the twelve-month period immediately preceding the period of active military service.

3. If a member has been employed less than twelve months before being ordered into active military service, the employer shall make contributions based on the employment period immediately preceding the period of active military service.

4. Employer contributions shall be made in a lump sum and without penalty when the member returns to employment, when it is determined that the member is unable to return to employment because of a disability as a result of or that occurred during military service or on receipt of the member's death certificate. If a member suffers a service related death, the employer shall make the employer and member contributions up to and including the date of the member's death. Death benefits shall be calculated as prescribed by law.

G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

H. Notwithstanding any other law, the member is not required to reimburse the member's employer or ASRS for any contribution made pursuant to subsection C of this section.

I. In addition to, but not in duplication of, the provisions of subsection C of this section, contributions, benefits and credited service provided pursuant to this section shall be provided in accordance with section 414(u) of the internal revenue code.

Ch. 277 — J. A MEMBER WHO DOES NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY REASON OF QUALIFIED MILITARY SERVICE, AS THAT TERM IS DEFINED IN SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND WHO IS RECEIVING DIFFERENTIAL WAGE PAYMENTS, AS THAT TERM IS DEFINED IN SECTION 3401(h)(2) OF THE INTERNAL REVENUE CODE, SHALL NOT BE CONSIDERED AS HAVING A SEVERANCE FROM EMPLOYMENT FOR ALL PURPOSES UNDER ASRS DURING THE PERIOD THE DIFFERENTIAL WAGES ARE BEING PAID BY THE EMPLOYER TO THE EMPLOYEE.

EXPLANATION OF BLEND
SECTION 38-842

Laws 2011, Chapters 27, 347 and 357

Laws 2011, Ch. 27, section 25	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 347, section 2	Effective July 20
Laws 2011, Ch. 357, section 24	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 27, Ch. 347 and Ch. 357 text changes to section 38-842 are blended in the form shown on the following pages.

BLEND OF SECTION 38-842
Laws 2011, Chapters 27, 347 and 357

38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the board.

4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.

7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, THE CONSIDERED PERIOD IS THE FIVE CONSECUTIVE YEARS WITHIN THE LAST TWENTY COMPLETED YEARS OF CREDITED SERVICE THAT YIELD THE HIGHEST AVERAGE. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

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8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.

9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

10. "Certified peace officer" means a peace officer certified by the Arizona peace officers standards and training board.

11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, COMPENSATORY TIME USED BY AN EMPLOYEE IN LIEU OF OVERTIME NOT OTHERWISE PAID BY AN EMPLOYER and holiday pay paid to an employee by the employer on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for UNUSED compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training OR FIRE, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities~~,~~ training~~,~~ OR fire, wildfire, emergency medical or emergency management ~~services~~ ACTIVITIES. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

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13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

14. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

16. "Determination" means a written document that indicates to a participant and alternate payee whether a domestic relations order qualifies as a plan approved domestic relations order.

17. "Determination period" means the ninety-day period in which the system must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the system mails a notice of receipt to the participant and alternate payee.

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under a plan approved domestic relations order.

20. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.

21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:

(a) Is under eighteen years of age.

(b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.

(c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

(a) Municipal police officers who are certified peace officers.

(b) Municipal fire fighters.

(c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time fire fighters, but not including fire fighters employed by a fire district pursuant to a contract with a corporation.

(d) State highway patrol officers who are certified peace officers.

(e) State fire fighters.

(f) County sheriffs and deputies who are certified peace officers.

(g) Game and fish wardens who are certified peace officers.

(h) Police officers who are certified peace officers and fire fighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a fire fighter's sole duty shall be to perform fire fighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Fire fighters who are employed by an Indian reservation fire fighting agency.

Ch. 27 ~~(o) Police officers who are certified peace officers and who are appointed by the department of administration.~~

~~(p)~~ (o) Department of liquor licenses and control investigators who are certified peace officers.

~~(q)~~ (p) Arizona department of agriculture officers who are certified peace officers.

~~(r)~~ (q) Arizona state parks board rangers and managers who are certified peace officers.

~~(s)~~ (r) County park rangers who are certified peace officers.

25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the internal revenue code.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code.

(c) An annuity plan described in section 403(a) of the internal revenue code.

(d) A qualified trust described in section 401(a) of the internal revenue code.

(e) An annuity contract described in section 403(b) of the internal revenue code.

(f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.

26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's beneficiary or for a specified period of ten years or more.

(b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.

(c) The portion of any distribution that is not includable in gross income.

27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group

Ch. 347 requires certified peace officer status OR FIRE FIGHTER CERTIFICATION and at the option of the local board, employee may include a person who is training to become a certified peace officer OR FIRE FIGHTER.

28. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated

30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

31. "Member" means any full-time employee who meets all of the following qualifications:

(a) Who is either a paid municipal police officer, a paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, ~~a police officer who is appointed by the department of administration and who is a certified peace officer,~~ a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty OR, BEGINNING RETROACTIVELY TO JANUARY 1, 2009, WHO IS A POLICE CHIEF OR A FIRE CHIEF.

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(b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating work weeks, whose customary employment averages at least forty hours per week.

(d) Who is engaged to work for more than six months in a calendar year.

(e) Who, if economic conditions exist, is required to take furlough days or reduce the hours of ~~their~~ THE EMPLOYEE'S normal work week below forty hours but not less than thirty hours per pay cycle, and maintain ~~their~~ THE EMPLOYEE'S active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

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(f) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

32. "Normal retirement date" means:

(a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012, the first day of the calendar month immediately following ~~an~~ THE employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

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(b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE.

33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

35. "Participant" means a member who is subject to a domestic relations order.

36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.

38. "Personal representative" means the personal representative of a deceased alternate payee.

39. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

40. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, fire

fighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, ~~police officers who are appointed by the department of administration and who are certified peace officers,~~ department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or fire fighters who are employed by an Indian reservation fire fighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

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41. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension OR, FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE AND SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

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42. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

43. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid fire fighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable

joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

44. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

45. "System" means the public safety personnel retirement system established by this article.

46. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

EXPLANATION OF BLEND
SECTION 38-847

Laws 2011, Chapters 27 and 347

Laws 2011, Ch. 27, section 26 — Effective July 20 (Retroactive to July 1)

Laws 2011, Ch. 347, section 4 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 347 text changes to section 38-847 are blended in the form shown on the following pages.

BLEND OF SECTION 38-847
Laws 2011, Chapters 27 and 347

38-847. Local boards

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department
Ch. 27 — of law, ~~the department of administration,~~ the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one local board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system, or the head's designee from among the other members of the merit system, if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.

2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.

3. For fire districts organized pursuant to section 48-804, the secretary-treasurer as chairman, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the secretary-treasurer, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

B. On the taking effect of this system for an employer, the appointments and elections of local board members shall take place with one elective and appointive local board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the ~~fund manager~~ BOARD OF TRUSTEES, the ~~fund manager~~ BOARD OF TRUSTEES may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the [~~fund manager~~ BOARD OF TRUSTEES] cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the ~~fund manager~~ BOARD OF TRUSTEES may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

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D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1. To decide all questions of eligibility and service credits, and determine the amount, manner and time of payment of any benefits under the system.

2. To prescribe procedures to be followed by claimants in filing applications for benefits.

3. To make a determination as to the right of any claimant to a benefit and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter within ninety days after the date the matter is presented to the local board for determination. If a local board fails to commence a hearing as provided in this paragraph, on a matter presented to the local board for determination, the relief demanded by the party petitioning the local board is deemed granted and approved by the local board. The granting and approval of this relief is considered final and binding unless a timely request for rehearing or appeal is made as provided in this article, unless the ~~fund manager~~ BOARD OF TRUSTEES determines that granting the relief requested would violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code. If the ~~fund manager~~ BOARD OF TRUSTEES determines that granting the requested relief would violate the internal revenue code or threaten to impair the system's status as a qualified plan, the ~~fund manager~~ BOARD OF TRUSTEES may refuse to grant the relief by issuing a written determination to the local board and the party petitioning the local board for relief. The decision by the ~~fund manager~~ BOARD OF TRUSTEES is subject to judicial review pursuant to title 12, chapter 7, article 6.

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4. To request and receive from the employers and from members such information as is necessary for the proper administration of the system and action on claims for benefits and to forward such information to the board of trustees.

5. To distribute, in such manner as the local board determines to be appropriate, information explaining the system received from the board of trustees.

6. To furnish the employer, the board of trustees and the legislature, on request, with such annual reports with respect to the administration of the system as are reasonable and appropriate.

7. To receive and review the actuarial valuation of the system for its group of members.

8. To receive and review reports of the financial condition and of the receipts and disbursements of the fund from the board of trustees.

9. To appoint medical boards as provided in section 38-859.

10. To sue and be sued to effectuate the duties and responsibilities set forth in this article.

E. A local board shall have no power to add to, subtract from, modify or waive any of the terms of the system, change or add to any benefits provided by the system or waive or fail to apply any requirement of eligibility for membership or benefits under the system. Notwithstanding any limitations periods imposed in this article, including subsection D, paragraph 3 and subsections G and H of this section, if the ~~fund manager~~ BOARD OF TRUSTEES determines a local board decision violates the internal revenue code or threatens to impair the system's status as a qualified plan under the internal revenue code, the local board's decision is not final and binding and the ~~fund manager~~ BOARD OF TRUSTEES may refrain from implementing or complying with the local board decision. **Chs. 27 and 347**

F. A local board, from time to time, shall establish and adopt such rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.

G. Except as otherwise provided in this article, any action by a majority vote of the members of a local board that is not inconsistent with the provisions of the system and the internal revenue code shall be final, conclusive and binding on all persons affected by it unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty ~~business~~ days after taking action, the local board shall submit to the [~~fund manager~~ BOARD OF TRUSTEES] THE MINUTES FROM THE LOCAL BOARD MEETING THAT INCLUDE the name of the member affected by its decision, a description of the action taken and an explanation of the reasons AND DOCUMENTS supporting the local board's action. The [~~fund manager~~ BOARD OF TRUSTEES] may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the system's status as a qualified plan under the internal revenue code. **Chs. 27 and 347** **Ch. 347** **Chs. 27 and 347**

H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the system's status as a qualified plan under the

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internal revenue code, no limitation period for the ~~fund manager~~ BOARD OF TRUSTEES to seek a rehearing of a local board decision applies. An application for a rehearing shall be filed in writing with a member of the local board or its secretary within sixty days after:

1. The applicant-claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the system pursuant to the local board's original action, whichever occurs first.

2. The applicant-board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, the board of trustees, independent legal counsel or the actuary for the system.

L. Each member of a local board is entitled to one vote. A majority ~~are~~ IS necessary for a decision by the members of a local board at any meeting of the local board.

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M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings~~,~~ IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1 OF THIS TITLE AND forward the minutes AND ALL NECESSARY COMMUNICATIONS to the board of trustees ~~within forty-five days after each meeting and forward all necessary communications to the board of trustees~~ AS PRESCRIBED BY SUBSECTION G OF THIS SECTION.

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N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the ~~fund manager~~ BOARD OF TRUSTEES or system at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board.

O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

EXPLANATION OF BLEND
SECTION 38-849 (as amended by Laws 2010, Ch. 118, section 10)

Laws 2011, Chapters 99, 347 and 357

Laws 2011, Ch. 99, section 11	Effective July 20
Laws 2011, Ch. 347, section 5	Effective July 20
Laws 2011, Ch. 357, section 35	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 99, Ch. 347 and Ch. 357 text changes to section 38-849 (as amended by Laws 2010, Ch. 118, sec. 10) are blended in the form shown on the following pages.

BLEND OF SECTION 38-849 (as amended by Laws 2010, Ch. 118, section 10)
Laws 2011, Chapters 99, 347 and 357

38-849. Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired or disabled member

A. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the retirement system.

B. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the system with an intent to defraud
Ch. 357 — the system is guilty of a class ~~6~~ 5 felony. If any change or error in the records results in any member or beneficiary receiving from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime specified in this subsection, SECTION 13-713 APPLIES. ~~the member shall be entitled to receive a lump sum payment of the member's accumulated~~
Ch. 357 — ~~contributions but forfeits any future compensation and benefits that would otherwise accrue to the member or the member's estate under this article.~~

C. If a member who received a severance refund on termination of employment, as provided in section 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, if the former member's reemployment with the same employer occurred within two years after the former member's termination date, and, within ninety days after reemployment the former member signs a written election consenting to reimburse the fund within one year, the former member shall be required to redeposit the amount withdrawn at the time of the former member's separation from service, with interest thereon at the rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. On satisfaction of this obligation the member's prior service credits shall be reinstated.

D. If a retired member becomes employed in any capacity by the employer from which the member retired before sixty consecutive days after the member's date of retirement, the system shall not make pension payments to the retired member during the period of reemployment. If a retired member
Ch. 357 — is reemployed by an employer, no EMPLOYEE contributions shall be made on the retired member's account, nor any service credited, during the period of the reemployment. Notwithstanding this subsection, if a retired member subsequently becomes employed in the same position by the employer from which

the member retired, the system shall not make pension payments to the retired member during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. If a member who retired under disability is reemployed by an employer as an employee, that member shall be treated as if the member had been on an uncompensated leave of absence during the period of the member's disability retirement and shall be a contributing member of the system. Within ten days after a retired member is reemployed by the employer from which the member retired, the employer shall advise the ~~fund manager~~ BOARD in writing as to whether the retired member has been reemployed in the same position from which the member retired. The ~~fund manager~~ BOARD shall review all reemployment determinations. If the ~~fund manager~~ BOARD is not provided the necessary information to make a reemployment determination, the ~~fund manager~~ BOARD shall suspend pension payments until information is received and a determination is made that the reemployment meets the requirements of this subsection. For the purposes of this subsection, "same position" means the member is in a position where the member performs substantially similar duties that were performed and exercises substantially similar authority that was exercised by the retired member before retirement.

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E. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the ~~fund manager's~~ BOARD'S written request is subject to civil suit by the system in the superior court in Maricopa county. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the system a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the system, plus interest at the rate prescribed by section 44-1201~~, subsection A~~, until all amounts owed are paid to the system.

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F. Notwithstanding any other provision of this article, the ~~fund manager~~ BOARD may offset against any benefits otherwise payable by the system to an active or retired member or survivor any court ordered amounts awarded to the ~~fund manager~~ BOARD and system and assessed against the member or survivor.

EXPLANATION OF BLEND
SECTION 38-891

Laws 2011, Chapters 298, 347 and 357

Laws 2011, Ch. 298, section 1	Effective July 20, 2011 (Retroactive to September 30, 2009)
Laws 2011, Ch. 347, section 8	Effective July 20, 2011
Laws 2011, Ch. 357, section 46	Effective July 20, 2011 (Retroactive to July 1, 2011)

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 298, Ch. 347 and Ch. 357 text changes to section 38-891 are blended in the form shown on the following pages.

BLEND OF SECTION 38-891
Laws 2011, Chapters 298, 347 and 357

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the board, each employer shall make level per cent of salary contributions sufficient under the actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005[,] a rolling period of at least twenty and not more than thirty years that is established by the board taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than six per cent of salary. For any employer whose actual contribution rate is less than six per cent of salary for fiscal year 2006-2007 and each year thereafter, that employer's contribution rate shall be at least five per cent and not more than the employer's actual contribution rate. An employer may pay a higher level per cent of salary thereby reducing its unfunded past service liability. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two per cent.

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B. ~~Except as provided by subsection I,~~ Each member shall contribute ~~7.96 per cent of the member's salary~~ THE AMOUNT PRESCRIBED IN SUBSECTION H to the retirement plan. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution. Payment of the member's salary less the deducted contributions constitutes full and

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complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment.

~~C. Each participating employer shall cause the member contributions to be deducted from the salary of each member. The deducted member contributions shall be paid to the retirement plan within five working days and shall be credited to the member's individual account.~~

C. EACH EMPLOYER SHALL TRANSFER TO THE BOARD THE EMPLOYER AND EMPLOYEE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THAT DATE SHALL INCLUDE A PENALTY OF TEN PER CENT PER ANNUM, COMPOUNDED ANNUALLY, FOR EACH DAY THE CONTRIBUTIONS ARE LATE. THE EMPLOYER SHALL PAY THIS PENALTY. DELINQUENT PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST AN EMPLOYER LIABLE FOR THE PAYMENTS OR, AT THE REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY DEPARTMENT OR AGENCY OF THIS STATE. Ch. 347

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the salary the employee would have received in the employee's job classification if the employee was in normal employment status.

E. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a position within that department as a designated position if the position is filled by an employee who has at least five years of credited service under the plan, who is transferred to temporarily fill the position and who makes a written request to the local board to specify the position as a designated position within ninety days of being transferred. On the employee leaving the position, the position is no longer a designated position. ~~For the purposes of this subsection, "temporarily filled" means an employee is transferred to fill the position for a period of not more than one year.~~ Ch. 298

F. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a designated position within the department as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a designated position.

G. The local board of the judiciary may specify positions within the administrative office of the courts that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers as a designated position if the position is filled by an employee who is a member of the plan currently employed in a designated position as a probation, surveillance or juvenile detention officer and who has at least five years of credited service under the plan. An employee who fills such a position shall make a written request to the local board to specify the position as a designated position within

ninety days of accepting the position. On the employee leaving the position, the position reverts to a nondesignated position.

~~H. Beginning with fiscal year 2008-2009, if the aggregate computed employer contribution rate that is calculated pursuant to subsection A is less than six per cent of salary, beginning on July 1 of the following fiscal year the member contribution rate prescribed in subsection B or I is permanently reduced by an amount that is equal to the difference between six per cent and the aggregate computed employer contribution rate. Notwithstanding this subsection, the member contribution rate shall not be less than 7.65 per cent of the member's salary.~~

~~I. Notwithstanding subsection B, except for a full-time dispatcher, a member shall contribute 8.41 per cent of the member's salary to the retirement plan. After the close of any fiscal year, if the plan's actuary determines that the aggregate ratio of the funding value of accrued assets to the accrued liabilities of the fund is at least one hundred per cent, from and after June 30 of the following year, except for a full-time dispatcher, a member shall contribute 7.96 per cent of the member's salary to the retirement plan. Additionally, the member's contribution to the retirement plan may also be permanently reduced pursuant to subsection H.~~

H. THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION B IS:

1. THROUGH JUNE 30, 2011, 8.41 PER CENT OF THE MEMBER'S SALARY, EXCEPT FOR A FULL-TIME DISPATCHER. THE AMOUNT CONTRIBUTED BY A FULL-TIME DISPATCHER THROUGH JUNE 30, 2011 IS 7.96 PER CENT OF THE MEMBER'S SALARY.

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2. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, 8.41 PER CENT OF THE MEMBER'S SALARY OR FIFTY PER CENT OF THE SUM OF THE MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE COMPUTED EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION A, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE LESS THAN 7.65 PER CENT OF THE MEMBER'S SALARY AND THE EMPLOYER CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION A.

I. NOTWITHSTANDING SUBSECTION H, PARAGRAPH 2, THE CONTRIBUTION RATE FOR A FULL-TIME DISPATCHER IS FORTY-FIVE BASIS POINTS LESS THAN THE MEMBER CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBSECTION H, PARAGRAPH 2, EXCEPT THAT AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE AGGREGATE RATIO OF THE FUNDING VALUE OF THE ACCRUED ASSETS TO THE ACCRUED LIABILITIES OF THE FUND IS AT LEAST ONE HUNDRED PER CENT, FROM AND AFTER JUNE 30 OF THE FOLLOWING YEAR THE MEMBER CONTRIBUTION RATE FOR A FULL-TIME DISPATCHER IS EQUAL TO THE MEMBER CONTRIBUTION RATE FOR A MEMBER WHO IS NOT A FULL-TIME DISPATCHER.

J. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS 8.41 PER CENT OF THE MEMBER'S SALARY FOR A MEMBER OTHER THAN A FULL-TIME DISPATCHER OR 7.96 PER CENT OF THE MEMBER'S SALARY FOR A FULL-TIME DISPATCHER SHALL NOT BE USED TO REDUCE THE EMPLOYER'S CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO SUBSECTION A.

EXPLANATION OF BLEND
SECTION 38-912

Laws 2011, Chapters 99 and 357

Laws 2011, Ch. 99, section 14 — Effective July 20

Laws 2011, Ch. 357, section 52 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 99 and Ch. 357 text changes to section 38-912 are blended in the form shown on the following page.

BLEND OF SECTION 38-912
Laws 2011, Chapters 99 and 357

38-912. Civil liability; restitution or payment of fine; forfeiture of benefits; violation; classification; offset of benefits

A. A person who defrauds the plan or who takes, converts, steals or embezzles monies owned by or from the plan and who fails or refuses to return the monies to the plan on the board's written request is subject to civil suit by the plan in the superior court in Maricopa county. On entry of an order finding the person has defrauded the plan or taken, converted, stolen or embezzled monies owned by or from the plan, the court shall enter an order against that person and for the plan awarding the plan all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the plan a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the plan, plus interest at the rate prescribed by section

Ch. 99 — 44-1201~~, subsection A~~, until all amounts owed are paid to the plan.

B. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member is subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the plan.

C. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the plan with an intent to defraud

Ch. 357 — the plan is guilty of a class ~~6~~ 5 felony. If any change or error in the records results in any member or beneficiary receiving from the plan more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct the error, and as far as practicable shall adjust the payments in a manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime pursuant to this subsection, SECTION 13-713 APPLIES. ~~the member is entitled to receive a lump sum payment of the member's accumulated contributions but forfeits any future compensation and benefits that would otherwise accrue to the member or the member's estate under this article.~~

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D. Notwithstanding any other provision of this article, the board may offset against any benefits otherwise payable by the plan to a member or survivor any court ordered amounts awarded to the board and plan and assessed against the member or survivor.

EXPLANATION OF BLEND
SECTION 38-1101

Laws 2011, Chapters 198 and 230

Laws 2011, Ch. 198, section 1 — Effective July 20

Laws 2011, Ch. 230, section 4 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 198 and Ch. 230 text changes to section 38-1101 are blended in the form shown on the following pages.

BLEND OF SECTION 38-1101
Laws 2011, Chapters 198 and 230

38-1101. Law enforcement officers; probation officers; right to representation; right to evidence on appeal; change of hearing officer or administrative law judge; burden of proof; polygraph examinations; definitions

A. If an employer interviews a law enforcement officer or probation officer and the employer reasonably believes that the interview could result in dismissal, demotion or suspension or if the law enforcement officer or probation officer reasonably believes the investigation could result in a dismissal, demotion or suspension:

1. The law enforcement officer or probation officer may request to have a representative of the officer present at no cost to the employer during the interview. The law enforcement officer or probation officer shall select a representative who is available on reasonable notice so that the interview is not unreasonably delayed. The representative shall participate in the interview only as an observer. Unless agreed to by the employer, the representative shall be from the same agency and shall not be an attorney except that if a representative from the same agency is not reasonably available, with the employer's permission, the law enforcement officer's or probation officer's representative may be from the law enforcement officer's or probation officer's professional membership organization. The law enforcement officer or probation officer shall be permitted reasonable breaks of limited duration during any interview for telephonic or in person consultation with others, including an attorney, who are immediately available. An employer shall not discipline, retaliate against or threaten to retaliate against a law enforcement officer or probation officer for requesting that a representative be present or for acting as the representative of a law enforcement officer or probation officer pursuant to this paragraph.

2. Before the commencement of any interview described in this section, the employer shall provide the law enforcement officer or probation officer with a written notice informing the officer of the alleged facts that are the basis of the investigation, the specific nature of the investigation, the officer's status in the investigation, all known allegations of misconduct that are the reason for the interview and the officer's right to have a representative present at the interview. The notice shall include copies of all complaints that contain the alleged facts that are reasonably available, except for copies of complaints that involve matters pursuant to federal laws under the jurisdiction of the equal employment opportunity commission.

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3. AFTER AN EMPLOYER COMPLETES AN INVESTIGATION OF A LAW ENFORCEMENT OFFICER OR PROBATION OFFICER IF THE EMPLOYER SEEKS DISCIPLINARY ACTION AT THE REQUEST OF THE LAW ENFORCEMENT OFFICER OR PROBATION OFFICER, THE EMPLOYER SHALL PROVIDE A BASIC SUMMARY OF ANY DISCIPLINE ORDERED AGAINST ANY OTHER LAW ENFORCEMENT OFFICER OR PROBATION OFFICER OF GENERALLY SIMILAR RANK AND EXPERIENCE EMPLOYED BY THE EMPLOYER WITHIN THE PREVIOUS TWO YEARS FOR THE

SAME OR A SIMILAR VIOLATION. AS AN ALTERNATIVE, THE EMPLOYER MAY PROVIDE FILE COPIES OF THE RELEVANT DISCIPLINARY CASES. THE EMPLOYER SHALL NOT TAKE FINAL ACTION AND THE EMPLOYER SHALL NOT SCHEDULE THE HEARING UNTIL THE BASIC SUMMARY OR FILE COPIES ARE PROVIDED TO THE LAW ENFORCEMENT OFFICER OR PROBATION OFFICER. THIS PARAGRAPH DOES NOT APPLY IF COURT RULE PROHIBITS THE RELEASE OF FILE COPIES OF DISCIPLINARY CASES.

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~~3.~~ 4. The employer may require the law enforcement officer or probation officer to submit to a polygraph examination if the officer makes a statement to the employer during the investigation that differs from other information relating to the investigation that is known to the employer and reconciling that difference is necessary to complete the investigation. If a polygraph examination is administered pursuant to this paragraph, the employer or the person administering the polygraph examination shall make an audio recording of the complete polygraph procedure and provide a copy of the recording to the law enforcement officer or probation officer.

~~4.~~ 5. The law enforcement officer or probation officer, at the conclusion of the interview, is entitled to a period of time to consult with the officer's representative and may make a statement not to exceed five minutes addressing specific facts or policies that are related to the interview.

B. THE RESULTS OF A POLYGRAPH EXAMINATION IN AN INVESTIGATION SHALL NOT BE THE BASIS FOR DISCIPLINARY ACTION UNLESS OTHER EVIDENCE OR INFORMATION EXISTS.

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~~B.~~ C. Subsection A OF THIS SECTION does not require the employer to either:

1. Stop an interview to issue another notice for allegations based on information provided by the law enforcement officer or probation officer during the interview.

2. Disclose any fact to the law enforcement officer or probation officer or the law enforcement officer's or probation officer's representative that would impede the investigation.

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~~C.~~ D. Subsection A, paragraphs 1 and 2 OF THIS SECTION do not apply to an interview of a law enforcement officer or probation officer that is:

1. In the normal course of duty, counseling or instruction or an informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other law enforcement officer or probation officer.

2. Preliminary questioning to determine the scope of the allegations or if an investigation is necessary.

3. Conducted in the course of a criminal investigation.

4. Conducted in the course of a polygraph examination.

~~D.~~ E. In any appeal of a disciplinary action by a law enforcement officer or probation officer, the parties shall exchange copies of all relevant documents and a list of all witnesses pursuant to the following time periods and requirements:

1. Within three business days after the employer's receipt of a written request from the law enforcement officer or probation officer for a copy of the investigative file that is accompanied by a copy of the filed notice of appeal, the employer shall provide a complete copy of the investigative file as well as the names and home or work mailing addresses of all persons interviewed during the course of the investigation.

2. No later than five business days before the appeal hearing, or, if the appeal hearing is scheduled more than twenty days after the notice of appeal, no later than ten business days before the appeal hearing, the employer and the law enforcement officer or probation officer shall exchange copies of any documents that may be introduced at the hearing and that have not previously been disclosed.

3. No later than five business days before the appeal hearing, or, if the appeal hearing is scheduled more than twenty days after the notice of appeal, no later than ten business days before the appeal hearing, the employer and the law enforcement officer or probation officer shall exchange the names of all witnesses who may be called to testify. A witness may be interviewed at the discretion of the witness. The parties shall not interfere with any decision of a witness regarding whether to be interviewed. An employer shall not discipline, retaliate against or threaten to retaliate against any witness for agreeing to be interviewed or for testifying or providing evidence in the appeal.

~~E.~~ F. It is unlawful for a person to disseminate information that is disclosed pursuant to subsection [~~D~~ E] OF THIS SECTION to any person other than the parties to the appeal and their lawful representatives for purposes of the appeal of the disciplinary action. This subsection does not prohibit the use of the information in the hearing or disclosure pursuant to title 39, chapter 1, article 2.

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~~F.~~ G. The employer or the law enforcement officer or probation officer may seek a determination by the hearing officer, administrative law judge or appeals board hearing the appeal regarding any evidence that the employer or the law enforcement officer or probation officer believes should not be disclosed pursuant to subsection [~~D~~ E] OF THIS SECTION because the risk of harm involved in disclosure outweighs any usefulness of the disclosure in the hearing. In determining whether evidence will be disclosed, the hearing officer, administrative law judge or appeals board may perform an in camera review of the evidence and may disclose the material subject to any restriction on the disclosure, including the closing of the hearing or the sealing of the records, that the hearing officer, administrative law judge or appeals board finds necessary under the circumstances.

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~~G.~~ H. In any appeal of a disciplinary action by a law enforcement officer or probation officer in which a single hearing officer or administrative law judge has been appointed to conduct the appeal hearing, the law enforcement officer or probation officer or the employer may request a change of hearing officer or administrative law judge. In cases before the office of administrative hearings or if the employer is a county, CITY OR TOWN ~~with a population of two hundred fifty thousand or more persons or a city with a population of sixty-five thousand or more persons, on the first request of a party, the request shall be granted. All other requests, including any subsequent requests in cases before the office of administrative hearings or if the employer is a county with a population of two hundred fifty thousand or more persons or a city with a population of sixty-five thousand or more persons,~~ ON THE FIRST REQUEST OF A PARTY, THE REQUEST SHALL BE GRANTED. A CITY OR TOWN WITH A POPULATION OF LESS THAN SIXTY-FIVE THOUSAND PERSONS OR A COUNTY WITH A POPULATION OF LESS THAN TWO

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HUNDRED FIFTY THOUSAND PERSONS MUST PROVIDE FOR AN ALTERNATE HEARING OFFICER BY MEANS OF AN INTERAGENCY AGREEMENT WITH ANOTHER CITY, TOWN OR COUNTY. IF THE LAW ENFORCEMENT OFFICER OR PROBATION OFFICER IS THE PARTY THAT REQUESTED THE ALTERNATE HEARING OFFICER, THE LAW ENFORCEMENT OFFICER OR PROBATION OFFICER SHALL REIMBURSE THE CITY, TOWN OR COUNTY FOR ONE-HALF OF ANY ADDITIONAL EXPENSES INCURRED BY THE CITY, TOWN OR COUNTY IN PROCURING THE ALTERNATE HEARING OFFICER UNDER THE INTERAGENCY AGREEMENT. IF AN ALTERNATE HEARING OFFICER IS REQUESTED BY MEANS OF AN INTERAGENCY AGREEMENT, THE HEARING OFFICER SHALL PROVIDE TO THE LAW ENFORCEMENT OFFICER OR PROBATION OFFICER OR EMPLOYER THE OPTION OF CONTINUING THE HEARING FOR AN ADDITIONAL TEN DAYS. ANY SUBSEQUENT REQUESTS may be granted only on a showing that a fair and impartial hearing cannot be obtained due to the prejudice of the assigned hearing officer or administrative law judge. The supervisor or supervising body of the hearing officer or administrative law judge shall decide whether a showing of prejudice has been made.

~~H.~~ I. A party who violates subsection A, paragraph 1 OF THIS SECTION, or subsection [~~D.~~ E or ~~E.~~ F] OF THIS SECTION, unless the violation is harmless, shall not be permitted to use that evidence at the hearing, except on a showing of good cause. The hearing officer or administrative law judge, on a showing of good cause, may grant the opposing party a continuance, otherwise limit the use of the evidence or make such other order as may be appropriate.

~~I.~~ J. The burden of proof in an appeal of a disciplinary action by a law enforcement officer or probation officer shall be on the employer.

~~J.~~ K. Except where a statute or ordinance makes the administrative evidentiary hearing the final administrative determination, an employer or a person acting on behalf of an employer may amend, modify, reject or reverse a decision made by a hearing officer, administrative law judge or appeals board after a hearing where the law enforcement officer or probation officer and the employer have been equally allowed to call and examine witnesses, cross-examine witnesses, provide documentary evidence and otherwise fully participate in the hearing if the decision was arbitrary or without reasonable justification and the employer or person acting on behalf of the employer states the reason for the amendment, modification, rejection or reversal.

~~K.~~ L. An employer shall not include in that portion of the personnel file of a law enforcement officer or probation officer that is available for public inspection and copying any information about an investigation until the investigation is complete or the employer has discontinued the investigation. If the law enforcement officer or probation officer has timely appealed a disciplinary action, the investigation is not complete until the conclusion of the appeal process.

~~L.~~ M. This section does not preempt agreements that supplant, revise or otherwise alter the provisions of this section, including preexisting agreements between the employer and the law enforcement officer or probation officer or the law enforcement officer's or probation officer's lawful representative association.

~~M.~~ N. Notwithstanding section 39-123, all data and reports from a polygraph examination of a law enforcement officer or probation officer are confidential and may only be used for employment, certification or

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reactivation of certification purposes or the administrative matter for which a polygraph was administered, including other ancillary matters. All other uses are prohibited.

~~N.~~ O. Except for a preemployment polygraph in which an applicant was not hired or in the case of an active investigation or an appeal, the data and reports from a polygraph examination of a law enforcement officer or probation officer shall be destroyed as soon as practicable three years after the date of appointment or employment but not more than ninety days after that date.

~~O.~~ P. For the purposes of this section:

1. "Appeal" means a hearing before a state or local merit board, a civil service board, an administrative law judge or a hearing officer.

2. "Disciplinary action" means the dismissal, demotion or suspension for more than ~~sixteen~~ EIGHT hours of a law enforcement officer or probation officer that is authorized by statute, charter or ordinance and that is subject to a hearing or other procedure by a local merit board, a civil service board, an administrative law judge or a hearing officer.

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3. "Investigative file" means the law enforcement agency's complete report and any attachments detailing the incidents leading to the disciplinary action.

4. "Law enforcement officer" means:

(a) An individual, other than a probationary employee, who is certified by the Arizona peace officer standards and training board, other than a person employed by a multi-county water conservation district.

(b) A detention officer or correction officer, other than a probationary employee, who is employed by this state or a political subdivision of this state.

5. "Probation officer" means a probation officer or surveillance officer, other than a probationary employee, who is employed by this state or a political subdivision of this state.

EXPLANATION OF BLEND
SECTION 38-1104

Laws 2011, Chapters 208 and 244

Laws 2011, Ch. 208, section 1	Effective July 20
Laws 2011, Ch. 244, section 1	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 208 and Ch. 244 text changes to section 38-1104 are blended in the form shown on the following pages.

BLEND OF SECTION 38-1104
Laws 2011, Chapters 208 and 244

38-1104. Discipline of law enforcement officers; exceptions; definitions

A. A law enforcement officer shall not be subject to disciplinary action except for just cause.

B. Subsection A of this section does not apply to any law enforcement officer who has not completed an initial probationary period if a probationary period is required by the employer or to a dismissal that is for administrative purposes, including a reduction in force.

C. This section does not preempt agreements that supplant, revise or otherwise alter the provisions of this section, including preexisting agreements, between the employer and the law enforcement officer's lawful representative association.

D. IF A LAW ENFORCEMENT OFFICER IS TERMINATED AS THE RESULT OF A CHIEF OF THE LAW ENFORCEMENT AGENCY OR THE CHIEF EXECUTIVE OFFICER OF A CITY OR TOWN REVERSING THE DECISION OR RECOMMENDATION OF A CIVIL SERVICE BOARD OR MERIT COMMISSION, THE LAW ENFORCEMENT OFFICER WHO BELIEVES THE TERMINATION WAS WITHOUT JUST CAUSE MAY BRING AN ACTION IN SUPERIOR COURT FOR A NEW HEARING ON THE TERMINATION.

E. IF A LAW ENFORCEMENT OFFICER IS TERMINATED BY THE CHIEF OF THE LAW ENFORCEMENT AGENCY OR CHIEF EXECUTIVE OFFICER OF A CITY OR TOWN WHERE THERE IS NOT A CIVIL SERVICE BOARD OR MERIT COMMISSION TO REVIEW THE TERMINATION, THE LAW ENFORCEMENT OFFICER MAY BRING AN ACTION IN SUPERIOR COURT TO REVIEW THE AGENCY'S FILE. IF THE COURT FINDS FROM A REVIEW OF THE FILE THAT JUST CAUSE FOR THE TERMINATION DID NOT EXIST, THE OFFICER IS ENTITLED TO A HEARING ON THE TERMINATION. Ch. 244

F. IF THE SUPERIOR COURT FINDS THAT JUST CAUSE FOR THE TERMINATION DID NOT EXIST, THE COURT SHALL ORDER THE OFFICER REINSTATED TO THE OFFICER'S PREVIOUS POSITION WITH THE LAW ENFORCEMENT AGENCY AND MAY AWARD TO THE LAW ENFORCEMENT OFFICER MONETARY DAMAGES THAT SHALL NOT EXCEED THE OFFICER'S COMBINED TOTAL OF WAGES AND BENEFITS LOST AS A RESULT OF THE TERMINATION.

G. IN AN ACTION PURSUANT TO SUBSECTION D OR E OF THIS SECTION THE COURT MAY AWARD THE SUCCESSFUL PARTY REASONABLE ATTORNEY FEES AS SET FORTH IN SECTION 12-341.01, SUBSECTION B AND SHALL AWARD THE SUCCESSFUL PARTY ALL COSTS PURSUANT TO SECTION 12-341.

H. THIS SECTION DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER WHO IS EMPLOYED AS AN AT WILL EMPLOYEE AS A POLICE CHIEF OR AN ASSISTANT POLICE CHIEF IN A LAW ENFORCEMENT AGENCY. Ch. 208

~~D.~~ I. For the purposes of this section:

1. "AT WILL EMPLOYEE" MEANS A PERSON WHO IS EMPLOYED AS AN EMPLOYEE WHO MAY BE TERMINATED AT THE WILL OF EITHER THE EMPLOYEE OR EMPLOYER, AT ANY TIME, WITH OR WITHOUT CAUSE.

~~1.~~ 2. "Disciplinary action" has the same meaning prescribed in section 38-1101.

~~2.~~ 3. "Just cause" means:

(a) The employer informed the officer of the possible disciplinary action resulting from the officer's conduct through agency manuals, employee handbooks, the employer's rules and regulations or other communications to the officer or the conduct was such that the officer should have reasonably known disciplinary action could occur.

(b) The disciplinary action is reasonably related to the standards of conduct for a professional law enforcement officer, the mission of the agency, the orderly, efficient or safe operation of the agency or the officer's fitness for duty.

(c) The discipline is supported by a preponderance of evidence that the conduct occurred.

(d) The discipline is not excessive and is reasonably related to the seriousness of the offense and the officer's service record.

~~3.~~ 4. "Law enforcement officer" means:

(a) An individual who is certified by the Arizona peace officer standards and training board, other than a person employed by a multi-county water conservation district, a reserve police officer, a volunteer or a person who is otherwise exempted by an existing merit system.

(b) A correction officer or detention officer, excluding a juvenile detention officer, who is employed by this state or a political subdivision of this state.

(c) A regularly appointed and paid deputy sheriff of a county.

(d) A regularly employed police officer in a city or town.

EXPLANATION OF BLEND
SECTION 41-110 (renumbered from 41-1509)

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 83

Laws 2011, Second Special Session, Ch. 1, section 20 — Effective July 1

Laws 2011, First Regular Session, Ch. 83, section 39 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 83 text changes to section 41-110, as renumbered, are blended in the form shown on the following page.

BLEND OF SECTION 41-110
Laws 2011, Second Special Session, Chapter 1 and Laws 2011, First Regular Session, Chapter 83

41-110. Oil overcharge fund; source of monies; uses; approval; energy project loans; conditions

A. An oil overcharge fund is established. Monies received by the state as a result of oil overcharge settlements shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. At least fifteen per cent of all monies received shall be allocated in accordance with subsections B and C of this section for loans, grants and other purposes which benefit the low income population.

Ch. 1 B. The ~~director~~ GOVERNOR'S ENERGY OFFICE may grant loans from the principal balance of the oil overcharge fund to assist political subdivisions and nonprofit organizations of this state in funding energy projects. Loans may be granted in accordance with the following provisions in a manner and on terms and conditions prescribed by the ~~director~~ ENERGY OFFICE:

1. Loans shall be made only for projects which meet legal requirements imposed on the uses of oil overcharge monies.

2. The ~~director~~ GOVERNOR'S ENERGY OFFICE shall assess an administrative fee on each loan to cover the annual cost to this state of administering the loan program. Fees collected shall be deposited in the oil overcharge fund. Subject to legislative appropriation and in accordance with legal requirements, monies in the fund may be expended for the reasonable and necessary costs of administering the fund.

Ch. 1 3. Each loan shall be evidenced by a contract between the political subdivision or nonprofit organization and the ~~director~~ GOVERNOR'S ENERGY OFFICE, acting on behalf of this state. The contract shall provide a payment schedule including principal, interest and administrative fees for the term of the loan.

4. Each contract shall provide that the attorney general may commence actions that are necessary to enforce contracts and achieve repayments of loans made pursuant to this section.

Ch. 83 C. Monies in the oil overcharge fund may be expended for grants and other purposes ~~which~~ THAT meet the applicable legal requirements imposed on their use ~~upon approval of the joint legislative budget committee~~.

Ch. 1 D. The ~~director~~ GOVERNOR'S ENERGY OFFICE shall report annually to the legislature on the status of the oil overcharge fund. The report shall include a financial summary of the oil overcharge fund for the preceding fiscal year with a description of the outstanding loans issued. It shall also include a summary of programs and projects for which grants were awarded and monies were expended. It shall include specific information regarding the program's starting and completion dates, the process by which the program was authorized and whether the program was authorized by the legislature or the executive branch, the current status of the program and the amount expended to date and whether the program is funded as a grant or a loan. The report shall be submitted to the president of the senate and the speaker of the house of representatives no later than December 31 of each year.

E. Investment earnings on the unexpended balance of the oil overcharge fund shall be credited to the oil overcharge fund.

F. The oil overcharge fund is exempt from the requirements of section 35-190, relating to lapsing of appropriations.

EXPLANATION OF BLEND
SECTION 41-191.09

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 33

Laws 2011, Second Special Session, Ch. 1, section 23 — Effective July 1

Laws 2011, First Regular Session, Ch. 33, section 12 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 33 text changes to section 41-191.09 are blended in the form shown on the following pages.

BLEND OF SECTION 41-191.09
Laws 2011, Second Special Session, Chapter 1 and
Laws 2011, First Regular Session, Chapter 33

41-191.09. Attorney general legal services cost allocation fund; contributions; exemptions

A. The attorney general legal services cost allocation fund is established for the purpose of reimbursing the department of law for general agency counsel. Monies in the fund are subject to legislative appropriation. The attorney general shall administer the fund.

Chs. 1 and 33 B. ~~Beginning July 1, 2006,~~ All state agency appropriated and nonappropriated funds shall contribute a pro rata share of general agency counsel services provided by the department of law. The pro rata share is payable by payroll fund source, and the resultant amount shall be deposited

Chs. 1 and 33 in the attorney general legal services cost allocation fund. ~~Beginning July 1, 2007,~~ The pro rata share for each fund shall be 0.675 per cent of the total payroll. For the purposes of this subsection, "total payroll" includes federal monies, state general fund monies, special revenue funds, intergovernmental revenue monies, trust funds and other payroll fund sources.

C. A claim for the pro rata share percentage payment shall be submitted according to the fund source, with the accompanying payroll, to the department of administration for deposit in the attorney general legal services cost allocation fund.

D. The following agencies are exempt from this section:

1. The department of water resources.
2. The residential utility consumer office.
3. The industrial commission.
4. The universities and the Arizona board of regents.
5. The auditor general.
6. The corporation commission.
7. The office of the governor.
8. The department of law.
9. The house of representatives.
10. The senate.
11. The joint legislative budget committee.
12. The Arizona state library, archives and public records.
13. The legislative council.
14. The department of administration risk management fund.
15. The department of transportation.
16. The Arizona game and fish department.
17. The department of economic security.
18. The Arizona health care cost containment system.
19. The superior court.
20. The court of appeals.
21. The supreme court.

22. The Arizona department of agriculture and councils that receive administrative and budgetary services from the Arizona department of agriculture.

23. All self-supporting regulatory agencies as determined pursuant to section 35-143.01.

Ch. 1 — 24. THE ARIZONA COMMERCE AUTHORITY.

Ch. 33 — 25. THE STATE CAPITAL POSTCONVICTION PUBLIC DEFENDER OFFICE.

E. Monies in the attorney general legal services cost allocation fund are exempt from lapsing to the state general fund at the end of each fiscal year.

EXPLANATION OF BLEND
SECTION 41-545

Laws 2011, Chapters 83 and 110

Laws 2011, Ch. 83, section 32 — Effective July 20

Laws 2011, Ch. 110, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 83 and Ch. 110 text changes to section 41-545 are blended in the form shown on the following page.

The Laws 2011, Ch. 110 version made a technical change in the first sentence of subsection B. The Ch. 83 version deleted the first sentence in subsection B. Since this would not produce a substantive change, the blend version reflects the Ch. 83 version.

Since the blend of Laws 2011, Ch. 83 and Ch. 110 results in the content of subsection B being deleted, the blend version reflects the deletion of the subsection designations.

BLEND OF SECTION 41-545
Laws 2011, Chapters 83 and 110

41-545. Indian town hall fund

An Arizona Indian town hall fund is established that consists of monies collected or received at Indian town halls as fees that are intended to defray administrative costs related to these town halls pursuant to section 41-541. The commission shall deposit, pursuant to sections 35-146 and 35-147, all fees collected from this activity in this fund.

Ch. 83 ~~The commission shall annually report to the joint legislative budget committee for its use of the monies in the fund.~~

Ch. 110 ~~Up to fifteen thousand dollars of monies in the fund may be expended by the commission each fiscal year.~~

EXPLANATION OF BLEND
SECTION 41-608.04

Laws 2011, Chapters 126 and 307

Laws 2011, Ch. 126, section 1 — Effective April 15

Laws 2011, Ch. 307, section 3 — Effective April 28

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 126 and Ch. 307 text changes to section 41-608.04 are blended in the form shown on the following pages.

BLEND OF SECTION 41-608.04
Laws 2011, Chapters 126 and 307

41-608.04. Military family relief fund; advisory committee

A. The military family relief fund is established through December 31, Chs. 126 and 307 ~~2013~~ 2018. The fund consists of private donations, grants, bequests and any other monies received for that purpose. The department shall administer the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund. The monies in the fund are continuously appropriated to the department solely for the purposes described in this section. Any monies remaining unexpended and unencumbered on Chs. 126 and 307 December 31, ~~2013~~ 2018 shall be transferred for deposit in the veterans' donations fund established by section 41-608.

B. The military family relief advisory committee is established to determine appropriate uses of the monies in the military family relief fund as provided by this section. The advisory committee consists of the director or the director's designee and twelve additional members, including widows and widowers of military personnel who died in the line of duty, military retirees, veterans who have a service-connected disability and their family members, Arizona army and air national guard unit commanders and active and retired senior enlisted military personnel. Except for the director, the governor shall appoint the members based on recommendations by the director, the adjutant general and commanders of military bases in this state. Appointed members serve at the pleasure of the governor. The advisory committee shall elect a chairperson from among the appointed members.

C. The advisory committee shall:

1. Establish criteria for the use of monies in the fund.

2. Establish and revise as necessary the application process for financial assistance.

3. Review and evaluate applications.

4. Make other recommendations as necessary.

D. The advisory committee may establish a subcommittee, consisting of not more than five members of the full committee, to recommend approval of a grant to an applicant of not more than three thousand dollars.

E. Notwithstanding section 38-431.03, the subcommittee may meet in executive session without advance notice. The full advisory committee may meet in executive session, with notice pursuant to section 38-431.02, to review and evaluate applications or review recommendations of the subcommittee. Applications for financial assistance and all committee considerations and evaluations of the applications are confidential.

F. The monies in the fund shall be used to provide financial assistance pursuant to this subsection. The service member of an applying family must have been deceased, wounded or injured or become seriously ill after September 11, 2001, been deployed from a military base in this state or entered active United States military service from this state after September

11, 2001, claimed this state as the service member's home of record or been a member of the Arizona national guard at the time of deployment. If discharged from military service, the service member must have been discharged under honorable conditions. The assistance shall be based on financial need up to ten thousand dollars per family. Eligible assistance is as follows:

1. Widows, widowers or dependent children of service members who died in the line of duty in a combat zone or a zone where the person was receiving hazardous duty pay may apply for a stipend for living expenses for up to six months. For the purposes of the stipend, qualifying living expenses are residential mortgage, rent and utility payments and other basic living expenses. Payments with respect to any deceased person under this paragraph are limited to a total of ten thousand dollars.

2. An immediate family member may apply for payment of costs of temporary residence near the medical facility where the service member or former service member is being treated, including living, travel and housing expenses. Payments may be payable in monthly installments as long as the person is hospitalized or receiving medical care or rehabilitation services as authorized by military or veterans' medical personnel.

3. An immediate family member, service member or former service member may apply for:

(a) Living expenses.

(b) Other appropriate expenses as determined by the military family relief advisory committee.

G. The director may allocate up to five per cent of the donations received for administering the fund and the financial assistance program under this section including the hiring of an employee to process applications and provide support to the committee. The department shall provide reasonable office space and other necessary resources for the employee.

H. The director shall receive private donations for deposit in the fund and issue receipts to the donors. Private donations may qualify for the purposes of income tax credits under section 43-1086. The director may receive donations in any amount, but donations that qualify for tax credits are subject to the limits prescribed by section 43-1086. Donations to the fund that otherwise qualify under the tax credit limits prescribed by section 43-1086 but that exceed a combined total of one million dollars in any calendar year, on a first come first served basis, do not qualify for the income tax credits. The director shall provide the taxpayer a donation receipt, which shall include the taxpayer's full name and address, the last four digits of the taxpayer's social security number and the amount of the donation. The director shall designate on the donation receipt whether the donation qualifies under the limits prescribed by this subsection and section 43-1086. The director shall send a record of receipts that qualify under this subsection to the department of revenue.

I. On or before March 31 of each year, the director shall provide for an audit by an independent certified public accountant of the fund and of the aggregate amount authorized by the director for income tax credits under subsection H of this section. The director shall promptly submit a certified copy of the audit to the auditor general. The auditor general may make

further audits and examinations as necessary and may take appropriate action relating to the audit or examination pursuant to chapter 7, article 10.1 of this title. If the auditor general does not take further action within thirty days after the audit is filed, the audit is considered to be sufficient. The director shall pay the costs of the certified public accountant and the auditor general from the administration allocation under subsection G of this section.

EXPLANATION OF BLEND
SECTION 41-611

Laws 2011, Chapters 306 and 307

Laws 2011, Ch. 306, section 8	Effective July 20
Laws 2011, Ch. 307, section 5	Effective April 28

Explanation

Since these two enactments are identical, the Laws 2011, Ch. 306 and Ch. 307 text changes to section 41-611 are blended in the form shown on the following page.

BLEND OF SECTION 41-611
Laws 2011, Chapters 306 and 307

41-611. Veterans' deferment of tuition payment, required books and materials; period; promissory note

A. On registration at a state supported community college, college or university, any person who is eligible for and has applied for benefits for education ~~under the Montgomery GI bill (38 United States Code chapter 30 or 32; 10 United States Code chapter 1606)~~ AVAILABLE TO VETERANS OF THE UNITED STATES ARMED FORCES UNDER FEDERAL LAW may apply for a deferment of payment of tuition, fees and required books and materials for a period not to exceed one hundred twenty days. The community college, college or university shall defer payment for that period on receipt of a signed and acknowledged promissory note for the amount of the tuition, fees and required books and materials, with no interest charge, that is due and payable at the end of the deferral period. This deferment is available during any registration in which a veteran is awaiting ~~Montgomery GI bill benefits~~ EDUCATION BENEFITS AVAILABLE TO VETERANS OF THE UNITED STATES ARMED FORCES UNDER FEDERAL LAW.

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B. If at the end of the deferral period the person has not yet received from the veterans administration the initial benefit monies for tuition and fees, the person may be granted an extension until such time as the benefits are received.

C. In situations where deferred payments are granted, the community college, college or university shall not release the person's grades or transfer credits until such time as the debt is satisfied.

EXPLANATION OF BLEND
SECTION 41-619.51

Laws 2011, Chapters 113, 190 and 203

Laws 2011, Ch. 113, section 3	Effective April 14
Laws 2011, Ch. 190, section 31	Effective July 20
Laws 2011, Ch. 203, section 2	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 113, Ch. 190 and Ch. 203 text changes to section 41-619.51 are blended in the form shown on the following page.

BLEND OF SECTION 41-619.51
Laws 2011, Chapters 113, 190 and 203

41-619.51. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military
Ch. 190 — affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Board" means the board of fingerprinting.

3. "Expedited review" means an examination, in accordance with board rule, of the documents an applicant submits by the board or its hearing officer without the applicant being present.

4. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

5. "Person" means a person who is required to be fingerprinted pursuant to this article and any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-534.
Ch. 203 — (g) SECTION 15-782.02.
~~(g)~~ (h) Section 15-1330.
~~(h)~~ (i) Section 15-1881.
Ch. 113 — (j) SECTION 17-215.
~~(i)~~ (k) Section 26-103.
~~(j)~~ (l) Section 32-2108.01.
~~(k)~~ (m) Section 32-2123.
Ch. 190 — (n) SECTION 32-2371.
~~(l)~~ (o) Section 36-411.
~~(m)~~ (p) Section 36-425.03.
~~(n)~~ (q) Section 36-446.04.
~~(o)~~ (r) Section 36-594.01.
~~(p)~~ (s) Section 36-594.02.
~~(q)~~ (t) Section 36-882.
~~(r)~~ (u) Section 36-883.02.
~~(s)~~ (v) Section 36-897.01.
~~(t)~~ (w) Section 36-897.03.
~~(u)~~ (x) Section 36-3008.
~~(v)~~ (y) Section 41-619.53.
~~(w)~~ (z) Section 41-1964.
~~(x)~~ (aa) Section 41-1967.01.
~~(y)~~ (bb) Section 41-1968.
~~(z)~~ (cc) Section 41-1969.
~~(aa)~~ (dd) Section 41-2814.
~~(bb)~~ (ee) Section 46-141, subsection A.
~~(cc)~~ (ff) Section 46-321.

EXPLANATION OF BLEND
SECTION 41-790

Laws 2011, Chapters 27 and 34

Laws 2011, Ch. 27, section 28 — Effective July 20 (Retroactive to July 1)

Laws 2011, Ch. 34, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 34 text changes to section 41-790 are blended in the form shown on the following page.

BLEND OF SECTION 41-790
Laws 2011, Chapters 27 and 34

41-790. Definitions

In this article, unless the context otherwise requires:

1. "Building renewal" means major activities that involve the repair or reworking of a building and the supporting infrastructure that will result in maintaining a building's expected useful life. Building renewal does not include new building additions, new infrastructure additions, landscaping and area beautification, routine PREVENTIVE maintenance EXCEPT AS PROVIDED IN SECTION 41-793.01, SUBSECTION D or demolition and removal of a building.

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2. "Building system" means a group of buildings ~~which~~ THAT together constitute a single unit for purposes of planning, land acquisition, construction or building renewal.

3. "Capital projects" means buildings, structures, facilities and areas constructed for the use or benefit of this state.

4. "Infrastructure" means nonbuilding improvements that directly support operating a facility that is listed in the annual building system such as utility delivery systems, roadway systems, external lighting systems, irrigation systems, sidewalks and parking lots.

5. "Land acquisition" means the procurement of real property by gift, grant, purchase, lease purchase, condemnation or other lawful means.

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6. "SECURITY" MEANS SECURITY SERVICES RELATED TO BUILDING OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT.

~~6.~~ 7. "State capitol building" means:

(a) The original 1898 statehouse known as the state capitol museum.

(b) The 1919 state capitol wing and the 1938 state capitol justice addition known jointly as the legislative services wing.

(c) The house of representatives wing.

(d) The senate wing.

(e) The west wing known as the state capitol executive tower.

EXPLANATION OF BLEND
SECTION 41-791

Laws 2011, Chapters 27 and 157

Laws 2011, Ch. 27, section 29 — Effective July 20, 2011 (Retroactive to July 1, 2011)

Laws 2011, Ch. 157, section 17 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 157 text changes to section 41-791 are blended effective on January 1, 2013 in the form shown on the following page. However, both the blend version and the Ch. 27 version of section 41-791 will be published since the Ch. 27 version becomes effective before the Ch. 157 version. The publisher will automatically delete the Ch. 27 version on publication of the appropriate pocket part.

BLEND OF SECTION 41-791
Laws 2011, Chapters 27 and 157

41-791. Powers and duties relating to public buildings maintenance; compensation of personnel

A. The department is responsible for the direction and control of public buildings maintenance as prescribed in this article.

B. The department is responsible for the allocation of space, operation, alteration, renovation and security of the following buildings:

1. The state capitol executive tower of the state capitol building.

2. The state office buildings in Tucson.

3. All other buildings owned or leased by the state and located near the state capitol building and the state office buildings in Tucson, except for:

(a) Buildings occupied, operated and maintained by the following state agencies:

(i) The department of transportation.

(ii) The Arizona power authority.

Ch. 157 ~~(iii) The state compensation fund.~~

(b) The state capitol museum, the legislative services wing~~,~~ AND THE Ch. 27 house of representatives and senate wings of the state capitol building ~~and the public records retention center subject to section 41-1304~~.

(c) The department of economic security facilities purchased with federal funding assistance and exclusively and continuously operated and maintained for its own occupancy.

(d) The Arizona courts building.

C. The department is responsible for the maintenance of the following buildings and grounds:

1. The entire state capitol building and the grounds adjacent to it.

2. The state office buildings in Tucson and the grounds adjacent to them.

3. Other buildings and grounds owned or leased by the state if the function is not otherwise assigned, except for the interior of the Arizona courts building.

D. The director may establish rules for the operation, maintenance and Ch. 27 security of buildings and grounds under ~~his~~ THE DIRECTOR'S jurisdiction.

E. The department shall:

1. Employ engineers and maintenance and operations personnel as required, including a buildings manager for the state office buildings in Tucson.

2. Determine the hours of duty and assignment of personnel.

F. All personnel employed under this article are eligible to receive compensation as determined under section 38-611.

EXPLANATION OF BLEND
SECTION 41-792.01

Laws 2011, Chapters 27 and 83

Laws 2011, Ch. 27, section 30	Effective July 20 (Retroactive to July 1)
Laws 2011, Ch. 83, section 36	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 83 text changes to section 41-792.01 are blended in the form shown on the following pages.

BLEND OF SECTION 41-792.01
Laws 2011, Chapters 27 and 83

41-792.01. Capital outlay stabilization fund; authorization for collection of rental; basis of payment; distribution of monies collected; transfer of payment; lease-purchase building operating and maintenance fund; definition

A. The capital outlay stabilization fund is established which shall consist of monies paid into it in accordance with subsections D and F of this section and legislative appropriations to the account. All monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

B. The director shall make a recommendation for the allocation of a varying sum to the capital outlay stabilization fund each year. No part of the fund may be expended without specific appropriation from the legislature.

C. Each state department and each state agency when using space under the jurisdiction of the department as prescribed in section 41-791 or when using space in a building owned by or leased to the state shall pay rental and tenant improvement labor costs as prescribed in subsection D, E or F of this section.

D. The rental rates authorized for agencies occupying state owned buildings shall be determined by the joint committee on capital review after recommendation by the director before July 1 of each even-numbered year. The rental is payable whether the state department or state agency is funded in whole or in part by state monies. The department of administration shall transfer the entire amount of the rental fee assessed on a state agency from the agency account into the capital outlay stabilization fund promptly at the start of each fiscal year. During the remainder of the fiscal year, the department of administration shall calculate pro rata adjustments to the rental fee on a monthly basis to reflect any changes in the occupancy of state owned buildings. The department of administration shall transfer the amount of the rental fee adjustment assessed on a state agency from the agency account into the capital outlay stabilization fund. The rental fee authorized for state agencies occupying state owned buildings is the greater of the amount included in each agency's annual operating budget as reported by the staff of the joint legislative budget committee or the pro rata adjusted amount based on actual occupancy. The director of the department of

Ch. 83 — administration~~, upon recommendation of the joint committee on capital review,~~ may authorize an exemption for periods of one year or more at a time for a state agency from the full payment account transfer requirements of this subsection if the agency can demonstrate a practice of making full payment of rent on a different basis necessitated by its cash flow. If a state agency does not have the financial resources for state owned space, or does not occupy or vacates state owned space after the beginning of the fiscal year, the director of the department of administration, on recommendation of the joint committee on capital review, may authorize a whole or partial exemption from payment of the rental fee. ~~The department of administration shall~~

Ch. 83 — ~~report quarterly to the director of the joint legislative budget committee on the status of rental fee collections and adjustments.~~

E. The rental authorized for state agencies occupying state leased buildings shall be the greater of the amount included in each agency's annual

operating budget as reported by the staff of the joint legislative budget committee or the pro rata adjusted amount based on actual occupancy. The rental amount shall include the amount necessary to pay the lease or lease-purchase obligation and may include the amount necessary to pay operating costs associated with the lease-purchase buildings. The rental is payable whether the state department or state agency is funded in whole or in part by state monies. At the start of each fiscal year, the department of administration shall transfer the entire amount of the rental fee assessed on a state agency from the agency account into the department of administration's funds established for the purposes of this subsection. The department shall transfer from the applicable state agency budgets to the lease-purchase building operating and maintenance fund established in
Ch. 27 — subsection ~~H~~ I of this section amounts necessary to pay all operating costs associated with a lease-purchase building in the amounts reported by the staff of the joint legislative budget committee. During the remainder of the fiscal year, the department of administration shall calculate pro rata adjustments to the rental fee on a monthly basis to reflect any changes in the occupancy of state leased buildings. The director of the department of
Ch. 83 — administration~~, on recommendation of the joint committee on capital review,~~ may authorize an exemption for a state agency from the full payment account transfer requirements of this subsection for one year periods or longer periods if the agency can demonstrate a practice of making full payment of rent on a different basis necessitated by its cash flow. If a state agency does not have the financial resources for state leased space, or does not occupy or vacates state leased space after the beginning of the fiscal year, the director of the department of administration, on recommendation of the joint committee on capital review, may authorize a whole or partial exemption from payment of the rental fee.

F. The department shall charge state agencies for the full costs of labor services it provides to accomplish tenant improvement projects within a building owned by or leased to the state. Charges for this labor shall be deposited in the capital outlay stabilization fund.

G. State universities, community colleges and the department of transportation are exempt from the provisions of this section, except when these state agencies are using space under the jurisdiction of the department of administration.

H. THE DEPARTMENT SHALL NOT BEGIN TO CHARGE RENTAL OR TENANT IMPROVEMENT LABOR COSTS AS PRESCRIBED IN SUBSECTION D, E OR F OF THIS SECTION
Ch. 27 — UNTIL JULY 1, 2012 FOR ANY BUILDINGS OPERATED BY THE SECRETARY OF STATE PRIMARILY FOR THE PURPOSE OF STORING, MANAGING OR PRESERVING A LARGE AMOUNT OF PUBLIC RECORDS OR ARCHIVAL MATERIAL.

~~H.~~ I. The lease-purchase building operating and maintenance fund is established consisting of monies transferred into it in accordance with subsection E of this section. All monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. Monies in the fund are subject to legislative appropriation.

~~I.~~ J. For the purposes of this section, "state department" or "state agency" means any department or agency of the executive or judicial branch of state government.

EXPLANATION OF BLEND
SECTION 41-1005

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 77

Laws 2011, Second Special Session, Ch. 1, section 27	Effective July 1
Laws 2011, First Regular Session, Ch. 77, section 17	Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 77 text changes to section 41-1005 are blended in the form shown on the following pages.

BLEND OF SECTION 41-1005
Laws 2011, Second Special Session, Chapter 1 and
Laws 2011, First Regular Session, Chapter 77

41-1005. Exemptions

A. This chapter does not apply to any:

1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.

2. Order of the Arizona game and fish commission that opens, closes or alters seasons or establishes bag or possession limits for wildlife.

3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.

4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.

5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.

6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.

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7. Rule or substantive policy statement concerning inmates or committed ~~youth~~ YOUTHS of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.

8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.

9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.

10. Fees prescribed by section 6-125.

11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.

12. Fees established under section 3-1086.

13. Fee-for-service schedule adopted by the department of economic security pursuant to section 8-512.

14. Fees established under sections 41-2144 and 41-2189.

15. Rule or other matter relating to agency contracts.

16. Fees established under section 32-2067 or 32-2132.

17. Rules made pursuant to section 5-111, subsection A.

18. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.

19. Fees or charges established under section 41-511.05.

20. Emergency medical services protocols except as provided in section 36-2205, subsection C.

21. Fee schedules established pursuant to section 36-3409.

22. Procedures of the state transportation board as prescribed in section 28-7048.

23. Rules made by the state department of corrections.

24. Fees prescribed pursuant to section 32-1527.

25. Rules made by the department of economic security pursuant to section 46-805.

26. Schedule of fees prescribed by section 23-908.

27. Procedure that is established pursuant to title 23, chapter 6, article 5 or 6.

Ch. 1 — 28. RULES, ADMINISTRATIVE POLICIES, PROCEDURES AND GUIDELINES ADOPTED FOR ANY PURPOSE BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO CHAPTER 10 OF THIS TITLE IF THE AUTHORITY PROVIDES, AS APPROPRIATE UNDER THE CIRCUMSTANCES, FOR NOTICE OF AN OPPORTUNITY FOR COMMENT ON THE PROPOSED RULES, ADMINISTRATIVE POLICIES, PROCEDURES AND GUIDELINES.

Ch. 77 — 29. RULES MADE BY A MARKETING COMMISSION OR MARKETING COMMITTEE PURSUANT TO SECTION 3-414.

Chs. 1 and 77 — B. Notwithstanding subsection A, paragraph ~~23~~ 22 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.

C. Coincident with the making of a rule pursuant to an exemption under this section, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012.

D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.

E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.

F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

EXPLANATION OF BLEND
SECTION 41-1304.05

Laws 2011, Chapters 18 and 27

Laws 2011, Ch. 18, section 49	Effective July 20
Laws 2011, Ch. 27, section 35	Effective July 20 (Retroactive to July 1)

Explanation

Since the Ch. 27 version includes all of the changes made by the Ch. 18 version, the Laws 2011, Ch. 27 amendment of section 41-1304.05 is the blend of both the Laws 2011, Ch. 18 and Ch. 27 versions.

BLEND OF SECTION 41-1304.05
Laws 2011, Chapters 18 and 27

41-1304.05. State capitol building areas and other facilities; jurisdiction; maintenance; definition

A. The legislative council is responsible for the allocation of space, operation, alteration, renovation and control of the following:

1. The original 1898 statehouse area of the state capitol museum.

2. The 1919 wing and the 1938 justice addition of the state capitol building known jointly as the legislative services wing.

Chs. 18 and 27 ~~3. The public records retention center and the grounds adjacent to it.~~

~~4.~~ 3. Any other facility acquired for legislative use and placed under legislative council jurisdiction and the grounds adjacent to it.

~~5.~~ 4. Except as provided in subsections B and C of this section, the grounds adjacent to the state capitol museum, the legislative services wing, the house of representatives wing and the senate wing and comprising the area east of the state capitol executive tower with a northern boundary of west Adams street, an eastern boundary of Seventeenth avenue and a southern boundary of west Jefferson street in Phoenix, Arizona.

B. The speaker of the state house of representatives is responsible for the following:

1. The allocation of space, operation, alteration, renovation and control of the house of representatives wing of the state capitol building.

2. The allocation of space and control of the parking lot area adjacent to the house of representatives wing, the parking lot area with a southern boundary of west Adams street, an eastern boundary of Seventeenth avenue and a northern boundary of west Monroe street in Phoenix, Arizona and comprised of one hundred five parking spaces and the southeast portion of the parking lot area with a southern boundary of west Monroe street and an eastern boundary of Seventeenth avenue in Phoenix, Arizona and comprised of fifty parking spaces.

C. The president of the state senate is responsible for the following:

1. The allocation of space, operation, alteration, renovation and control of the senate wing of the state capitol building.

2. The allocation of space and control of the parking lot area adjacent to the senate wing and the southwest portion of the parking lot area of the Wesley Bolin memorial plaza east of the state capitol building and comprised of one hundred twenty parking spaces.

D. The director of the department of administration is responsible for

Chs. 18 and 27 the maintenance of the entire state capitol building ~~and the public records retention center [subject to section 41-1304]~~: Ch. 27

Ch. 27 E. FOR THE PURPOSES OF THIS SECTION, "CONTROL" INCLUDES SECURITY SERVICES.

EXPLANATION OF BLEND
SECTION 41-1723

Laws 2011, Chapters 33 and 308

Laws 2011, Ch. 33, section 19 — Effective July 20

Laws 2011, Ch. 308, section 9 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 33 and Ch. 308 text changes to section 41-1723 are blended in the form shown on the following page.

BLEND OF SECTION 41-1723
Laws 2011, Chapters 33 and 308

41-1723. Public safety equipment fund; distribution

A. The public safety equipment fund is established consisting of monies deposited in the fund pursuant to sections 5-395.01, 5-396, 5-397, [12-116.04,] 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 and 28-8288. The department shall administer the fund. **Ch. 308**

B. Monies DEPOSITED in the fund PURSUANT TO SECTIONS 5-395.01, 5-396, 5-397, 28-1381, 28-1382, 28-1383, 28-8284, 28-8286, 28-8287 AND 28-8288 shall be distributed as follows:

1. The first one million two hundred thousand dollars received each fiscal year as a continuing appropriation to the department for VEHICLES, protective armor, electronic stun devices and other safety equipment. Monies appropriated pursuant to this paragraph are exempt from the provisions of section 35-190 relating to lapsing of appropriations. **Ch. 33**

2. All other monies each fiscal year shall be deposited in the state general fund.

C. MONIES DEPOSITED IN THE FUND PURSUANT TO SECTION 12-116.04 ARE SUBJECT TO LEGISLATIVE APPROPRIATION AND SHALL BE USED BY THE DEPARTMENT FOR PROTECTIVE ARMOR, ELECTRONIC STUN DEVICES AND OTHER SAFETY EQUIPMENT. **Ch. 308**

EXPLANATION OF BLEND
SECTION 41-1758

Laws 2011, Chapters 177 and 203

Laws 2011, Ch. 177, section 2 — Effective July 20

Laws 2011, Ch. 203, section 3 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 177 and Ch. 203 text changes to section 41-1758 are blended in the form shown on the following page.

Section 41-1758 was amended an additional time by Laws 2011, Ch. 190 that will require separate publication in addition to this blend.

BLEND OF SECTION 41-1758
Laws 2011, Chapters 177 and 203

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military affairs, the state real estate department, the board of fingerprinting or the board of examiners of nursing care institution administrators and assisted living facility managers.

2. "Division" means the fingerprinting division in the department of public safety.

3. "Good cause exception" means the issuance of a fingerprint clearance card to an employee pursuant to section 41-619.55.

4. "Person" means a person who is required to be fingerprinted pursuant to any of the following:

(a) Section 8-105.
(b) Section 8-322.
(c) Section 8-509.
(d) Section 8-802.
(e) Section 15-183.
(f) Section 15-503.
(g) Section 15-512.
(h) Section 15-534.
Ch. 203 — (i) SECTION 15-782.02.
~~(i)~~ (j) Section 15-1330.
~~(j)~~ (k) Section 15-1881.
~~(k)~~ (l) Section 26-103.
~~(l)~~ (m) Section 32-2108.01.
~~(m)~~ (n) Section 32-2123.
Ch. 177 — (o) SECTION 36-207.
~~(n)~~ (p) Section 36-411.
~~(o)~~ (q) Section 36-425.03.
~~(p)~~ (r) Section 36-446.04.
~~(q)~~ (s) Section 36-594.01.
~~(r)~~ (t) Section 36-594.02.
~~(s)~~ (u) Section 36-882.
~~(t)~~ (v) Section 36-883.02.
~~(u)~~ (w) Section 36-897.01.
~~(v)~~ (x) Section 36-897.03.
~~(w)~~ (y) Section 36-3008.
~~(x)~~ (z) Section 41-619.52.
~~(y)~~ (aa) Section 41-619.53.
~~(z)~~ (bb) Section 41-1964.
~~(aa)~~ (cc) Section 41-1967.01.
~~(bb)~~ (dd) Section 41-1968.
~~(cc)~~ (ee) Section 41-1969.
~~(dd)~~ (ff) Section 41-2814.
~~(ee)~~ (gg) Section 46-141, subsection A.
~~(ff)~~ (hh) Section 46-321.

5. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

EXPLANATION OF BLEND
SECTION 41-1758.01

Laws 2011, Chapters 113, 177 and 203

Laws 2011, Ch. 113, section 4	Effective April 14
Laws 2011, Ch. 177, section 3	Effective July 20
Laws 2011, Ch. 203, section 4	Effective July 20

Explanation

Since these three enactments are not incompatible, the Laws 2011, Ch. 113, Ch. 177 and Ch. 203 text changes to section 41-1758.01 are blended in the form shown on the following page.

Section 41-1758.01 was amended an additional time by Laws 2011, Ch. 190 that will require separate publication in addition to this blend.

BLEND OF SECTION 41-1758.01
Laws 2011, Chapters 113, 177 and 203

41-1758.01. Fingerprinting division; duties

The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, [15-782.02,] 15-1330, 15-1881, [17-215,] 26-103, 32-2108.01, 32-2123, [36-207,] 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

Ch. 203 Ch. 113 Ch. 177

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07.

5. Administer and enforce this article.

EXPLANATION OF BLEND
SECTION 41-2501

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 157

Laws 2011, Second Special Session, Ch. 1, section 67 — Effective July 1, 2011

Laws 2011, First Regular Session, Ch. 157, section 18 — Effective January 1, 2013

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 157 text changes to section 41-2501 are blended effective on January 1, 2013 in the form shown on the following pages. However, both the blend version and the Laws 2011, Second Special Session, Ch. 1 version of section 41-2501 will be published since the Laws 2011, Second Special Session, Ch. 1 version becomes effective before the Laws 2011, First Regular Session, Ch. 157 version. The publisher will automatically delete the Laws 2011, Second Special Session, Ch. 1 version on publication of the appropriate pocket part.

BLEND OF SECTION 41-2501
Laws 2011, Second Special Session, Chapter 1 and Laws 2011, First Regular Session, Chapter 157

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

Ch. 157 D. The Arizona board of regents~~,~~ AND the legislative and judicial branches of state government ~~and the state compensation fund~~ are not subject to this chapter except as prescribed in subsection E of this section.

E. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

F. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

G. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

H. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for

sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

I. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

J. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

K. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

L. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

M. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

N. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

O. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

P. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services or with a provider of family foster care pursuant to section 8-503 or 36-554.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ee).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section 673(1)(a)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

Q. The department of health services may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

4. Domestic violence services pursuant to title 36, chapter 30, article 1.

R. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

S. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

T. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1. On or before September 1 of each year, the director of the Arizona department of agriculture shall establish and announce costs for each acre of cotton or cotton stubble to be abated by private contractors.

U. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

V. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

W. The Arizona state schools for the deaf and the blind are exempt from this chapter when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

X. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

Y. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons according to the most recent United States decennial census for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

Z. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is

similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

AA. The motor vehicle division of the department of transportation is exempt from this chapter for third party authorizations pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

BB. This section does not exempt third party authorizations pursuant to title 28, chapter 13 from any other applicable law.

CC. The state forester is exempt from this chapter for purchases and contracts relating to wild land fire suppression and pre-positioning equipment resources and for other activities related to combating wild land fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

DD. The cotton research and protection council is exempt from this chapter for procurements relating to its aflatoxin control program and for contracts for research programs related to cotton production or protection.

EE. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

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FF. THE ARIZONA COMMERCE AUTHORITY IS EXEMPT FROM THIS CHAPTER, EXCEPT ARTICLE 10 FOR THE PURPOSE OF COOPERATIVE PURCHASES. THE AUTHORITY SHALL ADOPT POLICIES, PROCEDURES AND PRACTICES, IN CONSULTATION WITH THE DEPARTMENT OF ADMINISTRATION, THAT ARE SIMILAR TO AND BASED ON THE POLICIES AND PROCEDURES PRESCRIBED BY THIS CHAPTER FOR THE PURPOSE OF INCREASED PUBLIC CONFIDENCE, FAIR AND EQUITABLE TREATMENT OF ALL PERSONS ENGAGED IN THE PROCESS AND FOSTERING BROAD COMPETITION WHILE ACCOMPLISHING FLEXIBILITY TO ACHIEVE THE AUTHORITY'S STATUTORY REQUIREMENTS. THE AUTHORITY SHALL MAKE ITS POLICIES, PROCEDURES AND PRACTICES AVAILABLE TO THE PUBLIC. THE AUTHORITY MAY EXEMPT SPECIFIC EXPENDITURES FROM THE POLICIES, PROCEDURES AND PRACTICES.

EXPLANATION OF BLEND
SECTION 41-3504

Laws 2011, Chapters 27 and 343

Laws 2011, Ch. 27, section 47 — Effective July 20 (Retroactive to July 1)

Laws 2011, Ch. 343, section 18 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 343 text changes to section 41-3504 are blended in the form shown on the following pages.

BLEND OF SECTION 41-3504
Laws 2011, Chapters 27 and 343

41-3504. Powers and duties of the department; violation; classification

Ch. 27 A. ~~For budget units,~~ The ~~agency~~ DEPARTMENT shall:

1. Develop, implement and maintain a coordinated statewide plan for information technology. This includes:

(a) Adopting statewide technical, coordination and security standards for information technology.

(b) Serving as statewide coordinator for information technology resources.

(c) Developing a statewide disaster recovery plan.

Ch. 27 (d) Developing a list of approved ~~agency~~ DEPARTMENT projects by priority category.

(e) Developing a detailed list of information technology assets owned, leased or employed by this state.

(f) Evaluating and either approving or disapproving budget unit information technology plans. Budget units shall submit information technology plans that include quality assurance plans and disaster recovery plans to the ~~agency~~ DEPARTMENT each year on or before September 1. The legislative and judicial departments of state government shall submit information technology plans for information purposes.

(g) Evaluating specific information technology projects relating to the approved budget unit and statewide information technology plans. The ~~agency~~ DEPARTMENT shall approve or reject projects with total costs of at least twenty-five thousand dollars but not more than one million dollars and Ch. 27 may establish conditional approval criteria including procurement purchase authority. If the total project costs exceed one million dollars the ~~agency~~ DEPARTMENT shall evaluate the project and make recommendations to the committee. Beginning on June 1, 1998, as part of a budget request for an information technology project that has total costs of at least twenty-five thousand dollars, a budget unit shall indicate the status of review by the ~~agency~~ DEPARTMENT. Projects shall not be artificially divided to avoid review by the ~~agency~~ DEPARTMENT.

2. Require that budget units incorporate life cycle analysis prescribed by section 41-2553 into the information technology planning, budgeting and procurement processes.

3. Require that budget units demonstrate expertise to carry out information technology plans, either by employing staff or contracting for outside services.

4. Monitor information technology projects that the ~~agency~~ DEPARTMENT considers to be major or critical, including expenditure and activity reports Ch. 27 and periodic review.

5. Temporarily suspend the expenditure of monies if the ~~agency~~ DEPARTMENT determines that the information technology project is at risk of

failing to achieve its intended results or does not comply with the requirements of this section.

6. Continuously study emergent technology and evaluate its impact on this state's system.

7. Advise each budget unit as necessary and report to the committee on an annual basis.

8. Provide to budget units, information technology consulting services it deems necessary, either directly or by procuring outside consulting services.

9. Maintain all otherwise confidential information received from a budget unit pursuant to this section as confidential.

10. Provide staff support to the committee.

11. Subject to section 35-149, accept, spend and account for grants, monies and direct payments from public or private sources and other grants of monies or property for the conduct of programs that it deems consistent with the ~~overall~~ GOVERNMENT INFORMATION TECHNOLOGY purposes and objectives of the ~~agency~~ DEPARTMENT.

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12. Adopt rules it deems necessary or desirable to further the GOVERNMENT INFORMATION TECHNOLOGY objectives and programs of the ~~agency~~ DEPARTMENT.

13. Formulate policies, plans and programs to effectuate the GOVERNMENT INFORMATION TECHNOLOGY purposes of the ~~agency~~ DEPARTMENT.

14. Advise and make recommendations to the governor and the legislature on all matters concerning its objectives.

15. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any public or private party.

16. Have an official seal that shall be judicially noticed.

Ch. 343

17. ON OR BEFORE DECEMBER 31, 2015, ESTABLISH AN INTERACTIVE ONLINE DIRECTORY OF CODES, RULES, ORDINANCES, IF AVAILABLE ELECTRONICALLY, AND STATUTES TO ASSIST INDIVIDUALS AND BUSINESSES WITH REGULATORY REQUIREMENTS AND OBLIGATIONS. AS PROVIDED IN THIS PARAGRAPH, COUNTIES, MUNICIPALITIES AND BUDGET UNITS SHALL SUBMIT INFORMATION IN A MANNER AND FORMAT PRESCRIBED BY THE AGENCY.

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B. The ~~agency~~ DEPARTMENT shall advise the judicial and legislative branches of state government concerning information technology.

C. The ~~agency~~ DEPARTMENT may examine all books, papers, records and documents in the office of any budget unit and may require any state officer of the budget unit to furnish information or statements necessary to carry out the provisions of this chapter.

D. The director, any member of the director's staff or any employee who knowingly divulges or makes known in any manner not permitted by law any particulars of any confidential record, document or information is guilty of a class 5 felony.

EXPLANATION OF BLEND
SECTION 41-3508

Laws 2011, Chapters 18 and 27

Laws 2011, Ch. 18, section 53 — Effective July 20

Laws 2011, Ch. 27, section 51 — Effective July 20 (Retroactive to July 1)

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 18 and Ch. 27 text changes to section 41-3508 are blended in the form shown on the following page.

BLEND OF SECTION 41-3508
Laws 2011, Chapters 18 and 27

41-3508. Statewide e-rate program fund

A. The statewide e-rate program fund is established. The ~~government information technology agency~~ DEPARTMENT shall administer the fund. The statewide e-rate program fund shall consist of:

1. Monies received pursuant to the e-rate program under the telecommunications act of 1996 or other grants to assist this state in improving broadband internet and telecommunications access for public schools and libraries in this state.

2. Monies received as a result of an intergovernmental agreement between the ~~government information technology agency~~ DEPARTMENT and other political subdivisions of this state.

3. Monies received from private grants or donations if designated for the fund by the grantor or donor.

B. Monies in the fund shall be used to assist public school districts, charter schools and libraries to submit applications for funding pursuant to subsection C and to fulfill the terms of an intergovernmental agreement or private contract pursuant to subsection D.

C. SUBJECT TO THE CONDITIONS OF SUBSECTION E AND IN COOPERATION WITH THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS, the ~~government information technology agency~~ DEPARTMENT shall develop policies and procedures for the e-rate application for public school districts, charter schools and libraries in this state, including providing technical assistance.

D. The ~~government information technology agency~~ DEPARTMENT may enter into contracts with private organizations and intergovernmental agreements with other state agencies and political subdivisions of this state to administer the statewide e-rate program.

E. PARTICIPATION IN THE E-RATE PROGRAM BY LIBRARIES IS VOLUNTARY. THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS SHALL DETERMINE E-RATE ELIGIBILITY APPLICATIONS.

EXPLANATION OF BLEND
SECTION 41-3542

Laws 2011, Chapters 27 and 83

Laws 2011, Ch. 27, section 53 — Effective July 20 (Retroactive to July 1)

Laws 2011, Ch. 83, section 43 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 27 and Ch. 83 text changes to section 41-3542 are blended in the form shown on the following page.

BLEND OF SECTION 41-3542
Laws 2011, Chapters 27 and 83

41-3542. Advisory commission; powers and duties; report

A. The Arizona public safety communications advisory commission shall make recommendations to the ~~agency~~ DEPARTMENT regarding the development and maintenance of work plans to outline areas of work to be performed and appropriate schedules for at least the following:

1. The development of a standard based system that provides interoperability of public safety agencies' communications statewide.

2. The promotion of the development and use of standard based systems.

3. The identification of priorities and essential tasks determined by the advisory commission.

4. The development of a timeline for project activities.

5. Completion of a survey of existing and planned efforts statewide and benchmark against similar efforts nationally.

6. Providing support for the state interoperability executive committee.

7. Establishing committees and work groups as necessary.

B. The ~~agency~~ DEPARTMENT may:

1. Employ personnel as required with available monies.

2. Enter into contracts to assess, design, construct and use public safety communications systems.

3. Accept grants, fees and other monies for use by the agency and the advisory commission.

4. Enter into agreements to carry out the purposes of this article.

5. Request cooperation from any state agency for the purposes of this article.

C. The department of public safety shall consult with the director of the ~~government information technology agency~~ DEPARTMENT OF ADMINISTRATION or the director's designee on an ongoing basis. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, the director [~~of the government information technology agency~~] shall submit a ~~quarterly~~ report to the joint legislative budget committee for review regarding expenditures and progress of the commission, including a review of staff operations and preparation of requests for proposals for system detail and concept work.

D. The commission shall annually submit a report of its activities and recommendations to the governor, the speaker of the house of representatives and the president of the senate on or before December 1 and shall provide a copy of the report to the secretary of state ~~and the director of the Arizona state library, archives and public records~~.

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EXPLANATION OF BLEND
SECTION 42-5029

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapters 248 and 249

Laws 2011, Second Special Session, Ch. 1, section 74	Effective July 1
Laws 2011, First Regular Session, Ch. 248, section 12	Effective October 1
Laws 2011, First Regular Session, Ch. 249, section 2	Effective October 1

Explanation

Since these three enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 248 and Ch. 249 text changes to section 42-5029 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5029
Laws 2011, Second Special Session, Chapter 1 and Laws 2011, First Regular Session, Chapters 248 and 249

42-5029. Remission and distribution of monies; definition

A. The department shall deposit, pursuant to sections 35-146 and 35-147, all revenues collected under this article and articles 4, 5 and 8 of this chapter pursuant to section 42-1116, separately accounting for:

1. Payments of estimated tax under section 42-5014, subsection D.

2. Revenues collected pursuant to section 42-5070.

3. Revenues collected under this article and article 5 of this chapter from and after June 30, 2000 from sources located on Indian reservations in this state.

4. Revenues collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D.

B. The department shall credit payments of estimated tax to an estimated tax clearing account and each month shall transfer all monies in the estimated tax clearing account to a fund designated as the transaction privilege and severance tax clearing account. The department shall credit all other payments to the transaction privilege and severance tax clearing account, separately accounting for the monies designated as distribution base under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the department shall report to the state treasurer the amount of monies collected pursuant to this article and articles 4, 5 and 8 of this chapter.

C. On notification by the department, the state treasurer shall distribute the monies deposited in the transaction privilege and severance tax clearing account in the manner prescribed by this section and by sections 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the account pursuant to sections 42-1118 and 42-1254.

D. Of the monies designated as distribution base the department shall:

1. Pay twenty-five per cent to the various incorporated municipalities in this state in proportion to their population to be used by the municipalities for any municipal purpose.

2. Pay 38.08 per cent to the counties in this state by averaging the following proportions:

(a) The proportion that the population of each county bears to the total state population.

(b) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

3. Pay an additional 2.43 per cent to the counties in this state as follows:

(a) Average the following proportions:

(i) The proportion that the assessed valuation used to determine secondary property taxes of each county, after deducting that part of the assessed valuation that is exempt from taxation at the beginning of the month for which the amount is to be paid, bears to the total assessed valuations used to determine secondary property taxes of all the counties after deducting that portion of the assessed valuations that is exempt from taxation at the beginning of the month for which the amount is to be paid. Property of a city or town that is not within or contiguous to the municipal corporate boundaries and from which water is or may be withdrawn or diverted and transported for use on other property is considered to be taxable property in the county for purposes of determining assessed valuation in the county under this item.

(ii) The proportion that the distribution base monies collected during the calendar month in each county under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 bear to the total distribution base monies collected under this article, section 42-5164, subsection B, section 42-5205, subsection B and section 42-5353 throughout the state for the calendar month.

(b) If the proportion computed under subdivision (a) of this paragraph for any county is greater than the proportion computed under paragraph 2 of this subsection, the department shall compute the difference between the amount distributed to that county under paragraph 2 of this subsection and the amount that would have been distributed under paragraph 2 of this subsection using the proportion computed under subdivision (a) of this paragraph and shall pay that difference to the county from the amount available for distribution under this paragraph. Any monies remaining after all payments under this subdivision shall be distributed among the counties according to the proportions computed under paragraph 2 of this subsection.

4. After any distributions required by sections 42-5030, 42-5030.01, 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water quality assurance revolving fund as required by section 49-282, subsection B, credit the remainder of the monies designated as distribution base to the state general fund. From this amount:

(a) The legislature shall annually appropriate to:

(i) The department of revenue sufficient monies to administer and enforce this article and articles 5 and 8 of this chapter.

(ii) The department of economic security monies to be used for the purposes stated in title 46, chapter 1.

(iii) The firearms safety and ranges fund established by section 17-273, fifty thousand dollars derived from the taxes collected from the retail classification pursuant to section 42-5061 for the current fiscal year.

(b) Subject to separate initial legislative authorization, each year the state treasurer shall transfer to the tourism fund an amount equal to the sum of the following:

(i) Three and one-half per cent of the gross revenues derived from the transient lodging classification pursuant to section 42-5070 during the preceding fiscal year.

(ii) Three per cent of the gross revenues derived from the amusement classification pursuant to section 42-5073 during the preceding fiscal year.

(iii) Two per cent of the gross revenues derived from the restaurant classification pursuant to section 42-5074 during the preceding fiscal year.

E. If approved by the qualified electors voting at a statewide general election, all monies collected pursuant to section 42-5010, subsection G and section 42-5155, subsection D shall be distributed each fiscal year pursuant to this subsection. The monies distributed pursuant to this subsection are in addition to any other appropriation, transfer or other allocation of public or private monies from any other source and shall not supplant, replace or cause a reduction in other school district, charter school, university or community college funding sources. The monies shall be distributed as follows:

1. If there are outstanding state school facilities revenue bonds pursuant to title 15, chapter 16, article 7, each month one-twelfth of the amount that is necessary to pay the fiscal year's debt service on outstanding state school improvement revenue bonds for the current fiscal year shall be transferred each month to the school improvement revenue bond debt service fund established by section 15-2084. The total amount of bonds for which these monies may be allocated for the payment of debt service shall not exceed a principal amount of eight hundred million dollars exclusive of refunding bonds and other refinancing obligations.

2. After any transfer of monies pursuant to paragraph 1 of this subsection, twelve per cent of the remaining monies collected during the preceding month shall be transferred to the technology and research initiative fund established by section 15-1648 to be distributed among the universities for the purpose of investment in technology and research-based initiatives.

3. After the transfer of monies pursuant to paragraph 1 of this subsection, three per cent of the remaining monies collected during the preceding month shall be transferred to the workforce development account established in each community college district pursuant to section 15-1472 for the purpose of investment in workforce development programs.

4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the amount a community college that is owned, operated or chartered by a qualifying Indian tribe on its own Indian reservation would receive pursuant to section 15-1472, subsection D, paragraph 2 if it were a community college district shall be distributed each month to the treasurer or other designated depository of a qualifying Indian tribe. Monies distributed pursuant to this paragraph are for the exclusive purpose of providing support to one or more community colleges owned, operated or chartered by a qualifying Indian tribe and shall be used in a manner consistent with section 15-1472, subsection B. For the purposes of this paragraph, "qualifying Indian tribe" has the same meaning as defined in section 42-5031.01, subsection D.

5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one-twelfth of the following amounts shall be transferred each month to the department of education for the increased cost of basic state aid under section 15-971 due to added school days and associated teacher salary increases enacted in 2000:

(a) In fiscal year 2001-2002, $15,305,900.

(b) In fiscal year 2002-2003, $31,530,100.

(c) In fiscal year 2003-2004, $48,727,700.

(d) In fiscal year 2004-2005, $66,957,200.

(e) In fiscal year 2005-2006 and each fiscal year thereafter, $86,280,500.

6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, seven million eight hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the department of education to be used for school safety as provided in section 15-154 and two hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments to the department of education to be used for the character education matching grant program as provided in section 15-154.01.

7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, no more than seven million dollars may be appropriated by the legislature each fiscal year to the department of education to be used for accountability purposes as described in section 15-241 and title 15, chapter 9, article 8.

8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, one million five hundred thousand dollars is appropriated each fiscal year, to be paid in monthly installments, to the failing schools tutoring fund established by section 15-241.

9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this subsection, twenty-five million dollars shall be transferred each fiscal year to the state general fund to reimburse the general fund for the cost of the income tax credit allowed by section 43-1072.01.

10. After the payment of monies pursuant to paragraphs 1 through 9 of this subsection, the remaining monies collected during the preceding month shall be transferred to the classroom site fund established by section 15-977. The monies shall be allocated as follows in the manner prescribed by section 15-977:

(a) Forty per cent shall be allocated for teacher compensation based on performance.

(b) Twenty per cent shall be allocated for increases in teacher base compensation and employee related expenses.

(c) Forty per cent shall be allocated for maintenance and operation purposes.

F. The department shall credit the remainder of the monies in the transaction privilege and severance tax clearing account to the state general fund, subject to any distribution required by section 42-5030.01.

G. Notwithstanding subsection D of this section, if a court of competent jurisdiction finally determines that tax monies distributed under this section were illegally collected under this article or articles 5 and 8 of this chapter and orders the monies to be refunded to the taxpayer, the department shall compute the amount of such monies that was distributed to each city, town and county under this section. The department shall notify the state treasurer of that amount plus the proportionate share of additional allocated costs required to be paid to the taxpayer. Each city's, town's and county's proportionate share of the costs shall be based on the amount of the original tax payment each municipality and county received. Each month the state treasurer shall reduce the amount otherwise distributable to the city, town and county under this section by one thirty-sixth of the total amount to

be recovered from the city, town or county until the total amount has been recovered, but the monthly reduction for any city, town or county shall not exceed ten per cent of the full monthly distribution to that entity. The reduction shall begin for the first calendar month after the final disposition of the case and shall continue until the total amount, including interest and costs, has been recovered.

H. On receiving a certificate of default from the greater Arizona development authority pursuant to section ~~41-1554.06~~ 41-2257 or ~~41-1554.07~~ 41-2258 and to the extent not otherwise expressly prohibited by law, the state treasurer shall withhold from the next succeeding distribution of monies pursuant to this section due to the defaulting political subdivision the amount specified in the certificate of default and immediately deposit the amount withheld in the greater Arizona development authority revolving fund. The state treasurer shall continue to withhold and deposit the monies until the greater Arizona development authority certifies to the state treasurer that the default has been cured. In no event may the state treasurer withhold any amount that the defaulting political subdivision certifies to the state treasurer and the authority as being necessary to make any required deposits then due for the payment of principal and interest on bonds of the political subdivision that were issued before the date of the loan repayment agreement or bonds and that have been secured by a pledge of distributions made pursuant to this section.

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I. Except as provided by sections 42-5033 and 42-5033.01, the population of a county, city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to subsection D of this section.

J. Except as otherwise provided by this subsection, on notice from the department of revenue pursuant to section 42-6010, subsection B, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city or town the amount of the penalty for business location municipal tax incentives provided by the city or town to a business entity that locates a retail business facility in the city or town. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount of the penalty has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section. The state treasurer shall not withhold any amount that the city or town certifies to the department of revenue and the state treasurer as being necessary to make any required deposits or payments for debt service on bonds or other long-term obligations of the city or town that were issued or incurred before the location incentives provided by the city or town.

K. On notice from the auditor general pursuant to section 9-626, subsection D, the state treasurer shall withhold from the distribution of monies pursuant to this section to the affected city the amount computed pursuant to section 9-626, subsection D. The state treasurer shall continue to withhold monies pursuant to this subsection until the entire amount specified in the notice has been withheld. The state treasurer shall credit any monies withheld pursuant to this subsection to the state general fund as provided by subsection D, paragraph 4 of this section.

L. For the purposes of this section, "community college district" means a community college district that is established pursuant to sections 15-1402 and 15-1403 and that is a political subdivision of this state AND, SUBJECT TO THE DISTRIBUTION PROCEDURES SPECIFIED IN SECTION 15-1472, SUBSECTION D, PARAGRAPH 2, SUBDIVISION (b), INCLUDES A COMMUNITY COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1402.01 AND, SUBJECT TO THE DISTRIBUTION PROCEDURES SPECIFIED IN SECTION 15-1472, SUBSECTION D, PARAGRAPH 2, SUBDIVISION (b), INCLUDES A PROVISIONAL COMMUNITY COLLEGE DISTRICT ESTABLISHED PURSUANT TO SECTION 15-1409.

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EXPLANATION OF BLEND
SECTION 42-5159

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 300

Laws 2011, Second Special Session, Ch. 1, section 75 — Effective July 1

Laws 2011, First Regular Session, Ch. 300, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 300 text changes to section 42-5159 are blended in the form shown on the following pages.

BLEND OF SECTION 42-5159
Laws 2011, Second Special Session, Chapter 1 and Laws 2011, First Regular Session, Chapter 300

42-5159. Exemptions

A. The tax levied by this article does not apply to the storage, use or consumption in this state of the following described tangible personal property:

1. Tangible personal property sold in this state, the gross receipts from the sale of which are included in the measure of the tax imposed by articles 1 and 2 of this chapter.

2. Tangible personal property the sale or use of which has already been subjected to an excise tax at a rate equal to or exceeding the tax imposed by this article under the laws of another state of the United States. If the excise tax imposed by the other state is at a rate less than the tax imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

3. Tangible personal property, the storage, use or consumption of which the constitution or laws of the United States prohibit this state from taxing or to the extent that the rate or imposition of tax is unconstitutional under the laws of the United States.

4. Tangible personal property which directly enters into and becomes an ingredient or component part of any manufactured, fabricated or processed article, substance or commodity for sale in the regular course of business.

5. Motor vehicle fuel and use fuel, the sales, distribution or use of which in this state is subject to the tax imposed under title 28, chapter 16, article 1, use fuel which is sold to or used by a person holding a valid single trip use fuel tax permit issued under section 28-5739, aviation fuel, the sales, distribution or use of which in this state is subject to the tax imposed under section 28-8344, and jet fuel, the sales, distribution or use of which in this state is subject to the tax imposed under article 8 of this chapter.

6. Tangible personal property brought into this state by an individual who was a nonresident at the time the property was purchased for storage, use or consumption by the individual if the first actual use or consumption of the property was outside this state, unless the property is used in conducting a business in this state.

7. Purchases of implants used as growth promotants and injectable medicines, not already exempt under paragraph 16 of this subsection, for livestock and poultry owned by, or in possession of, persons who are engaged in producing livestock, poultry, or livestock or poultry products, or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

8. Livestock, poultry, supplies, feed, salts, vitamins and other additives for use or consumption in the businesses of farming, ranching and feeding livestock or poultry, not including fertilizers, herbicides and

insecticides. For the purposes of this paragraph, "poultry" includes ratites.

9. Seeds, seedlings, roots, bulbs, cuttings and other propagative material for use in commercially producing agricultural, horticultural, viticultural or floricultural crops in this state.

10. Tangible personal property not exceeding two hundred dollars in any one month purchased by an individual at retail outside the continental limits of the United States for the individual's own personal use and enjoyment.

11. Advertising supplements which are intended for sale with newspapers published in this state and which have already been subjected to an excise tax under the laws of another state in the United States which equals or exceeds the tax imposed by this article.

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:

(a) A hospital organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A hospital operated by this state or a political subdivision of this state.

(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(d) A qualifying health care organization, as defined in section 42-5001, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(e) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind, visually impaired and multihandicapped children from the time of birth to age twenty-one.

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for mentally or physically handicapped persons if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under article 1 of this chapter by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or a subcontractor working under the control of a prime contractor, if the tangible personal property is any of the following:

(i) Incorporated or fabricated by the contractor into a structure, project, development or improvement in fulfillment of a contract.

(ii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(iii) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

(h) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

(i) A qualifying community health center as defined in section 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture

paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) Public educational institutions.

(c) State universities or affiliated organizations of a state university if no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Natural gas or liquefied petroleum gas used to propel a motor vehicle.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person who is physically disabled as defined in section 46-191, has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any exemption for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

36. Food, drink and condiment purchased for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

38. Tangible personal property which is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract. For the purposes of this paragraph:

(a) "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from which would otherwise be

included in the retail classification, and which are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based upon generally accepted accounting principles and consistent with government contract accounting standards.

(b) "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed, and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were included in the measure of the tax imposed by article 1 of this chapter or if the personal property liquidation was a casual activity or transaction.

41. Wireless telecommunications equipment that is held for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064.

42. Alternative fuel, as defined in section 1-215, purchased by a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

45. Gas diverted from a pipeline, by a person engaged in the business of:

(a) Operating a natural or artificial gas pipeline, and used or consumed for the sole purpose of fueling compressor equipment that pressurizes the pipeline.

(b) Converting natural gas into liquefied natural gas, and used or consumed for the sole purpose of fueling compressor equipment used in the conversion process.

46. Tangible personal property that is excluded, exempt or deductible from transaction privilege tax pursuant to section 42-5063.

47. Tangible personal property purchased to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

48. Tangible personal property sold by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

50. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064 and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media which are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, ratites, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

Ch. 300 — (b) Any foreign government ~~for use by such government outside of this state~~, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles which are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and which are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and

applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For the purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment that are used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

19. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

20. Machinery and equipment that are used in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state and that are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

21. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business under section 41-1516 for harvesting or the initial processing of qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification Ch. 1 from the ~~department of commerce~~ ARIZONA COMMERCE AUTHORITY at the time of purchase.

23. Machinery, equipment and other tangible personal property used directly in motion picture production by a motion picture production company. To qualify for this exemption, at the time of purchase, the motion picture production company must present to the retailer its certificate that is issued pursuant to section 42-5009, subsection H and that establishes its qualification for the exemption.

C. The exemptions provided by subsection B of this section do not include:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to:

1. The storage, use or consumption in Arizona of machinery, equipment, materials or other tangible personal property if used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility, as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

2. The purchase of electricity by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 that is used directly in environmental technology manufacturing, producing or processing. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

3. The purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

(a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.

(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

H. For the purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed in section 42-5063.

EXPLANATION OF BLEND
SECTION 42-12004

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 232

Laws 2011, Second Special Session, Ch. 1, section 78 — Effective July 1

Laws 2011, First Regular Session, Ch. 232, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 232 text changes to section 42-12004 are blended in the form shown on the following pages.

BLEND OF SECTION 42-12004
Laws 2011, Second Special Session, Chapter 1 and
Laws 2011, First Regular Session, Chapter 232

42-12004. Class four property

A. For purposes of taxation, class four is established consisting of:

1. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS TO THE PROPERTY THAT ARE USED FOR RESIDENTIAL PURPOSES, INCLUDING RESIDENTIAL PROPERTY THAT IS OWNED IN FORECLOSURE BY A FINANCIAL INSTITUTION, THAT IS NOT OTHERWISE INCLUDED IN ANOTHER CLASSIFICATION AND THAT IS VALUED AT FULL CASH VALUE. THE HOMESITE THAT IS INCLUDED IN CLASS FOUR MAY INCLUDE:

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(a) UP TO TEN ACRES ON A SINGLE PARCEL OF REAL PROPERTY ON WHICH THE RESIDENTIAL IMPROVEMENT IS LOCATED.

(b) MORE THAN TEN, BUT NOT MORE THAN FORTY, ACRES ON A SINGLE PARCEL OF REAL PROPERTY ON WHICH THE RESIDENTIAL IMPROVEMENT IS LOCATED IF IT IS ZONED EXCLUSIVELY FOR RESIDENTIAL PURPOSES OR CONTAINS LEGAL RESTRICTIONS OR PHYSICAL CONDITIONS THAT PREVENT THE DIVISION OF THE PARCEL. FOR THE PURPOSES OF THIS PARAGRAPH, "PHYSICAL CONDITIONS" MEANS TOPOGRAPHY, MOUNTAINS, WASHES, RIVERS, ROADS OR ANY OTHER CONFIGURATION THAT LIMITS THE RESIDENTIAL USABLE LAND AREA.

~~1.~~ 2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

~~2.~~ 3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

~~3.~~ 4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons who are handicapped or sixty-two years of age or older and that are valued at full cash value.

~~4.~~ 5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or health related services and that are structured to house or care for persons who are handicapped or sixty-two years of age or older and that are valued at full cash value.

~~5.~~ 6. Real and personal property consisting of no more than ~~six~~ EIGHT rooms of ~~owner-occupied~~ residential property that are leased or rented to transient lodgers ~~at no more than a fifty per cent average annual occupancy rate~~, together with furnishing no more than a breakfast meal, by the owner ~~of~~ WHO RESIDES ON the property and that is valued at full cash value.

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~~6.~~ 7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

~~7.~~ 8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

~~8.~~ 9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

Ch. 1 B. Subsection A, paragraphs ~~3 and~~ 4 AND 5 of this section shall not be construed to limit eligibility for exemption from taxation under chapter 11, article 3 of this title.

EXPLANATION OF BLEND
SECTION 43-1088

Laws 2011, Chapters 31 and 55

Laws 2011, Ch. 31, section 17 — Effective July 20, 2011 (Retroactive to July 1, 2011)

Laws 2011, Ch. 55, section 2 — Effective January 1, 2012

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 31 and Ch. 55 text changes to section 43-1088 are blended effective from and after December 31, 2011 in the form shown on the following pages. However, both the blend version and the Ch. 31 version of section 43-1088 will be published since the Ch. 31 version becomes effective before the Ch. 55 version. The publisher will automatically delete the Ch. 31 version on publication of the appropriate pocket part.

BLEND OF SECTION 43-1088
Laws 2011, Chapters 31 and 55

43-1088. Credit for contribution to qualifying charitable organizations; definitions

A. A credit is allowed against the taxes imposed by this title for voluntary cash contributions by the taxpayer or on the taxpayer's behalf pursuant to section 43-401, subsection ~~H~~ I during the taxable year to a qualifying charitable organization not to exceed:

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1. Two hundred dollars in any taxable year for a single individual or a head of household.

2. Four hundred dollars in any taxable year for a married couple filing a joint return.

B. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the taxpayer may carry forward the amount of the claim not used to offset the taxes under this title for not more than five consecutive taxable years' income tax liability.

D. The credit allowed by this section:

1. Is allowed only if the taxpayer itemizes deductions pursuant to section 43-1042 for the taxable year.

2. Is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

F. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

G. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:

(a) Receive temporary assistance for needy families benefits.

(b) Are low income residents of this state.

(c) Are chronically ill or physically disabled children.

3. A statement that the organization plans to continue spending at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits, who are low income residents of this state or who are chronically ill or physically disabled children.

Ch. 55 — 4. A STATEMENT THAT THE ORGANIZATION DOES NOT PROVIDE, PAY FOR, PROMOTE, PROVIDE COVERAGE OF OR PROVIDE REFERRALS FOR ABORTIONS AND DOES NOT FINANCIALLY SUPPORT ANY OTHER ENTITY THAT PROVIDES, PAYS FOR, PROMOTES, PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS.

H. The department shall review each written certification and determine whether the organization meets all the criteria to be considered a qualifying charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of the qualifying charitable organizations.

I. For the purposes of this section:

Ch. 31 — 1. "Chronically ill or physically disabled children" has the same meaning prescribed in section ~~36-262~~ 36-260.

2. "Low income residents" means persons whose household income is less than one hundred fifty per cent of the federal poverty level.

3. "Qualifying charitable organization" means a charitable organization that is exempt from federal income taxation under section 501(c)(3) of the internal revenue code or is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901. The organization must spend at least fifty per cent of its budget on services to residents of this state who receive temporary assistance for needy families benefits or low income residents of this state and their households or to chronically ill or physically disabled children who are residents of this state. Taxpayers choosing to make donations through an umbrella charitable organization that collects donations on behalf of member charities shall designate that the donation be directed to a member charitable organization that would qualify under this section on a stand-alone basis. QUALIFYING CHARITABLE ORGANIZATION DOES NOT INCLUDE ANY ENTITY THAT PROVIDES, PAYS FOR, PROMOTES, PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS OR THAT FINANCIALLY SUPPORTS ANY OTHER ENTITY THAT PROVIDES, PAYS FOR, PROMOTES, PROVIDES COVERAGE OF OR PROVIDES REFERRALS FOR ABORTIONS.

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4. "Services" means cash assistance, medical care, child care, food, clothing, shelter, job placement and job training services or any other assistance that is reasonably necessary to meet immediate basic needs and that is provided and used in this state.

EXPLANATION OF BLEND
SECTION 44-1843

Laws 2011, Second Special Session, Chapter 1
Laws 2011, First Regular Session, Chapter 106

Laws 2011, Second Special Session, Ch. 1, section 118 — Effective July 1

Laws 2011, First Regular Session, Ch. 106, section 1 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Second Special Session, Ch. 1 and Laws 2011, First Regular Session, Ch. 106 text changes to section 44-1843 are blended in the form shown on the following pages.

BLEND OF SECTION 44-1843
Laws 2011, Second Special Session, Chapter 1 and Laws 2011, First Regular Session, Chapter 106

44-1843. Exempt securities; fee; filing

A. Sections 44-1841 and 44-1842, section 44-1843.02, subsections B and C and sections 44-3321 and 44-3325 do not apply to any of the following classes of securities:

1. Securities issued or guaranteed by the United States, by any state, territory or insular possession of the United States, by any political subdivision of such state, territory or insular possession, by the District of Columbia or by any agency or instrumentality of one or more of any of the foregoing. This exemption shall not apply to securities regulated pursuant to section 44-1843.01.

2. Securities issued by a national bank, a bank or a credit or loan association organized pursuant to an act of Congress and supervised by the United States or an agency of the United States, or issued by a state bank or savings institution the business of which is supervised and regulated by an agency of this state or of the United States.

3. Securities issued by a savings and loan association subject to supervision by an agency of this state.

4. Insurance or endowment policies, variable contracts, annuity contracts or optional annuity contracts issued by a person subject to the supervision of and licensed by the insurance commissioner, the bank commissioner or any agency of the United States, any state or the District of Columbia performing like functions.

5. Securities issued or guaranteed either as to principal, interest or dividend by a railroad or public utility if the issuance of its securities is regulated by an agency of the United States, a state, territory or insular possession of the United States, an agency of the District of Columbia or an agency of the Dominion of Canada or any province of the Dominion of Canada, and also equipment trust certificates in respect to equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this paragraph.

6. Securities issued by a person that is organized and operated exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder or individual and securities issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the investment company act of 1940. The exemption prescribed in this paragraph does not apply to any of the following, unless excluded from the definition of an investment company under section 3(c)(10)(B) of the investment company act of 1940:

(a) Securities made liens upon revenue producing property subject to taxation.

(b) Securities issued by a nonprofit organization that is engaged in, intends to engage in, controls, finances or lends funds or property to other entities engaged in the construction, operation, maintenance or management of a hospital, sanitarium, rest home, clinic, medical hotel, mortuary, cemetery, mausoleum or other similar facilities.

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(c) Interest bearing or noninterest bearing debt securities EXCEPT FOR FIRST MORTGAGE BONDS ISSUED BY INDIVIDUAL CHURCHES AND AFFILIATED RELIGIOUS SCHOOLS IN AN AGGREGATE OUTSTANDING AMOUNT NOT TO EXCEED TWENTY-FIVE MILLION DOLLARS BY ANY ONE SINGLE ISSUER PROVIDED THAT NO COMMISSION OR REMUNERATION OF ANY KIND, OTHER THAN TRANSFER AGENT'S FEES, IS PAID, DIRECTLY OR INDIRECTLY, TO ANY PERSON OTHER THAN A REGISTERED DEALER OR REGISTERED SALESMAN IN CONNECTION WITH THE OFFER FOR SALE OR SALE OF SUCH BONDS.

(d) Securities whose terms include significant features that are common to debt securities and that the commission finds are the functional equivalent of debt securities.

7. Securities listed or approved for listing upon the issuance thereof upon the New York stock exchange, the American stock exchange, the midwest stock exchange or any other national securities exchange that is registered under the securities exchange act of 1934 and that is designated by the commission as provided in this paragraph, and securities designated or approved for designation on notice of issuance on the national market system of a national securities association registered under the securities exchange act of 1934, and all securities senior or equal in rank to any securities so listed or approved for listing, designated or approved for designation or represented by subscription rights or warrants that have been so listed, designated or approved and any warrant or right to purchase or subscribe to any of the foregoing. In addition to the securities exchanges prescribed in this paragraph, the commission may by order designate any registered national securities exchange if it finds that it would be in the public interest for securities listed on the exchange to be exempt. The commission may at any time by order withdraw a designation of an exchange or association made under this paragraph.

8. Commercial paper that arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, that evidences an obligation to pay cash within nine months of the date of issuance or sale, exclusive of days of grace, or any renewal of such paper that is likewise limited, or any guarantee of such paper or of any such renewal.

9. Securities issued or guaranteed by any foreign government with which the United States is at the time of the sale maintaining diplomatic relations, or securities issued or guaranteed by a political subdivision of such foreign government having the power of taxation, if none of the securities of the foreign government or political subdivision are in default either as to principal or interest, and which securities when offered for sale in this state are acknowledged as valid obligations by the foreign government or political subdivision and registered under the securities act of 1933.

10. Notes or bonds secured by a mortgage or deed of trust on real estate or chattels, or a contract or agreement for the sale of real estate or chattels, if the entire mortgage, contract or agreement together with all

notes or bonds secured thereby is sold or offered for sale as a unit, except for real property investment contracts.

11. Mortgage related securities, as defined in section 3(a)(41) of the securities exchange act of 1934.

B. Issuers of securities that are exempt under subsection A, paragraphs 6, 7 and 9 of this section, within thirty days after the first sale of the securities in this state, shall pay to the commission a fee of two hundred dollars for each offering, and the commission shall deposit the fees in the ~~commerce and economic development commission~~ ARIZONA COMPETES fund established ~~in~~ BY section ~~41-1505.10~~ 41-1545.01. Ch. 1

C. Any securities that are offered and sold pursuant to section 4(5) of the securities act of 1933 or that are mortgage related securities as the term is defined in section 3(a)(41) of the securities exchange act of 1934 are not preempted by federal law. These instruments, commonly referred to as private mortgage backed securities, may be exempt from the registration requirements of this chapter if the transaction or the securities are otherwise exempt under this chapter. This subsection specifically overrides the preemption of state law contained in section 106(c) of the secondary mortgage market enhancement act of 1984 (P.L. 98-440).

D. Noncompliance with the requirements in subsection B of this section to pay fees shall not result in the loss of the exemption allowed by this section.

EXPLANATION OF BLEND
SECTION 44-7041

Laws 2011, Chapters 18 and 27

Laws 2011, Ch. 18, section 55 — Effective July 20

Laws 2011, Ch. 27, section 54 — Effective July 20 (Retroactive to July 1)

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 18 and Ch. 27 text changes to section 44-7041 are blended in the form shown on the following page.

BLEND OF SECTION 44-7041
Laws 2011, Chapters 18 and 27

44-7041. Creation; retention; conversion of written records

A. Each governmental agency shall determine if, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records. Any governmental agency that is subject to the management, preservation, determination of value and disposition of records requirements prescribed in sections ~~41-1345, 41-1345.01 and 41-1346 through 41-1351~~ 41-151.12, 41-151.13, 41-151.14, 41-151.15, 41-151.16, 41-151.17, 41-151.18 AND 41-151.19 and the permanent public records requirements prescribed in section 39-101 shall comply with those requirements.

Ch. 18

B. State agencies shall comply with the standards adopted by the ~~government information technology agency~~ DEPARTMENT OF ADMINISTRATION pursuant to title 41, chapter 32.

Ch. 27

C. All governmental agencies shall comply with the policies that are established by the secretary of state pursuant to section 41-132 and that apply to the use of electronic signatures.

EXPLANATION OF BLEND
SECTION 48-853

Laws 2011, Chapters 162 and 269

Laws 2011, Ch. 162, section 1 — Effective July 20

Laws 2011, Ch. 269, section 2 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 162 and Ch. 269 text changes to section 48-853 are blended in the form shown on the following pages.

BLEND OF SECTION 48-853
Laws 2011, Chapters 162 and 269

48-853. District board; powers and duties; intergovernmental agreements; contract; administration; definition

A. A fire district formed pursuant to this article, through its board shall:

1. Hold public meetings ~~at least once each calendar month~~ AS NECESSARY TO CARRY OUT ITS POWERS AND DUTIES BUT AT LEAST ONCE EVERY NINETY DAYS.

2. Prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows expenses of the district. The budget shall be posted in three public places and published in a newspaper of general circulation in the district ~~thirty~~ TWENTY days before a public hearing at a meeting called by the board ~~or fire chief~~ to adopt the budget. THE BUDGET SHALL BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE NO LATER THAN SEVEN BUSINESS DAYS AFTER THE ESTIMATES OF REVENUES AND EXPENSES ARE TENTATIVELY ADOPTED. A COMPLETE COPY OF THE APPROVED ESTIMATES OF REVENUES AND EXPENSES SHALL BE POSTED IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE NO LATER THAN SEVEN BUSINESS DAYS AFTER FINAL ADOPTION. Copies of the budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board ~~or appointed chief~~ shall adopt a budget. BOTH THE TENTATIVELY ADOPTED ESTIMATES OF REVENUES AND EXPENSES AND THE BUDGET FINALLY ADOPTED UNDER THIS SECTION SHALL BE RETAINED AND ACCESSIBLE IN A PROMINENT LOCATION ON THE OFFICIAL WEBSITE FOR AT LEAST SIXTY MONTHS.

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3. THE DISTRICT SHALL MAINTAIN A WEBSITE FOR THE PURPOSE OF PROVIDING ACCESS TO PUBLIC RECORDS. THE DISTRICT SHALL POST PERMANENT PUBLIC RECORDS TO ITS WEBSITE.

4. THE DISTRICT SHALL MAINTAIN AND STORE ALL PERMANENT PUBLIC RECORDS IN AN ELECTRONIC MEDIA OR DIGITAL IMAGING FORMAT ACCORDING TO STANDARDS FOR THE STORAGE OF PERMANENT PUBLIC RECORDS ESTABLISHED BY THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS SHALL APPROVE AN ACCEPTABLE ELECTRONIC MEDIA OR DIGITAL IMAGING FORMAT FOR THE DISTRICT. THE COUNTY IN WHICH THE DISTRICT IS LOCATED SHALL MAINTAIN AN OFFICIAL COPY OF THE PERMANENT PUBLIC RECORDS OF THE DISTRICT. THE COPY OF THE PERMANENT PUBLIC RECORDS SHALL BE PROVIDED TO THE COUNTY BY THE DISTRICT ANNUALLY NO LATER THAN NINETY DAYS AFTER THE END OF THE FISCAL YEAR.

~~3.~~ 5. Require probationary employees in a paid sworn firefighter position, a reserve firefighter position or a volunteer firefighter position of a provider of fire protection and emergency medical services to submit a full set of fingerprints to the fire district. The fire district shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. This paragraph does not apply to personnel that are provided to a fire district by

any public or private entity that provides fire protection and emergency medical services to the fire district and that has already fully complied with fingerprint submittal requirements as otherwise provided by law.

~~4.~~ 6. Appoint the fire chief of the fire service provider selected pursuant to paragraph ~~8~~ 10 of this subsection, either public or private, as the fire chief for the district. Ch. 162

~~5.~~ 7. Adopt the fire code of the municipality whose municipal planning area includes the district except that the fire district's authority to conduct inspections shall apply only to commercial and industrial properties and shall not apply to residential properties.

~~6.~~ 8. Keep three copies of the applicable fire code, amendments and revisions on file for public inspection.

~~7.~~ 9. Notify the county board of supervisors of the cost of providing fire protection service and emergency medical service for each household or other structure in the district if the district provides service pursuant to paragraph ~~8~~ 10, subdivision (a) or [~~(b)~~ (c)] of this subsection. Ch. 162 Ch. 69

~~8.~~ 10. Act within sixty days after the formation of the district to do any of the following:

(a) IF THE DISTRICT IS FORMED PURSUANT TO SECTION 48-851, SUBSECTION E, PARAGRAPH 1, enter into an intergovernmental agreement with a municipal provider for fire protection services for the district. A municipal provider seeking to enter into [AN] agreement with the district FORMED PURSUANT TO SECTION 48-851, SUBSECTION E, PARAGRAPH 1 shall make a formal expression of intent to enter into an agreement with the district within twenty-one days of district formation. Chs. 162 and 269

(b) IF THE DISTRICT IS FORMED PURSUANT TO SECTION 48-851, SUBSECTION E, PARAGRAPH 2, ENTER INTO A CONTRACT WITH A PRIVATE FIRE PROTECTION SERVICE PROVIDER FOR A DISTRICT FORMED PURSUANT TO SECTION 48-851, SUBSECTION E, PARAGRAPH 2. THE PRIVATE FIRE PROTECTION SERVICE PROVIDER SEEKING TO ENTER INTO A CONTRACT WITH THE DISTRICT SHALL MAKE A FORMAL EXPRESSION OF INTENT WITHIN TWENTY-ONE DAYS OF DISTRICT FORMATION TO ENTER INTO THE CONTRACT WITH THE DISTRICT. IF THE PRIVATE FIRE PROTECTION SERVICE PROVIDER MAKES A FORMAL EXPRESSION OF INTENT TO ENTER INTO A CONTRACT WITH THE DISTRICT, THE PROVIDER SHALL HAVE A RIGHT OF FIRST REFUSAL TO CONTRACT WITH THE DISTRICT ON TERMS ESTABLISHED BY THE DISTRICT PURSUANT TO SUBSECTION A, PARAGRAPH 8, SUBDIVISION (c) OF THIS SECTION. Ch. 269

~~(b)~~ (c) Issue a request for proposals for nonmunicipal private providers of fire protection services for the district~~. A request for proposals may be issued only if no municipal providers of fire protection services have made an expression of intent seeking to enter into a fire protection agreement with the district~~ IF THE CURRENT PRIVATE PROVIDER FAILS TO NOTIFY THE DISTRICT OF ITS INTENTION TO ENTER INTO A CONTRACT WITH THE DISTRICT OR FOR ANY CONTRACT TO BE AWARDED PURSUANT TO SUBSECTION A, PARAGRAPH 8, SUBDIVISION (b) OF THIS SECTION. Notwithstanding any other law, municipal annexation shall not be undertaken during the term of any contract entered into between the district and a private fire service provider, except that in the one hundred eighty day period before the end of the contract, the municipality shall notify the residents of the opportunity to annex into the municipality. A resident shall notify the district and the municipality within ninety days before the end of the contract that the resident is

annexing into the municipality and shall complete the annexation within ten days after the completion of the contract. If no district residents notify the municipality that the resident is annexing, the district may renew the contract automatically. If a resident proposes to annex into the municipality, the district shall issue a request for proposals again as prescribed in this subdivision.

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~~(c)~~ (d) Before applying this subdivision, ~~the district shall~~ request an independent review by the county attorney of the negotiations, if any, that were conducted as prescribed in subdivision (a) of this paragraph and the request for proposals and resulting bids. After the independent review, the county attorney shall certify whether the negotiations and proposals were based on commercially reasonable assumptions. If the county attorney certifies that any one or more of the provisions are not commercially reasonable, the district and the other party to the negotiations have ten days to cure and continue negotiations before resubmitting information on the negotiations and proposals to the county attorney for certification. Notwithstanding any other law, the county attorney shall have access to sealed bids for purposes of this subdivision. The county attorney shall review and issue a certification pursuant to this subdivision within thirty days after the information and documents regarding negotiations and proposals are submitted to the county attorney. If a fire district AS DEFINED IN SECTION 48-851, SUBSECTION E, PARAGRAPH 1 does not enter into an intergovernmental agreement pursuant to subdivision (a) of this paragraph or enter into a contract pursuant to subdivision ~~(b)~~ (c) of this paragraph, the surrounding municipality shall provide fire protection and emergency medical services except for services regulated pursuant to title 36, chapter 21.1 in the district immediately on request by the district, following final certification by the county attorney. The municipality shall be compensated by the district as follows:

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(i) A three person board shall set the secondary property tax rate for the district. The district shall appoint one person to the board, the surrounding municipality shall appoint one person to the board, and the two appointees shall agree on a third person for the board. If the two appointees cannot agree on a third appointee within five days after the two persons are appointed, the county board of supervisors shall appoint the third person to the board.

(ii) The three person board shall meet and set the tax rate within thirty days after the third person is appointed to the board.

(iii) The district shall levy the tax at the rate as determined by the three person board and the tax shall be collected as other property taxes are collected. On receipt of monies from the property tax levied, the district shall reimburse the county for the costs associated with the formation of the district, including administrative expenses, and shall transfer the remaining monies to the surrounding municipality.

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(e) ON FORMATION AND SUBJECT TO THE AVAILABILITY OF FUNDS, REIMBURSE THIRD PARTIES FOR SERVICES RENDERED PURSUANT TO SECTION 48-851, SUBSECTION A, PARAGRAPH 7.

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~~9.~~ 11. Require that any intergovernmental agreement or contract between the district and a provider of fire protection services ~~to~~ include:

(a) A term of duration between three and five years.

(b) A provision setting forth the cost of service and performance criteria.

(c) An acknowledgment of the right of the municipality to determine the location of future infrastructure if the district is in the municipality's planning area at the time of the execution of the contract.

~~10.~~ 12. If necessary, issue a request for proposals for providers of emergency medical services and enter into an intergovernmental agreement or contract with a provider of emergency medical services except for those services regulated by title 36, chapter 21.1.

~~11.~~ 13. Assess and levy a secondary property tax to pay for the costs of the fire protection service or emergency medical service except for those services regulated by title 36, chapter 21.1. A secondary property tax assessed pursuant to this section is not subject to the levy limitation prescribed by section 48-807.

~~12.~~ 14. Defend, indemnify and hold harmless a municipal provider or any other provider of fire protection from and against any claims or expenses to which it may be subjected by reason of injury or death of any person or loss or damage to any property directly attributable to the provision of the services unless the services were provided in a grossly negligent manner. The fire district shall secure insurance sufficient to cover liability exposure.

B. A fire district formed pursuant to this article, through its board, may:

1. Contract for administrative staff services, if any, deemed necessary or appropriate to carry out its powers and duties, but a member of a district board~~,~~ shall not be an employee of the district.

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2. Retain a certified public accountant to perform an annual audit of district books.

3. Retain private legal counsel.

4. Sue and be sued.

5. Accept gifts, contributions, bequests and grants and comply with any requirements of such gifts, contributions, bequests and grants not inconsistent with this article.

6. Appropriate and expend annually such monies as are necessary for the purpose of fire districts belonging to and paying dues in the Arizona fire district association and other professional affiliations or entities.

C. The county attorney may advise and represent the district when in the county attorney's judgment such advice and representation are appropriate and not in conflict with the county attorney's duties under section 11-532. If the county attorney is unable to advise and represent the district due to a conflict of interest, the district may retain private legal counsel or may request the attorney general to represent it, or both.

D. The chairperson and clerk of the district board or their respective designees, as applicable, shall draw warrants on the county treasurer for money required to operate the district in accordance with the budget and, as so drawn, the warrants shall be sufficient to authorize the county treasurer to pay from the fire district fund.

E. The district shall not incur any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at the time in the fund, except as provided in section 48-807.

F. If a district formed under section 48-851 agrees to provide fire and emergency medical services in a county island where a private provider of fire or emergency services already has facilities or provides service, the district and the private provider shall enter into an agreement covering the roles and relationships regarding mutual aid or backup and any services for which the district wishes to contract and any reimbursement or billing and collection practices. The agreement shall be executed before the district begins providing service in the county island. A district may enter into an intergovernmental agreement with appropriate regional automatic aid dispatch systems.

G. This section does not require a fire district or a city or town to provide fire protection or emergency medical services to an area of the county that is receiving services from a private provider, except as provided by a mutual aid or backup agreement pursuant to this section.

H. For the purposes of this article, "fire service" and "fire protection" include fire prevention, emergency medical services, inspection of commercial or industrial property where a known code violation exists and enforcement.

EXPLANATION OF BLEND
SECTION 48-3603

Laws 2011, Chapters 133 and 322

Laws 2011, Ch. 133, section 1 — Effective July 20

Laws 2011, Ch. 322, section 4 — Effective July 20

Explanation

Since these two enactments are not incompatible, the Laws 2011, Ch. 133 and Ch. 322 text changes to section 48-3603 are blended in the form shown on the following pages.

BLEND OF SECTION 48-3603
Laws 2011, Chapters 133 and 322

48-3603. Powers, duties and immunities of district and board; exemptions

A. A county flood control district organized under this article is a political taxing subdivision of this state and has all the powers, privileges and immunities granted generally to municipal corporations by the constitution and laws of this state, including immunity of its property and bonds from taxation.

B. The board of directors shall exercise all powers and duties in the acquisition and operation of the properties of the district and in carrying out its regulatory functions under this article as are ordinarily exercised by the governing body of a municipal corporation.

C. A district organized under this article, acting through its board of directors, may:

1. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means rights-of-way for and construct, operate and maintain flood control works and storm drainage facilities within or without the district for the benefit of the district.

2. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means and dispose of by sale, exchange or other lawful means real and personal property within the boundaries of the district.

3. Contract and join with this state, the United States or any other flood control district or floodplain board, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual in acquiring, constructing, maintaining and operating flood control works, and regulating floodplains.

4. Enter into contracts of indemnity to indemnify this state, the United States or any other flood control district, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual against liability by virtue of injuries, losses or damages occurring through the use of their facilities, structures, streets, rights-of-way or properties in connection with the operation of a flood control district and the regulation of floodplains.

5. Acquire and maintain existing flood control and drainage facilities within the district for the benefit of the district if mutually agreeable to the owners of such facilities.

6. Acquire, convert and maintain surplus irrigation facilities as storm drainage facilities if mutually agreeable to owners of such facilities.

7. Construct, maintain and operate flood control and storm drainage facilities and regulate floodplains in the district by agreement with this state, counties, other municipal corporations, political subdivisions and other persons and reimburse such agencies or persons for the cost of the work.

8. On the dissolution of any other flood control district, assume the assets and obligations of the other district.

9. Enter into intergovernmental agreements with other public agencies pursuant to title 11, chapter 7, article 3 to carry out the objects and purposes of the district.

10. Apply for, obtain, expend and repay flood control loans pursuant to title 45, chapter 8, article 5.

11. Apply to the director of water resources for alternative flood control assistance for flood control projects pursuant to section 45-1471, except that the director shall not grant any such assistance for any project unless the director has approved the project in advance of planning.

12. Sue and be sued, enter into contracts and generally do all things ~~which~~ THAT may be necessary to construct, acquire and maintain facilities, operate the district and perform its regulatory functions and ~~which~~ THAT are in the interests of the district.

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13. Adopt such rules and bylaws for its orderly operation as it sees fit.

14. Appoint a chief engineer and general manager, who may be the county engineer.

15. Appoint a treasurer, who may be the county treasurer, an attorney, who may be the county attorney, and other employees it considers desirable and necessary to carry out the purposes of the district. Any other work required by the district may be performed by regular employees of the county on assignment by the board of supervisors, except that regular county employees shall not undertake construction projects with an estimated cost of five thousand dollars or more.

16. Allow variances from the terms or regulations adopted pursuant to this article to the extent permitted by section 48-3609, subsection B, paragraph 7 and if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting the variance the general intent and purposes of this article and the regulations will be preserved.

17. Construct, operate and maintain artificial groundwater recharge facilities, and, if organized in a county having a population of more than five hundred thousand persons according to the most recent United States decennial census, underground storage and recovery facilities, if they have flood control benefits, and contract and join with the United States, this state and other governmental units for the purpose of constructing, operating and maintaining multipurpose groundwater recharge, underground storage and recovery and flood control facilities, except that a district shall not expend district funds for any underground storage and recovery facility that does not have flood control benefits.

18. Acquire real property by purchase, donation, dedication, exchange or other lawful means, except by eminent domain, in areas suitable for groundwater recharge projects.

19. Cooperate and join with other entities that engage in underground water storage and recovery projects under title 45, chapter 3, including multi-county water conservation districts and other political subdivisions.

20. Either alone, or by entering into any combination of contracts with this state, the United States, any other flood control district, a floodplain board, a municipality or other political subdivision, a government agency, an irrigation or agricultural improvement district or an association,

corporation or individual, implement flood control enhancement solutions including:

(a) Assistance for property owners within the floodplain and through the elevation, bank stabilization and flood proofing of existing structures.

(b) Preservation and restoration of the floodplain.

(c) Maintenance of flood warning systems and associated flood response plans.

Ch. 133 (d) CONSTRUCTION OF BRIDGES OR OTHER ACCESS OVER WATERCOURSES THAT ARE IMPASSABLE TO EMERGENCY VEHICLE TRAFFIC FOR FOURTEEN OR MORE DAYS A YEAR.

21. If a part of a parcel of land is to be taken for drainage, basins, impoundments or any other flood control related use and the board and the affected property owner determine that the remainder will be left in such a condition as to give rise to a claim or litigation concerning severance or other damage, acquire the whole parcel by purchase, donation, dedication, exchange, condemnation or other lawful means, and the remainder may be sold or exchanged for other properties needed for flood control use.

22. Adopt and enforce civil penalties for violations of its regulations or ordinances and for unauthorized damage and interference to those district facilities that are authorized pursuant to this chapter.

23. Pursuant to the authority prescribed in this chapter, appoint hearing officers to hear and determine actions.

24. For any district that intends to take enforcement action pursuant to section 48-3615.01, adopt written rules of procedure for the hearing and review of decisions on actions prescribed by this chapter.

25. Establish a board of hearing review to review decisions of hearing officers that are issued pursuant to section 48-3615.01. The board of hearing review shall consist of one member from each board of directors' district or the board of directors may authorize the citizens' flood control advisory board or the board of review to designate a like number of its members to serve as the board of hearing review.

26. Authorize the chief engineer of the district to apply for and obtain administrative search warrants for entry and inspection from a local court of general jurisdiction to determine if violations of section 48-3609, 48-3613, 48-3614 or 48-3615 have occurred. The warrants shall be served by a peace officer as defined in section 1-215. A report of any inspections made pursuant to this section shall be prepared and made available in the records of the district and a copy mailed or otherwise delivered to the owner within fifteen days after the inspection of the owner's premises.

D. The board shall adopt and enforce floodplain regulations as provided in section 48-3609.

E. The board may adopt a fee schedule for review of applications for permits and variances from or interpretations of the floodplain regulations.

F. The affirmative vote of a majority of the board of directors is necessary to approve any measure. One member may adjourn any meeting at which a quorum is not present.

G. The board shall keep a proper written record of all of its proceedings, which shall be open to public inspection.

H. The accounts of the district are subject to annual and other audits as provided by law.

I. Section 9-403 does not apply to a flood control district organized under this article and section 9-402 does not apply when the district is selling property to ~~the~~ THIS state or a political subdivision. Before selling any property to ~~the~~ THIS state or a political subdivision of ~~the~~ THIS state, the flood control district shall obtain an appraisal of the fair market value of the property by a person who is certified pursuant to title 32, chapter 36. If any property sold by the district to ~~the~~ THIS state or a political subdivision without complying with section 9-402 is subsequently sold by ~~the~~ THIS state or political subdivision as undeveloped property for a price exceeding the original sale price, the district shall be paid the difference between the original price and the subsequent sale price. For the purposes of this subsection, "political subdivision" means any incorporated city or town, county, school district, FIRE DISTRICT, charter school, community college or university.

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