

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2337

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-469; AMENDING TITLE 11, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-324; AMENDING SECTIONS 15-213.01 AND 15-342, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-910.02; AMENDING SECTIONS 34-201 AND 34-451, ARIZONA REVISED STATUTES; REPEALING SECTION 34-453, ARIZONA REVISED STATUTES; AMENDING SECTIONS 34-454 AND 34-455, ARIZONA REVISED STATUTES; REPEALING SECTION 34-456, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1511; AMENDING TITLE 41, CHAPTER 23, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2560; AMENDING SECTION 42-11054, ARIZONA REVISED STATUTES; REPEALING SECTION 42-12056, ARIZONA REVISED STATUTES; AMENDING SECTIONS 44-1375, 44-1375.01 AND 44-1375.02, ARIZONA REVISED STATUTES; RELATING TO ENERGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 6.4, Arizona Revised Statutes,
3 is amended by adding section 9-469, to read:

4 9-469. Energy efficiency construction; report; definition

5 A. BEGINNING JANUARY 1, 2010, A CITY OR TOWN SHALL ELECTRONICALLY
6 REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE INFORMATION COLLECTED AS
7 PART OF THE MUNICIPAL BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY
8 APPLICATION AND APPROVAL PROCESS WHETHER THE BUILDING MEETS THE REQUIREMENTS
9 OF AN ENERGY EFFICIENT RESIDENTIAL OR COMMERCIAL BUILDING AND SHALL REPORT
10 THE ENERGY RATING SYSTEM VALUE FOR THE BUILDING IF THE BUILDING RECEIVES AN
11 ENERGY RATING.

12 B. ON OR BEFORE FEBRUARY 1, 2010 AND EACH YEAR THROUGH 2021, EACH CITY
13 AND TOWN SHALL ELECTRONICALLY REPORT TO THE DEPARTMENT OF COMMERCE ENERGY
14 OFFICE:

15 1. THE TOTAL NUMBER OF CERTIFICATES OF OCCUPANCY ISSUED IN THE CITY OR
16 TOWN IN THE PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR
17 ALL NEW COMMERCIAL BUILDINGS.

18 2. THE NUMBER AND PERCENTAGE OF THOSE CERTIFICATES THAT WERE ISSUED
19 FOR NEW ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY
20 RATING SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE
21 PERFORMED.

22 C. AS AN ALTERNATIVE TO PROVIDING THE INFORMATION REQUIRED IN
23 SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, A CITY OR TOWN MAY ELECTRONICALLY
24 REPORT ONLY THE BUILDING ENERGY CODES OR STANDARDS IN USE FOR THE PRECEDING
25 CALENDAR YEAR. UPON RECEIPT OF THIS INFORMATION, THE DEPARTMENT OF COMMERCE
26 ENERGY OFFICE SHALL OBTAIN DATA FROM THE UNITED STATES ENVIRONMENTAL
27 PROTECTION AGENCY ENERGY STAR PROGRAM AND FROM THE UNITED STATES GREEN
28 BUILDING COUNCIL REGARDING THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
29 GREEN BUILDING RATING STANDARD TO DETERMINE THE NUMBER OF ENERGY EFFICIENT
30 BUILDINGS CERTIFIED IN THAT YEAR.

31 D. FOR THE PURPOSES OF THIS SECTION AND FOR PURPOSES OF REPORTING
32 ENERGY EFFICIENT BUILDINGS PURSUANT TO SECTION 41-1511, "ENERGY EFFICIENT
33 BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED
34 THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL
35 PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND
36 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED
37 STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR
38 THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE
39 INTERNATIONAL ENERGY CONSERVATION CODE.

40 Sec. 2. Title 11, chapter 2, article 9, Arizona Revised Statutes, is
41 amended by adding section 11-324, to read:

42 11-324. Energy efficiency construction; report; definition

43 A. BEGINNING JANUARY 1, 2010, A COUNTY SHALL ELECTRONICALLY REPORT TO
44 THE DEPARTMENT OF COMMERCE ENERGY OFFICE INFORMATION COLLECTED AS PART OF THE

1 BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY APPLICATION AND APPROVAL PROCESS
2 WHETHER THE BUILDING MEETS THE REQUIREMENTS OF AN ENERGY EFFICIENT
3 RESIDENTIAL OR COMMERCIAL BUILDING AND SHALL REPORT THE ENERGY RATING SYSTEM
4 VALUE FOR THE BUILDING IF THE BUILDING RECEIVES AN ENERGY RATING.

5 B. ON OR BEFORE FEBRUARY 1, 2010 AND EACH YEAR THROUGH 2021, EACH
6 COUNTY SHALL ELECTRONICALLY REPORT TO THE DEPARTMENT OF COMMERCE ENERGY
7 OFFICE:

8 1. THE TOTAL NUMBER OF CERTIFICATES OF OCCUPANCY ISSUED IN THE COUNTY
9 IN THE PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR ALL
10 NEW COMMERCIAL BUILDINGS.

11 2. THE NUMBER AND PERCENTAGE OF THOSE CERTIFICATES THAT WERE ISSUED
12 FOR NEW ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY
13 RATING SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE
14 PERFORMED.

15 C. AS AN ALTERNATIVE TO PROVIDING THE INFORMATION REQUIRED IN
16 SUBSECTION B, PARAGRAPH 2 OF THIS SECTION, A COUNTY MAY ELECTRONICALLY REPORT
17 ONLY THE BUILDING ENERGY CODES OR STANDARDS IN USE FOR THE PRECEDING CALENDAR
18 YEAR. UPON RECEIPT OF THIS INFORMATION, THE DEPARTMENT OF COMMERCE ENERGY
19 OFFICE SHALL OBTAIN DATA FROM THE UNITED STATES ENVIRONMENTAL PROTECTION
20 AGENCY ENERGY STAR PROGRAM AND FROM THE UNITED STATES GREEN BUILDING COUNCIL
21 REGARDING THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING
22 RATING STANDARD TO DETERMINE THE NUMBER OF ENERGY EFFICIENT BUILDINGS
23 CERTIFIED IN THAT YEAR.

24 D. FOR THE PURPOSES OF THIS SECTION AND FOR PURPOSES OF REPORTING
25 ENERGY EFFICIENT BUILDINGS PURSUANT TO SECTION 41-1511, "ENERGY EFFICIENT
26 BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED
27 THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL
28 PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND
29 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED
30 STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR
31 THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE
32 INTERNATIONAL ENERGY CONSERVATION CODE.

33 Sec. 3. Section 15-213.01, Arizona Revised Statutes, is amended to
34 read:

35 15-213.01. Procurement practices; guaranteed energy cost
36 savings contracts; definitions

37 A. Notwithstanding section 15-213, subsection A, a school district may
38 contract for the procurement of a guaranteed energy cost savings contract
39 with a qualified provider through a competitive sealed proposal process as
40 provided by the procurement practices adopted by the state board of
41 education. ~~To the extent the qualified provider subcontracts with~~
42 ~~contractors who will be involved in any construction associated with the~~
43 ~~guaranteed energy cost savings contract, the qualified provider must follow~~
44 ~~the provisions of section 41-2533 in selecting these contractors.~~

1 B. A school district may enter into a guaranteed energy cost savings
2 contract with a qualified provider if it determines that the amount it would
3 spend on the SUM OF ALL energy cost savings measures recommended in the
4 proposal would not exceed the TOTAL amount to be saved in energy and
5 operational costs over the expected life of the AGGREGATED energy cost
6 savings measures implemented or within twenty-five years, whichever is
7 shorter, after the date installation or implementation is complete, if the
8 recommendations in the proposal are followed. THE SCHOOL DISTRICT SHALL
9 RETAIN THE COST SAVINGS ACHIEVED BY A GUARANTEED ENERGY COST SAVING CONTRACT,
10 AND THESE COST SAVINGS MAY BE USED TO PAY FOR THE CONTRACT AND PROJECT
11 IMPLEMENTATION. A SCHOOL DISTRICT SHALL NOT USE EXCESS UTILITIES MONIES FOR
12 THE CONTRACT OR FOR PROJECT IMPLEMENTATION.

13 C. The school district shall use objective criteria in selecting the
14 qualified provider, including the cost of the contract, the energy and
15 operational cost savings, the net projected energy savings, the quality of
16 the technical approach, the quality of the project management plan, the
17 financial solvency of the qualified provider and the experience of the
18 qualified provider with projects of similar size and scope. The school
19 district shall set forth each criterion with its respective numerical
20 weighting in the request for proposal. THE SCHOOL DISTRICT SHALL CONSIDER
21 THE EXPERIENCE OF POTENTIAL QUALIFIED PROVIDERS REGARDING THE MAINTENANCE,
22 OPERATION, MONITORING AND DATA COLLECTION ASSOCIATED WITH PROJECTS OF SIMILAR
23 SIZE AND SCOPE AND THE SCHOOL DISTRICT MAY SEEK ASSISTANCE AND EXPERTISE FROM
24 WATER AND POWER PROVIDERS.

25 D. In selecting a contractor to perform any construction work related
26 to performing the guaranteed energy cost savings contract, the qualified
27 provider may develop and use a prequalification process for contractors
28 ~~wishing to bid on this work.~~ These prequalifications may require the
29 contractor to demonstrate that the contractor is adequately bonded to perform
30 the work and that the contractor has not failed to perform on a prior job.
31 ~~The qualified provider may use performance specifications in soliciting bids~~
32 ~~from contractors.~~

33 E. ~~An in-depth feasibility~~ A study shall be performed by the selected
34 qualified provider in order to establish the exact scope of the guaranteed
35 energy cost savings contract, the fixed cost savings guarantee amount and the
36 methodology for determining actual savings. This report shall be reviewed
37 and approved by the school district ~~prior to~~ BEFORE the actual installation
38 of any equipment. The qualified provider shall transmit a copy of the
39 approved ~~in-depth feasibility~~ study to the superintendent of public
40 instruction AND THE DEPARTMENT OF COMMERCE ENERGY OFFICE.

41 F. The guaranteed energy COST savings contract shall require that
42 ~~a qualified provider perform an energy audit of the facility or facilities~~
43 ~~one year after the energy cost savings measures are installed or implemented~~
44 ~~and every three years thereafter for the length of the contract. The~~

~~qualified provider shall transmit a copy of the audit to the superintendent of public instruction. The qualified provider shall pay the cost of the audit.~~ in determining whether the projected energy savings calculations have been met, the energy or operational cost savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed and operational costs avoided after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:

1. Changes in utility rates.
2. Changes in the number of days in the utility billing cycle.
3. Changes in the square footage of the facility.
4. Changes in the operational schedule of the facility.
5. Changes in facility temperature.
6. Significant changes in the weather.
7. Significant changes in the amount of equipment or lighting utilized in the facility.

8. SIGNIFICANT CHANGES IN THE NATURE OR INTENSITY OF ENERGY USE SUCH AS THE CHANGE OF CLASSROOM SPACE TO LABORATORY SPACE.

G. The information to develop the energy baseline shall be derived from actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The measurements shall be taken in the year preceding the installation or implementation of energy cost savings measures.

H. When submitting a proposal for the installation of equipment, the qualified provider shall include information on the projected energy savings associated with each proposed energy cost savings measure.

I. A school district, or two or more school districts, may enter into an installment payment contract or lease-purchase agreement with a qualified provider for the purchase and installation or implementation of energy cost savings measures. The guaranteed energy cost savings contract may provide for payments over a period of not more than the expected life of the **AGGREGATED** energy cost savings measures implemented or twenty-five years, whichever is shorter. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings, or both, will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter. The qualified provider shall:

1 1. FOR THE FIRST THREE YEARS OF SAVINGS, PREPARE A MEASUREMENT AND
2 VERIFICATION REPORT ON AN ANNUAL BASIS IN ADDITION TO AN ANNUAL
3 RECONCILIATION OF SAVINGS.

4 2. Reimburse the school district for any shortfall of guaranteed
5 energy cost savings on an annual basis.

6 K. The school district may obtain any required financing as part of
7 the original competitive sealed proposal process FROM THE QUALIFIED PROVIDER
8 OR A THIRD-PARTY FINANCING INSTITUTION.

9 L. A qualified provider that is awarded the contract shall give a
10 sufficient bond to the school district for its faithful performance of the
11 equipment installment.

12 M. ~~When selecting subcontractors to perform construction work,~~ The
13 qualified provider is required to make public information in the
14 subcontractor's bids only if the qualified provider is awarded the guaranteed
15 energy COST savings contract by the school district.

16 N. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL
17 REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE:

18 1. THE NAME OF THE PROJECT.

19 2. THE QUALIFIED PROVIDER.

20 3. THE TOTAL COST OF THE PROJECT.

21 4. THE EXPECTED ENERGY AND COST SAVINGS.

22 ~~N.~~ O. This section does not apply to the construction of new
23 buildings.

24 P. A SCHOOL DISTRICT MAY UTILIZE A SIMPLIFIED ENERGY PERFORMANCE
25 CONTRACT FOR PROJECTS OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS. SIMPLIFIED
26 ENERGY PERFORMANCE CONTRACTS ARE NOT REQUIRED TO INCLUDE AN ENERGY SAVINGS
27 GUARANTEE AND SHALL COMPLY WITH ALL REQUIREMENTS IN THIS SECTION EXCEPT FOR
28 THE REQUIREMENTS THAT ARE SPECIFICALLY RELATED TO THE ENERGY SAVINGS
29 GUARANTEE AND THE MEASUREMENT AND VERIFICATION OF THE GUARANTEED SAVINGS.

30 Q. GUARANTEED ENERGY COST SAVINGS CONTRACTS MAY BE USED TO FINANCE OR
31 IMPLEMENT ENERGY COSTS SAVINGS MEASURES INSTALLED DURING THE CONSTRUCTION OF
32 NEW BUILDINGS EXCEPT THAT THE CONTRACTS SHALL NOT BE USED FOR ACTUAL
33 CONSTRUCTION

34 ~~Q.~~ R. For the purposes of this section:

35 1. "Construction" means the process of building, altering, repairing,
36 improving or demolishing any school district structure or building, or other
37 public improvements of any kind to any school district real property.
38 Construction does not include the routine operation, routine repair or
39 routine maintenance of existing structures, buildings or real property.

40 2. "Energy baseline" means a calculation of the amount of energy used
41 in an existing facility before the installation or implementation of the
42 energy cost savings measures.

43 3. "Energy cost savings measure" means a training program or facility
44 alteration designed to reduce energy consumption or operating costs and may

1 include one or more of the following AND ANY RELATED METERS OR OTHER
2 MEASURING DEVICES:

3 (a) Insulating the building structure or systems in the building.

4 (b) Storm windows or doors, caulking or weather stripping,
5 ~~multi-glazed~~ MULTIGLAZED windows or door systems, additional glazing,
6 reductions in glass area, or other window and door system modifications that
7 reduce energy consumption.

8 (c) Automated or computerized energy control systems.

9 (d) Heating, ventilating or air conditioning system modifications or
10 replacements.

11 (e) Replacing or modifying lighting fixtures to increase the energy
12 efficiency of the lighting system without increasing the overall illumination
13 of a facility unless an increase in illumination is necessary to conform to
14 the applicable state or local building code for the lighting system after the
15 proposed modifications are made.

16 (f) Indoor air quality improvements to increase air quality that
17 conform to the applicable state or local building code requirements.

18 (g) Energy recovery systems.

19 (h) Installing a new or retrofitting an existing day lighting system.

20 (i) Any life safety measures that provide long-term operating cost
21 reductions and that comply with state and local codes.

22 (j) Implementing operation programs through education, training and
23 software that reduce the operating costs.

24 (k) PROCUREMENT OF LOW-COST UTILITY SUPPLIES OF ALL TYPES, INCLUDING
25 ELECTRICITY, NATURAL GAS, PROPANE AND WATER.

26 (l) DEVICES THAT REDUCE WATER CONSUMPTION AND WATER COSTS OR THAT
27 REDUCE SEWER CHARGES.

28 (m) RAINWATER HARVESTING SYSTEMS.

29 (n) COMBINED HEAT AND POWER SYSTEMS.

30 (o) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS AND RENEWABLE ENERGY
31 POWER SERVICE AGREEMENTS.

32 (p) SELF-GENERATION SYSTEMS.

33 (q) ANY ADDITIONAL BUILDING SYSTEMS AND INFRASTRUCTURE THAT PRODUCE
34 ENERGY, OR THAT PROVIDE UTILITY OR OPERATIONAL COST SAVINGS NOT SPECIFICALLY
35 MENTIONED IN THIS PARAGRAPH, IF THE IMPROVEMENTS MEET THE LIFE CYCLE COST
36 REQUIREMENT AND ENHANCE BUILDING SYSTEM PERFORMANCE OR OCCUPANT COMFORT AND
37 SAFETY.

38 4. "Guaranteed energy cost savings contract" means a contract for
39 implementing one or more energy cost savings measures.

40 5. "LIFE CYCLE COST" MEANS THE SUM OF PRESENT VALUES OF INVESTMENT
41 COSTS, CAPITAL COSTS, INSTALLATION COSTS, ENERGY COSTS, OPERATING COSTS,
42 MAINTENANCE COSTS AND DISPOSAL COSTS OVER THE LIFE OF THE PROJECT, PRODUCT OR
43 MEASURE AS PROVIDED BY FEDERAL LIFE CYCLE COST RULES, REGULATIONS AND
44 CRITERIA CONTAINED IN THE UNITED STATES DEPARTMENT OF ENERGY FEDERAL ENERGY

1 MANAGEMENT PROGRAM "GUIDANCE ON LIFE-CYCLE COST ANALYSIS" REQUIRED BY
2 EXECUTIVE ORDER 13122, APRIL 2005.

3 ~~5-~~ 6. "Operational savings" means reductions in actual budget line
4 items currently being expended or savings realized from the implementation or
5 installation of energy cost savings measures.

6 ~~6-~~ 7. "Qualified provider" means a person or a business experienced
7 in PLANNING, designing, implementing, MONITORING or installing energy cost
8 savings measures.

9 Sec. 4. Section 15-342, Arizona Revised Statutes, is amended to read:
10 15-342. Discretionary powers

11 The governing board may:

12 1. Expel pupils for misconduct.

13 2. Exclude from grades one through eight children under six years of
14 age.

15 3. Make such separation of groups of pupils as it deems advisable.

16 4. Maintain such special schools during vacation as deemed necessary
17 for the benefit of the pupils of the school district.

18 5. Permit a superintendent or principal or representatives of the
19 superintendent or principal to travel for a school purpose, as determined by
20 a majority vote of the board. The board may permit members and members-elect
21 of the board to travel within or without the school district for a school
22 purpose and receive reimbursement. Any expenditure for travel and
23 subsistence pursuant to this paragraph shall be as provided in title 38,
24 chapter 4, article 2. The designated post of duty referred to in section
25 38-621 shall be construed, for school district governing board members, to be
26 the member's actual place of residence, as opposed to the school district
27 office or the school district boundaries. Such expenditures shall be a
28 charge against the budgeted school district funds. The governing board of a
29 school district shall prescribe procedures and amounts for reimbursement of
30 lodging and subsistence expenses. Reimbursement amounts shall not exceed the
31 maximum amounts established pursuant to section 38-624, subsection C.

32 6. Construct or provide in rural districts housing facilities for
33 teachers and other school employees which the board determines are necessary
34 for the operation of the school.

35 7. Sell or lease to the state, a county, a city or a tribal government
36 agency, ~~any~~ school property required for a public purpose, provided the sale
37 or lease of the property will not affect the normal operations of a school
38 within the school district.

39 8. Annually budget and expend funds for membership in an association
40 of school districts within this state.

41 9. Enter into leases or lease-purchase agreements for school buildings
42 or grounds, or both, as lessor or as lessee, for periods of less than five
43 years subject to voter approval for construction of school buildings as
44 prescribed in section 15-341, subsection A, paragraph 8.

1 10. Subject to chapter 16 of this title, sell school sites or enter
2 into leases or lease-purchase agreements for school buildings and grounds, as
3 lessor or as lessee, for a period of five years or more, but not to exceed
4 ninety-nine years, if authorized by a vote of the school district electors in
5 an election called by the governing board as provided in section 15-491,
6 except that authorization by the school district electors in an election is
7 not required if one of the following requirements is met:

8 (a) The market value of the school property is less than fifty
9 thousand dollars OR THE PROPERTY IS PROCURED THROUGH AN ENERGY PERFORMANCE
10 CONTRACT, WHICH AMONG OTHER ITEMS INCLUDES A RENEWABLE ENERGY POWER SERVICE
11 AGREEMENT, OR A SIMPLIFIED ENERGY PERFORMANCE CONTRACT PURSUANT TO SECTION
12 15-213.01.

13 (b) The buildings and sites are completely funded with monies
14 distributed by the school facilities board.

15 (c) The transaction involves the sale of improved or unimproved
16 property pursuant to an agreement with the school facilities board in which
17 the school district agrees to sell the improved or unimproved property and
18 transfer the proceeds of the sale to the school facilities board in exchange
19 for monies from the school facilities board for the acquisition of a more
20 suitable school site. For a sale of property acquired by a school district
21 prior to July 9, 1998, a school district shall transfer to the school
22 facilities board that portion of the proceeds that equals the cost of the
23 acquisition of a more suitable school site. If there are any remaining
24 proceeds after the transfer of monies to the school facilities board, a
25 school district shall only use those remaining proceeds for future land
26 purchases approved by the school facilities board, or for capital
27 improvements not funded by the school facilities board for any existing or
28 future facility.

29 (d) The transaction involves the sale of improved or unimproved
30 property pursuant to a formally adopted plan and the school district uses the
31 proceeds of this sale to purchase other property that will be used for
32 similar purposes as the property that was originally sold, provided that the
33 sale proceeds of the improved or unimproved property are used within two
34 years after the date of the original sale to purchase the replacement
35 property. If the sale proceeds of the improved or unimproved property are
36 not used within two years after the date of the original sale to purchase
37 replacement property, the sale proceeds shall be used towards payment of any
38 outstanding bonded indebtedness. If any sale proceeds remain after paying
39 for outstanding bonded indebtedness, or if the district has no outstanding
40 bonded indebtedness, sale proceeds shall be used to reduce the district's
41 primary tax levy. A school district shall not use ~~the provisions of~~ this
42 subdivision unless all of the following conditions exist:

43 (i) The school district is the sole owner of the improved or
44 unimproved property that the school district intends to sell.

1 (ii) The school district did not purchase the improved or unimproved
2 property that the school district intends to sell with monies that were
3 distributed pursuant to chapter 16 of this title.

4 (iii) The transaction does not violate section 15-341, subsection G.

5 11. Review the decision of a teacher to promote a pupil to a grade or
6 retain a pupil in a grade in a common school or to pass or fail a pupil in a
7 course in high school. The pupil has the burden of proof to overturn the
8 decision of a teacher to promote, retain, pass or fail the pupil. In order
9 to sustain the burden of proof, the pupil shall demonstrate to the governing
10 board that the pupil has mastered the academic standards adopted by the state
11 board of education pursuant to sections 15-701 and 15-701.01. If the
12 governing board overturns the decision of a teacher pursuant to this
13 paragraph, the governing board shall adopt a written finding that the pupil
14 has mastered the academic standards. Notwithstanding title 38, chapter 3,
15 article 3.1, the governing board shall review the decision of a teacher to
16 promote a pupil to a grade or retain a pupil in a grade in a common school or
17 to pass or fail a pupil in a course in high school in executive session
18 unless a parent or legal guardian of the pupil or the pupil, if emancipated,
19 disagrees that the review should be conducted in executive session and then
20 the review shall be conducted in an open meeting. If the review is conducted
21 in executive session, the board shall notify the teacher of the date, time
22 and place of the review and shall allow the teacher to be present at the
23 review. If the teacher is not present at the review, the board shall consult
24 with the teacher before making its decision. Any request, including the
25 written request as provided in section 15-341, the written evidence presented
26 at the review and the written record of the review, including the decision of
27 the governing board to accept or reject the teacher's decision, shall be
28 retained by the governing board as part of its permanent records.

29 12. Provide transportation or site transportation loading and unloading
30 areas for any child or children if deemed for the best interest of the
31 district, whether within or without the district, county or state.

32 13. Enter into intergovernmental agreements and contracts with school
33 districts or other governing bodies as provided in section 11-952.

34 14. Include in the curricula which it prescribes for high schools in
35 the school district career and technical education, vocational education and
36 technology education programs and career and technical, vocational and
37 technology program improvement services for the high schools, subject to
38 approval by the state board of education. The governing board may contract
39 for the provision of career and technical, vocational and technology
40 education as provided in section 15-789.

41 15. Suspend a teacher or administrator from the teacher's or
42 administrator's duties without pay for a period of time of not to exceed ten
43 school days, if the board determines that suspension is warranted pursuant to
44 section 15-341, subsection A, paragraphs 23 and 24.

1 16. Dedicate school property within an incorporated city or town to
2 such city or town or within a county to that county for use as a public
3 right-of-way if both of the following apply:

4 (a) Pursuant to an ordinance adopted by such city, town or county,
5 there will be conferred upon the school district privileges and benefits
6 which may include benefits related to zoning.

7 (b) The dedication will not affect the normal operation of any school
8 within the district.

9 17. Enter into option agreements for the purchase of school sites.

10 18. Donate surplus or outdated learning materials to nonprofit
11 community organizations where the governing board determines that the
12 anticipated cost of selling the learning materials equals or exceeds the
13 estimated market value of the materials.

14 19. Prescribe policies for the assessment of reasonable fees for
15 students to use district-provided parking facilities. The fees are to be
16 applied by the district solely against costs incurred in operating or
17 securing the parking facilities. Any policy adopted by the governing board
18 pursuant to this paragraph shall include a fee waiver provision in
19 appropriate cases of need or economic hardship.

20 20. Establish alternative educational programs that are consistent with
21 the laws of this state to educate pupils, including pupils who have been
22 reassigned pursuant to section 15-841, subsection E or F.

23 21. Require a period of silence to be observed at the commencement of
24 the first class of the day in the schools. If a governing board chooses to
25 require a period of silence to be observed, the teacher in charge of the room
26 in which the first class is held shall announce that a period of silence not
27 to exceed one minute in duration will be observed for meditation, and during
28 that time no activities shall take place and silence shall be maintained.

29 22. Require students to wear uniforms.

30 23. Exchange unimproved property or improved property, including school
31 sites, where the governing board determines that the improved property is
32 unnecessary for the continued operation of the school district without
33 requesting authorization by a vote of the school district electors if the
34 governing board determines that the exchange is necessary to protect the
35 health, safety or welfare of pupils or when the governing board determines
36 that the exchange is based on sound business principles for either:

37 (a) Unimproved or improved property of equal or greater value.

38 (b) Unimproved property that the owner contracts to improve if the
39 value of the property ultimately received by the school district is of equal
40 or greater value.

1 24. For common and high school pupils, assess reasonable fees for
2 optional extracurricular activities and programs conducted when the common or
3 high school is not in session, except that no fees shall be charged for
4 pupils' access to or use of computers or related materials. For high school
5 pupils, the governing board may assess reasonable fees for fine arts and
6 vocational education courses and for optional services, equipment and
7 materials offered to the pupils beyond those required to successfully
8 complete the basic requirements of any other course, except that no fees
9 shall be charged for pupils' access to or use of computers or related
10 materials. Fees assessed pursuant to this paragraph shall be adopted at a
11 public meeting after notice has been given to all parents of pupils enrolled
12 at schools in the district and shall not exceed the actual costs of the
13 activities, programs, services, equipment or materials. The governing board
14 shall authorize principals to waive the assessment of all or part of a fee
15 assessed pursuant to this paragraph if it creates an economic hardship for a
16 pupil. For the purposes of this paragraph, "extracurricular activity" means
17 any optional, noncredit, educational or recreational activity which
18 supplements the education program of the school, whether offered before,
19 during or after regular school hours.

20 25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10,
21 construct school buildings and purchase or lease school sites, without a vote
22 of the school district electors, if the buildings and sites are totally
23 funded from one or more of the following:

24 (a) Monies in the unrestricted capital outlay fund, except that the
25 estimated cost shall not exceed two hundred fifty thousand dollars for a
26 district that utilizes ~~the provisions of~~ section 15-949.

27 (b) Monies distributed from the school facilities board established by
28 section 15-2001.

29 (c) Monies specifically donated for the purpose of constructing school
30 buildings.

31 Nothing in this paragraph shall be construed to eliminate the requirement for
32 an election to raise revenues for a capital outlay override pursuant to
33 section 15-481 or a bond election pursuant to section 15-491.

34 26. Conduct a background investigation that includes a fingerprint
35 check conducted pursuant to section 41-1750, subsection G for certificated
36 personnel and personnel who are not paid employees of the school district, as
37 a condition of employment. A school district may release the results of a
38 background check to another school district for employment purposes. The
39 school district may charge the costs of fingerprint checks to its
40 fingerprinted employee, except that the school district may not charge the
41 costs of fingerprint checks for personnel who are not paid employees of the
42 school district.

43 27. Sell advertising space on the exterior of school buses as
44 follows:

1 (a) Advertisements shall be age appropriate and not contain promotion
2 of any substance that is illegal for minors such as alcohol, tobacco and
3 drugs or gambling. Advertisements shall comply with the state sex education
4 policy of abstinence.

5 (b) Advertising approved by the governing board may appear only on the
6 sides of the bus in the following areas:

7 (i) The signs shall be below the seat level rub rail and not extend
8 above the bottom of the side windows.

9 (ii) The signs shall be at least three inches from any required
10 lettering, lamp, wheel well or reflector behind the service door or stop
11 signal arm.

12 (iii) The signs shall not extend from the body of the bus so as to
13 allow a handhold or present a danger to pedestrians.

14 (iv) The signs shall not interfere with the operation of any door or
15 window.

16 (v) The signs shall not be placed on any emergency doors.

17 (c) Establish a school bus advertisement fund that is comprised of
18 revenues from the sale of advertising space on school buses. The monies in a
19 school bus advertisement fund are not subject to reversion and shall be used
20 for the following purposes:

21 (i) To comply with the energy conservation measures prescribed in
22 section 15-349 in school districts that are in area A as defined in section
23 49-541, and any remaining monies shall be used to purchase alternative fuel
24 support vehicles and any other pupil related costs as determined by the
25 governing board.

26 (ii) For any pupil related costs as determined by the governing board
27 in school districts not subject to ~~the provisions of~~ item (i) of this
28 subdivision.

29 28. Assess reasonable damage deposits to pupils in grades seven through
30 twelve for the use of textbooks, musical instruments, band uniforms or other
31 equipment required for academic courses. The governing board shall adopt
32 policies on any damage deposits assessed pursuant to this paragraph at a
33 public meeting called for this purpose after providing notice to all parents
34 of pupils in grades seven through twelve in the school district. Principals
35 of individual schools within the district may waive the damage deposit
36 requirement for any textbook or other item if the payment of the damage
37 deposit would create an economic hardship for the pupil. The school district
38 shall return the full amount of the damage deposit for any textbook or other
39 item if the pupil returns the textbook or other item in reasonably good
40 condition within the time period prescribed by the governing board. For the
41 purposes of this paragraph, "in reasonably good condition" means the textbook
42 or other item is in the same or a similar condition as it was when the pupil
43 received it, plus ordinary wear and tear.

1 29. Notwithstanding section 15-1105, expend surplus monies in the civic
2 center school fund for maintenance and operations or unrestricted capital
3 outlay, if sufficient monies are available in the fund after meeting the
4 needs of programs established pursuant to section 15-1105.

5 30. Notwithstanding section 15-1143, expend surplus monies in the
6 community school program fund for maintenance and operations or unrestricted
7 capital outlay, if sufficient monies are available in the fund after meeting
8 the needs of programs established pursuant to section 15-1142.

9 31. Adopt guidelines for standardization of the format of the school
10 report cards required by section 15-746 for schools within the district.

11 32. Adopt policies that require parental notification when a law
12 enforcement officer interviews a pupil on school grounds. Policies adopted
13 pursuant to this paragraph shall not impede a peace officer from the
14 performance of the peace officer's duties. If the school district governing
15 board adopts a policy that requires parental notification:

16 (a) The policy may provide reasonable exceptions to the parental
17 notification requirement.

18 (b) The policy shall set forth whether and under what circumstances a
19 parent may be present when a law enforcement officer interviews the pupil,
20 including reasonable exceptions to the circumstances under which a parent may
21 be present when a law enforcement officer interviews the pupil, and shall
22 specify a reasonable maximum time after a parent is notified that an
23 interview of a pupil by a law enforcement officer may be delayed to allow the
24 parent to be present.

25 33. Enter into voluntary partnerships with any party to finance with
26 funds other than school district funds and cooperatively design school
27 facilities that comply with the adequacy standards prescribed in section
28 15-2011 and the square footage per pupil requirements pursuant to section
29 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
30 location of any such school facility shall be submitted to the school
31 facilities board for approval pursuant to section 15-2041, subsection 0. If
32 the school facilities board approves the design plans and location of any
33 such school facility, the party in partnership with the school district may
34 cause to be constructed and the district may begin operating the school
35 facility before monies are distributed from the school facilities board
36 pursuant to section 15-2041. Monies distributed from the new school
37 facilities fund to a school district in a partnership with another party to
38 finance and design the school facility shall be paid to the school district
39 pursuant to section 15-2041. The school district shall reimburse the party
40 in partnership with the school district from the monies paid to the school
41 district pursuant to section 15-2041, in accordance with the voluntary
42 partnership agreement. Before the school facilities board distributes any
43 monies pursuant to this subsection, the school district shall demonstrate to
44 the school facilities board that the facilities to be funded pursuant to

1 section 15-2041, subsection 0 meet the minimum adequacy standards prescribed
2 in section 15-2011. If the cost to construct the school facility exceeds the
3 amount that the school district receives from the new school facilities fund,
4 the partnership agreement between the school district and the other party
5 shall specify that, except as otherwise provided by the other party, any such
6 excess costs shall be the responsibility of the school district. The school
7 district governing board shall adopt a resolution in a public meeting that AN
8 analysis has been conducted on the prospective effects of the decision to
9 operate a new school with existing monies from the school district's
10 maintenance and operations budget and how this decision may affect other
11 schools in the school district. If a school district acquires land by
12 donation at an appropriate school site approved by the school facilities
13 board and a school facility is financed and built on the land pursuant to
14 this paragraph, the school facilities board shall distribute an amount equal
15 to twenty per cent of the fair market value of the land that can be used for
16 academic purposes. The school district shall place the monies in the
17 unrestricted capital outlay fund and increase the unrestricted capital budget
18 limit by the amount of the monies placed in the fund. Monies distributed
19 under this paragraph shall be distributed from the new school facilities fund
20 pursuant to section 15-2041. If a school district acquires land by donation
21 at an appropriate school site approved by the school facilities board and a
22 school facility is financed and built on the land pursuant to this paragraph,
23 the school district shall not receive monies from the school facilities board
24 for the donation of real property pursuant to section 15-2041, subsection F.
25 It is unlawful for:

26 (a) A county, city or town to require as a condition of any land use
27 approval that a landowner or landowners that entered into a partnership
28 pursuant to this paragraph provide any contribution, donation or gift, other
29 than a site donation, to a school district. This subdivision only applies to
30 the property in the voluntary partnership agreement pursuant to this
31 paragraph.

32 (b) A county, city or town to require as a condition of any land use
33 approval that the landowner or landowners located within the geographic
34 boundaries of the school subject to the voluntary partnership pursuant to
35 this paragraph provide any donation or gift to the school district except as
36 provided in the voluntary partnership agreement pursuant to this paragraph.

37 (c) A community facilities district established pursuant to title 48,
38 chapter 4, article 6 to be used for reimbursement of financing the
39 construction of a school pursuant to this paragraph.

40 (d) ~~For~~ A school district to enter into an agreement pursuant to this
41 paragraph with any party other than a master planned community party. Any
42 land area consisting of at least three hundred twenty acres that is the
43 subject of a development agreement with a county, city or town entered into
44 pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master

1 planned community. For the purposes of this subdivision, "master planned
2 community" means a land area consisting of at least three hundred twenty
3 acres, which may be noncontiguous, that is the subject of a zoning ordinance
4 approved by the governing body of the county, city or town in which the land
5 is located that establishes the use of the land area as a planned area
6 development or district, planned community development or district, planned
7 unit development or district or other land use category or district that is
8 recognized in the local ordinance of such county, city or town and that
9 specifies the use of such land is for a master planned development.

10 Sec. 5. Title 15, chapter 9, article 1, Arizona Revised Statutes, is
11 amended by adding section 15-910.02, to read:

12 15-910.02. Energy and water savings accounts; definition

13 A. EACH SCHOOL DISTRICT MAY ESTABLISH AN ENERGY AND WATER SAVINGS
14 ACCOUNT THAT CONSISTS OF A DESIGNATED POOL OF CAPITAL INVESTMENT MONIES TO
15 FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL FACILITIES. A SCHOOL DISTRICT
16 MAY DEPOSIT IN THE ACCOUNT MONIES FROM ONE OR MORE COMPANIES THAT PROVIDE
17 UTILITY, ENERGY OR WATER SERVICES TO THE SCHOOL DISTRICT PURSUANT TO
18 CONTRACTS THAT ARE EXECUTED BETWEEN THE COMPANIES AND THE SCHOOL DISTRICT AND
19 THAT ARE DESIGNED TO SAVE ENERGY OR WATER IN SCHOOL FACILITIES. A SCHOOL
20 DISTRICT MAY USE MONIES IN THE ENERGY AND WATER SAVINGS ACCOUNT FOR PAYMENTS
21 UNDER A PERFORMANCE CONTRACT ENTERED INTO PURSUANT TO SECTION 15-213 OR
22 15-213.01.

23 B. THE AUDITOR GENERAL AND THE DEPARTMENT OF EDUCATION SHALL PRESCRIBE
24 THE APPROPRIATE DESIGNATION OF THE ENERGY AND WATER SAVINGS ACCOUNTS IN THE
25 UNIFORM SYSTEM OF FINANCIAL RECORDS AND SHALL PRESCRIBE REPORTING
26 REQUIREMENTS ON THE APPROPRIATE BUDGET FORMS AND ANNUAL FINANCIAL REPORT
27 FORMS.

28 C. MONIES DEPOSITED IN AN ENERGY AND WATER SAVINGS ACCOUNT SHALL BE
29 USED AS A DESIGNATED POOL OF CAPITAL INVESTMENT MONIES TO PAY FOR THE
30 INCREMENTAL COST OF ENERGY OR WATER SAVINGS MEASURES IN SCHOOL FACILITIES
31 THAT ARE OWNED OR OPERATED BY THE SCHOOL DISTRICT. ANY CONTRACT ENTERED INTO
32 PURSUANT TO THIS SECTION SHALL CONTAIN AN AGREEMENT BETWEEN THE QUALIFIED
33 PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY AND THE SCHOOL DISTRICT
34 THAT EACH PARTY HAS PERFORMED A REASONABLE INVESTIGATION TO DETERMINE THAT
35 THE MEASURES CONTEMPLATED BY THE CONTRACT WILL RESULT IN STATED ENERGY OR
36 WATER SAVINGS. CONTRACT TERMS MAY EXTEND THE PERIOD OF THE CAPITAL
37 INVESTMENT REPAYMENT SCHEDULE PRESCRIBED IN SUBSECTION G OF THIS SECTION UP
38 TO THE EXPECTED LIFE OF THE ENERGY OR WATER SAVINGS MEASURES, OR TWENTY-FIVE
39 YEARS, WHICHEVER IS SHORTER.

40 D. EXPENDITURES FROM AN ENERGY AND WATER SAVINGS ACCOUNT SHALL BE USED
41 ONLY FOR THE FOLLOWING:

42 1. PROJECTS OR MEASURES PURSUANT TO A CONTRACT PURSUANT TO THIS
43 SECTION THAT SAVE ENERGY OR WATER IN SCHOOL FACILITIES THAT ARE OWNED OR
44 OPERATED BY THE SCHOOL DISTRICT. MONIES MAY BE USED PURSUANT TO THIS

1 PARAGRAPH TO PROVIDE TECHNICAL ASSISTANCE REGARDING ENERGY OR WATER SAVINGS
2 TO SCHOOL DISTRICTS BY A QUALIFIED PROVIDER OR A UTILITY, ENERGY OR WATER
3 SERVICES COMPANY.

4 2. THE REPAYMENT TO THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER
5 SERVICES COMPANY OF CAPITAL INVESTMENT MONIES DEPOSITED IN THE ACCOUNT PLUS
6 REASONABLE CARRYING CHARGES PURSUANT TO THE TERMS OF THE CONTRACT.
7 REASONABLE CARRYING CHARGES FOR INVESTOR OWNED UTILITIES WILL BE THE MOST
8 RECENT AUTHORIZED RATE OF RETURN APPROVED BY THE ARIZONA CORPORATION
9 COMMISSION.

10 3. ENERGY PERFORMANCE CONTRACTS AND RENEWABLE ENERGY POWER SERVICE
11 AGREEMENTS PURSUANT TO SECTION 15-213.01, WHICH MAY INCLUDE SIMPLIFIED ENERGY
12 PERFORMANCE CONTRACTS.

13 E. SCHOOL DISTRICTS SHALL PROCURE ENERGY OR WATER SAVINGS MEASURES OR
14 SERVICES WITH MONIES DISTRIBUTED FROM THE ENERGY AND WATER SAVINGS ACCOUNTS.

15 F. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
16 OR SERVICES, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
17 COMPANY SHALL COMPUTE, AND THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL REVIEW
18 AND APPROVE, THE ESTIMATED AMOUNT OF THE ENERGY OR WATER SAVINGS AND THE
19 ASSOCIATED IMPACT ON ENERGY OR WATER COSTS TO BE ACHIEVED BY THE SCHOOL
20 DISTRICT ON AN ANNUAL AND MONTHLY BASIS OVER THE EXPECTED LIFE OF THE
21 MEASURES AND SHALL INCLUDE THESE ESTIMATES IN THE CONTRACT. THE QUALIFIED
22 PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY AND THE SCHOOL DISTRICT
23 SHALL UPDATE THE ANNUAL AND MONTHLY ENERGY OR WATER SAVINGS AND ASSOCIATED
24 COST IMPACT ESTIMATES ANNUALLY BASED ON ACTUAL EXPERIENCE.

25 G. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
26 OR SERVICES, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
27 COMPANY AND THE SCHOOL DISTRICT SHALL JOINTLY DEVELOP A SCHEDULE OF MONTHLY
28 PAYMENTS FOR REPAYMENT OF THE CAPITAL INVESTMENT MONIES TO THE QUALIFIED
29 PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY. THE REPAYMENT
30 SCHEDULE SHALL RESULT IN LOWER ENERGY OR WATER COSTS, WHICH SHALL INCLUDE THE
31 COST OF THE INSTALLED ENERGY OR WATER SAVINGS MEASURES FOR THE SCHOOL
32 DISTRICT OVER THE LIFE OF THE INSTALLED MEASURES THAT THE SCHOOL DISTRICT
33 WOULD HAVE EXPERIENCED WITHOUT THE INSTALLATION OF THE MEASURES. THE
34 REPAYMENT SCHEDULE SHALL BE INCLUDED IN THE CONTRACT.

35 H. THE SCHOOL DISTRICT SHALL TRANSFER ON A MONTHLY BASIS THE AMOUNT OF
36 THE MONTHLY PAYMENT PRESCRIBED PURSUANT TO SUBSECTION G OF THIS SECTION TO
37 THE ENERGY AND WATER SAVINGS ACCOUNT FROM THE MAINTENANCE AND OPERATION
38 PORTION OF THE SCHOOL DISTRICT'S BUDGET TO REPAY ANY UNPAID BALANCE OF THE
39 CAPITAL INVESTMENT PREVIOUSLY DEPOSITED IN THE ENERGY AND WATER SAVINGS
40 ACCOUNT FROM THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES
41 COMPANY PLUS A REASONABLE CARRYING CHARGE. FOR THE PERIOD OF TIME THAT THE
42 COMPANY'S CAPITAL INVESTMENT MONIES AND REASONABLE CARRYING CHARGE REMAIN
43 UNPAID, THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER SERVICES COMPANY
44 SHALL PROVIDE A SEPARATE BILLING OR BILLING COMPONENT TO REPAY THE CAPITAL

1 INVESTMENT ON A MONTHLY BASIS, PURSUANT TO THE REPAYMENT SCHEDULE PRESCRIBED
2 PURSUANT TO SUBSECTION G OF THIS SECTION, WHICH SHALL BE PAID BY THE SCHOOL
3 DISTRICT FROM THE ENERGY AND WATER SAVINGS ACCOUNT. THE SCHOOL DISTRICT'S
4 GENERAL BUDGET LIMIT SHALL BE REDUCED BY THE AMOUNT OF MONIES TRANSFERRED TO
5 THE ENERGY AND WATER SAVINGS ACCOUNT PURSUANT TO THIS SECTION.

6 I. AFTER THE BALANCE OF THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR
7 WATER SERVICES COMPANY'S CAPITAL INVESTMENT MONIES DEPOSITED IN THE ENERGY
8 AND WATER SAVINGS ACCOUNT PLUS A REASONABLE CARRYING CHARGE ARE REPAID IN
9 FULL BY THE SCHOOL DISTRICT, THE SCHOOL DISTRICT MAY DISCONTINUE THE DEPOSIT
10 IN THE ENERGY AND WATER SAVINGS ACCOUNT OF AMOUNTS THAT ARE PRESCRIBED IN
11 SUBSECTION H OF THIS SECTION.

12 J. ANY MONIES ASSOCIATED WITH AN ENERGY OR WATER SAVINGS PROJECT
13 REMAINING IN THE ENERGY AND WATER SAVINGS ACCOUNT AFTER THE CAPITAL
14 INVESTMENT MONIES OF THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER
15 SERVICES COMPANY PLUS A REASONABLE CARRYING CHARGE ARE REPAID IN FULL MAY BE
16 TRANSFERRED TO THE MAINTENANCE AND OPERATION PORTION OF THE SCHOOL DISTRICT'S
17 BUDGET, AND THE GENERAL BUDGET LIMIT MAY BE INCREASED BY THE AMOUNT
18 TRANSFERRED.

19 K. SCHOOL DISTRICTS MAY DEPOSIT ENERGY-RELATED REBATE OR GRANT MONIES
20 IN THE ENERGY AND WATER SAVINGS ACCOUNT TO ASSIST IN FUNDING ENERGY OR WATER
21 SAVINGS PROJECTS. THESE REBATE OR GRANT MONIES SHALL BE USED TO REDUCE THE
22 TOTAL COST OF ENERGY OR WATER SAVINGS PROJECTS AND TO REDUCE THE AMOUNT OF
23 CAPITAL INVESTMENT MONIES RECEIVED FROM AND REPAID TO UTILITY, ENERGY OR
24 WATER SERVICES COMPANIES. SCHOOL DISTRICTS ARE NOT REQUIRED TO REPAY THE
25 REBATE OR GRANT MONIES IN THE MANNER DESCRIBED IN SUBSECTION H OF THIS
26 SECTION, PURSUANT TO THE AGREEMENTS WITH THE PROVIDERS OF REBATE OR GRANT
27 FUNDS.

28 L. SCHOOL DISTRICTS SHALL NOT USE OR DEPOSIT ANY EXCESS UTILITIES
29 MONIES BUDGETED PURSUANT TO SECTION 15-910 OR 15-910.04 IN THE ENERGY AND
30 WATER SAVINGS ACCOUNT.

31 M. SCHOOL DISTRICTS MAY DEPOSIT MONIES FROM OTHER FUNDING SOURCES,
32 INCLUDING FROM CLEAN RENEWABLE ENERGY BONDS, IN THE ENERGY AND WATER SAVINGS
33 ACCOUNT TO FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL FACILITIES. THESE
34 MONIES SHALL BE REPAID IN A MANNER CONSISTENT WITH THIS SECTION AND PURSUANT
35 TO THE CONTRACT BETWEEN THE SCHOOL DISTRICT AND THE PROVIDER OF THE FUNDING.

36 N. THIS SECTION DOES NOT IMPOSE AN OBLIGATION ON ANY ENERGY UTILITY,
37 WATER UTILITY, PUBLIC SERVICE CORPORATION OR AGRICULTURAL IMPROVEMENT
38 DISTRICT TO INVEST MONIES OR CONTRACT WITH ANY SCHOOL DISTRICT.

39 O. A SCHOOL DISTRICT MAY RETAIN AND TRANSFER UP TO FIFTEEN PER CENT OF
40 THE ENERGY OR WATER COST SAVINGS FROM AN ENERGY OR WATER SAVINGS PROJECT TO
41 THE MAINTENANCE AND OPERATION PORTION OF THE SCHOOL DISTRICT'S BUDGET, AND
42 THE GENERAL BUDGET LIMIT MAY BE INCREASED BY THE AMOUNT TRANSFERRED.

1 Sec. 6. Section 34-201, Arizona Revised Statutes, is amended to read:

2 34-201. Notice of intention to receive bids and enter contract:
3 procedure: doing work without advertising for bids:
4 county compliance

5 A. Except as provided in subsections B through G and L of this
6 section, every agent ~~shall~~, ~~upon~~ ON acceptance and approval of the working
7 drawings and specifications, ~~SHALL~~ publish a notice to contractors of
8 intention to receive bids and contract for the proposed work. This notice
9 shall be published by advertising in a newspaper of general circulation in
10 the county in which the agent is located for two consecutive publications if
11 it is a weekly newspaper or for two publications that are at least six but no
12 more than ten days apart if it is a daily newspaper. The notice shall state:

13 1. The nature of the work required, the type, purpose and location of
14 the proposed building, ~~and~~ where the plans, specifications and full
15 information as to the proposed work may be obtained.

16 2. That contractors desiring to submit proposals may obtain copies of
17 full or partial sets of plans and specifications for estimate on request or
18 by appointment. The return of such plans and specifications shall be
19 guaranteed by a deposit of a designated amount which shall be refunded on
20 return of the plans and specifications in good order.

21 3. That every proposal shall be accompanied by a certified check,
22 cashier's check or surety bond for ten per cent of the amount of the bid
23 included in the proposal as a guarantee that the contractor will enter into a
24 contract to perform the proposal in accordance with the plans and
25 specifications. Notwithstanding ~~the provisions of~~ any other statute, the
26 surety bond shall be executed solely by a surety company or companies holding
27 a certificate of authority to transact surety business in this state issued
28 by the director of the department of insurance pursuant to title 20, chapter
29 2, article 1. The surety bond shall not be executed by an individual surety
30 or sureties, even if the requirements of section 7-101 are satisfied. The
31 certified check, cashier's check or surety bond shall be returned to the
32 contractors whose proposals are not accepted, and to the successful
33 contractor ~~upon~~ ON the execution of a satisfactory bond and contract as
34 provided in this article. The conditions and provisions of the surety bid
35 bond regarding the surety's obligations shall follow the following form:

36 Now, therefore, if the obligee accepts the proposal of the
37 principal and the principal enters into a contract with the
38 obligee in accordance with the terms of the proposal and gives
39 the bonds and certificates of insurance as specified in the
40 standard specifications with good and sufficient surety for the
41 faithful performance of the contract and for the prompt payment
42 of labor and materials furnished in the prosecution of the
43 contract, or in the event of the failure of the principal to
44 enter into the contract and give the bonds and certificates of

1 insurance, if the principal pays to the obligee the difference
2 not to exceed the penalty of the bond between the amount
3 specified in the proposal and such larger amount for which the
4 obligee may in good faith contract with another party to perform
5 the work covered by the proposal then this obligation is void.
6 Otherwise it remains in full force and effect provided, however,
7 that this bond is executed pursuant to the provisions of section
8 34-201, Arizona Revised Statutes, and all liabilities on this
9 bond shall be determined in accordance with the provisions of
10 the section to the extent as if it were copied at length herein.

11 4. That the right is reserved to reject any or all proposals or to
12 withhold the award for any reason the agent determines.

13 B. If the agent believes that any construction, building addition or
14 alteration contemplated at a public institution can be advantageously done by
15 the inmates of the public institution and regularly employed help, the agent
16 may cause the work to be done without advertising for bids.

17 C. Any building, structure, addition or alteration may be constructed
18 either with or without the use of the agent's regularly employed personnel
19 without advertising for bids, provided that the total cost of the work,
20 excluding materials and equipment previously acquired by bid, does not
21 exceed:

22 1. In fiscal year 1994-1995, fourteen thousand dollars.

23 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
24 amount provided in paragraph 1 of this subsection adjusted by the annual
25 percentage change in the GDP price deflator as defined in section 41-563.

26 D. Notwithstanding ~~the provisions of~~ subsection C of this section, any
27 street, road, bridge, water or sewer work, other than a water or sewer
28 treatment plant or building, may be constructed either with or without the
29 use of the agent's regularly employed personnel without advertising for bids,
30 provided that the total cost of the work does not exceed:

31 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

32 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
33 amount provided in paragraph 1 of this subsection adjusted by the annual
34 percentage change in the GDP price deflator as defined in section 41-563.

35 E. For the purposes of subsection D of this section, the total cost of
36 water or sewer work does not include services provided by volunteers or
37 donations made for the water or sewer project.

38 F. Notwithstanding ~~the provisions of~~ this section, an agent may:

39 1. Construct, reconstruct, install or repair a natural gas or electric
40 utility and distribution system, owned or operated by such agent, with
41 regularly employed personnel of the agent without advertising for bids,
42 unless otherwise prohibited by charter or ordinance.

43 2. Construct recreational projects, including trails, playgrounds,
44 ballparks and other similar facilities and excluding buildings, structures,

1 building additions and alterations to buildings, structures and building
2 additions, with volunteer workers or workers provided by a nonprofit
3 organization without advertising for bids for labor and materials, provided
4 that the total cost of the work does not exceed:

5 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

6 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
7 amount provided in subdivision (a) ~~of this paragraph~~ adjusted by the annual
8 percentage change in the GDP price deflator as defined in section 41-563.

9 G. A contribution by an agent for the financing of public
10 infrastructure made pursuant to a development agreement is exempt from ~~the~~
11 ~~provisions of~~ this section if such contribution for any single development
12 does not exceed:

13 1. In fiscal year 1994-1995, one hundred thousand dollars.

14 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
15 amount provided in paragraph 1 of this subsection adjusted by the annual
16 percentage change in the GDP price deflator as defined in section 41-563.

17 H. In addition to other state or local requirements relating to the
18 publication of bids, each agent shall provide at least one set of all plans
19 and specifications to any construction news reporting service that files an
20 annual request with the agent. For the purposes of this subsection,
21 "construction news reporting service" means a service that researches,
22 gathers and disseminates news and reports either in print or electronically,
23 on at least a weekly basis for building projects, construction bids, the
24 purchasing of materials, supplies or services and other construction bidding
25 or planned activity to the allied construction industry. The allied
26 construction industry includes both general and specialty contractors,
27 builders, material and service suppliers, architects and engineers, owners,
28 developers and government agencies.

29 I. Any construction by a county under this section shall comply with
30 the uniform accounting system prescribed for counties by the auditor general
31 under section 41-1279.21. Any construction by a city or town under this
32 section shall comply with generally accepted accounting principles.

33 J. Any construction, building addition or alteration project ~~which~~
34 ~~that~~ is financed by monies of this state or its political subdivisions shall
35 not use endangered wood species unless an exemption is granted by the
36 director of the department of administration. The director shall only grant
37 an exemption if the use of endangered wood species is deemed necessary for
38 historical restoration or to repair existing facilities and the use of any
39 substitute material is not practical. Any lease-purchase agreement entered
40 into by this state or its political subdivisions for construction shall
41 specify that no endangered wood species may be used in the construction
42 unless an exemption is granted by the director. ~~As used in~~ **FOR THE PURPOSES**
43 **OF** this subsection, "endangered wood species" includes those listed in

1 appendix I of the convention on international trade in endangered species of
2 wild flora and fauna.

3 K. All bonds given by a contractor and surety pursuant to ~~the~~
4 ~~provisions of~~ this article, regardless of their actual form, will be deemed
5 by law to be the form required and set forth in this article and no other.

6 L. Any building, structure, addition or alteration may be constructed
7 without complying with this article if the construction, including
8 construction of buildings or structures on public or private property, is
9 required as a condition of development of private property and is authorized
10 by section 9-463.01 or 11-806.01. For the purposes of this subsection,
11 building does not include police, fire, school, library, ~~or~~ or other public
12 buildings.

13 M. Notwithstanding section 34-221, any agent may enter into a
14 guaranteed energy cost savings contract with a qualified provider, ~~as those~~
15 ~~terms are defined in section 15-213.01,~~ for the purchase of energy cost
16 savings measures without complying with this article and may procure a
17 guaranteed energy cost savings contract through the competitive sealed
18 proposal process prescribed in title 41, chapter 23, ~~article 3~~ or any similar
19 competitive proposal process adopted by the agent. ~~as long as the agent~~
20 ~~follows any additional requirements set forth in section 15-213.01.~~

21 Sec. 7. Section 34-451, Arizona Revised Statutes, is amended to read:

22 34-451. Energy conservation standards for public buildings;
23 energy sources

24 A. The department of commerce **ENERGY OFFICE** in consultation with
25 persons responsible for building systems shall adopt and publish energy
26 conservation standards for construction of all new capital projects as
27 defined in section 41-790, including buildings designed and constructed by
28 **THE SCHOOL FACILITIES BOARD**, school districts, community college districts
29 and universities. These standards shall be consistent with the recommended
30 energy conservation standards of the American society of heating,
31 refrigerating and air conditioning engineers and the international energy
32 conservation code.

33 B. The standards shall be adopted to achieve energy conservation and
34 shall allow for design flexibility.

35 C. The following state agencies **THROUGH THE USE OF ENERGY PERFORMANCE**
36 **CONTRACTING, OTHER SIMILAR PROCUREMENT MECHANISMS OR OTHER MECHANISMS** shall
37 reduce energy use in public buildings that they administer by ten per cent
38 per square foot of floor area on or before July 1, 2008, ~~and~~ by fifteen per
39 cent per square foot of floor area on or before July 1, 2011, using July 1,
40 2001 through June 30, 2002 as the baseline year:

- 41 1. The department of administration for its building systems.
- 42 2. The Arizona board of regents for its building systems.
- 43 3. The department of transportation for its building systems.

D. The ~~state~~ DEPARTMENT OF COMMERCE energy office shall provide technical assistance to the state agencies prescribed in subsection C of this section AND TO SCHOOL DISTRICTS. On or before ~~July~~ OCTOBER 1 of each year, the ~~state~~ DEPARTMENT OF COMMERCE energy office shall measure compliance with subsection C of this section, compile the results of that monitoring and report to the speaker of the house of representatives and the president of the senate as to the progress of attaining the goals prescribed in subsection C of this section. The ~~state~~ DEPARTMENT OF COMMERCE energy office shall include in its report an explanation of the reasons for any failure to achieve energy reductions in specific building systems as prescribed in subsection C of this section.

E. All state agencies shall procure energy efficient products that ~~are certified by~~ MEET OR EXCEED THE CERTIFICATIONS OF the United States department of energy, ~~or~~ the United States environmental protection agency ~~as~~ energy star CERTIFICATION or ~~that are certified under~~ the federal energy management program in all categories that are available unless the products are shown not to be cost-effective on a life cycle cost basis.

Sec. 8. Repeal

Section 34-453, Arizona Revised Statutes, is repealed.

Sec. 9. Section 34-454, Arizona Revised Statutes, is amended to read:

34-454. Establishment and use of life cycle cost methods and procedures; definition

A. The director of the department of administration, in consultation with the department of commerce ENERGY OFFICE, shall establish practical and effective present value methods for estimating and comparing life cycle costs for state capital projects, ~~using~~ the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of the system or during a period of twenty-five years, whichever is shorter, and using average fuel costs and a discount rate determined by the director. The director shall develop and prescribe the procedures to be followed in applying and implementing the methods and procedures established by this subsection.

B. THE DIRECTOR OF THE SCHOOL FACILITIES BOARD, IN CONSULTATION WITH THE DEPARTMENT OF COMMERCE ENERGY OFFICE, SHALL USE THE LIFE CYCLE COST METHODS ESTABLISHED IN SUBSECTION A, OR SHALL ESTABLISH PRACTICAL AND EFFECTIVE METHODS FOR ESTIMATING AND COMPARING LIFE CYCLE COSTS CONSISTENT WITH THE STANDARDS PRESCRIBED IN SUBSECTION A, FOR CAPITAL PROJECTS FOR THE SCHOOL FACILITIES BOARD UNDER TITLE 15, CHAPTER 16 SOLELY FOR PURPOSES OF SCHOOL DISTRICTS ENTERING INTO GUARANTEED ENERGY COST SAVINGS CONTRACTS UNDER TITLE 15.

~~B.~~ C. The design of new capital projects and the application of energy ~~conservation~~ SAVINGS AND RENEWABLE ENERGY measures to existing capital projects shall be made using life cycle cost methods and procedures established pursuant to subsection A.

1 ~~C.~~ D. In leasing buildings preference shall be given to buildings
2 ~~which~~ THAT minimize life cycle costs.

3 ~~D.~~ E. For the purposes of this section, "life cycle cost" means the
4 total cost of owning, operating and maintaining a building over its useful
5 life, including such costs as fuel, energy, labor and replacement components
6 determined on the basis of a systematic evaluation and comparison of
7 alternative building systems, except that in the case of leased buildings,
8 the life cycle costs shall be calculated over the effective remaining term of
9 the lease.

10 Sec. 10. Section 34-455, Arizona Revised Statutes, is amended to read:

11 34-455. Performance contracting; definitions

12 A. The department of administration, WITH TECHNICAL SUPPORT FROM THE
13 DEPARTMENT OF COMMERCE ENERGY OFFICE, shall develop and implement a program
14 to enter into ENERGY performance contracts ~~solely~~ for the purpose of
15 achieving energy OR COST savings as measured in dollars and benefits
16 ancillary to that purpose AND FOR THE PURPOSE OF IMPLEMENTING RENEWABLE
17 ENERGY PROJECTS OR RENEWABLE POWER SERVICE AGREEMENTS. PERFORMANCE CONTRACTS
18 MAY ALSO BE USED TO REDUCE WATER CONSUMPTION AND WATER COSTS, TO REDUCE SEWER
19 COSTS AND FOR RAINWATER HARVESTING SYSTEMS. WATER AND SEWER MEASURES MAY BE
20 COMBINED WITH ENERGY MEASURES IN THE SAME PERFORMANCE CONTRACT, OR WATER AND
21 SEWER MEASURES MAY BE INCLUDED IN A SEPARATE WATER SAVINGS PERFORMANCE
22 CONTRACT.

23 B. PURSUANT TO TITLE 41, CHAPTER 23, each contract may be for a period
24 of not more than the expected life of the energy savings OR RENEWABLE ENERGY
25 measures implemented or twenty-five years, whichever is shorter. The
26 contract shall provide that the energy and operational savings generated
27 cover all costs, after accounting for any financial incentives or assistance
28 provided by utilities, associated with implementation of energy ~~conservation~~
29 SAVINGS OR RENEWABLE ENERGY measures to include audits, design equipment,
30 purchase and installation, metering, interest on monies borrowed and
31 training, and the contract shall include contractor profit. ~~The contractor~~
32 ~~shall recover an amount not to exceed the summation of these costs and the~~
33 ~~agreed upon profit. Energy dollar savings realized as a result of a~~
34 ~~performance contract under this section shall be shared at a negotiated rate~~
35 ~~between the state and the contractor, until such time as the contractor has~~
36 ~~recovered the amount specified in the contract, at which time all savings~~
37 ~~shall accrue to the state. Interest rates charged on each contract shall be~~
38 ~~mutually agreed upon by the department of administration and the contractor.~~
39 ~~Contracts shall contain contingency provisions agreed upon by the department~~
40 ~~and the contractor for cases where measured energy dollar savings do not meet~~
41 ~~predicted energy dollar savings.~~

1 YEAR PERCENTAGE BY WHICH ENERGY
2 USE PER SQUARE FOOT OF
3 FLOOR AREA IS REDUCED USING
4 JULY 1, 2001 THROUGH
5 JUNE 30, 2002 AS THE BASELINE YEAR.

6	2015	20%
7	2020	30%

8 E. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL TRACK THE EFFORTS OF
9 THE STATE AGENCIES LISTED IN SUBSECTION D OF THIS SECTION TO REDUCE ENERGY
10 USAGE.

11 F. THE DEPARTMENT OF ADMINISTRATION, THE ARIZONA BOARD OF REGENTS AND
12 THE DEPARTMENT OF TRANSPORTATION SHALL PROVIDE INFORMATION TO THE ENERGY
13 OFFICE ON OR BEFORE AUGUST 15 OF EACH YEAR AS PRESCRIBED BY THE ENERGY
14 OFFICE.

15 G. IT IS THE POLICY OF THIS STATE TO PROMOTE THE USE OF ENERGY
16 PERFORMANCE CONTRACTING, OTHER SIMILAR PROCUREMENT MECHANISMS AND OTHER
17 MECHANISMS IN ORDER TO ACHIEVE THE GOAL OF REDUCING SCHOOL DISTRICT-WIDE
18 AVERAGE ENERGY USE. IN ORDER TO ACCOMPLISH THE REDUCTION OF ENERGY USE IN
19 ALL SCHOOL DISTRICTS, THE FOLLOWING VOLUNTARY STATEWIDE GOALS ARE
20 ESTABLISHED:

21 YEAR PERCENTAGE BY WHICH ENERGY
22 USE PER SQUARE FOOT OF
23 FLOOR AREA IS REDUCED USING
24 JULY 1, 2001 THROUGH
25 JUNE 30, 2002 AS THE BASELINE YEAR.

26	2012	10%
27	2016	15%
28	2019	20%

29 H. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL TRACK THE EFFORTS OF
30 ALL SCHOOL DISTRICTS TO REDUCE ENERGY USAGE.

31 I. SCHOOL DISTRICTS SHALL PROVIDE INFORMATION TO THE ENERGY OFFICE ON
32 OR BEFORE AUGUST 15 OF EACH YEAR AS PRESCRIBED BY THE ENERGY OFFICE.

J. IT IS THE POLICY OF THIS STATE THAT ON OR BEFORE JULY 1, 2015, THROUGH THE USE OF RENEWABLE ENERGY POWER SERVICE AGREEMENTS OR OTHER MECHANISMS, ALL STATE AGENCIES, UNIVERSITIES AND SCHOOL DISTRICTS SHOULD USE OR PURCHASE AT LEAST TEN PER CENT OF THEIR AGGREGATE ENERGY REQUIREMENTS IN PUBLIC BUILDINGS THAT THEY ADMINISTER FROM RENEWABLE ENERGY SOURCES THAT INCLUDE SOLAR, WIND, BIOMASS, GEOTHERMAL, AGRICULTURAL WASTE, BIOGAS AND LOW IMPACT HYDROELECTRIC GENERATION PLANTS AND COMBINED HEAT AND POWER SYSTEMS. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL INCLUDE IN ITS REPORT PRESCRIBED BY SUBSECTION L OF THIS SECTION AN EXPLANATION OF THE REASONS FOR ANY FAILURE TO ACHIEVE THE ENERGY GOALS IN SPECIFIC BUILDING SYSTEMS AS PRESCRIBED IN THIS SUBSECTION.

1 K. IT IS THE POLICY OF THIS STATE THAT ALL STATE AGENCY BUILDINGS
2 COMMENCING CONSTRUCTION ON OR AFTER JULY 1, 2010 SHOULD CONFORM TO THE
3 LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARDS
4 DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL OR AN EQUIVALENT GREEN
5 BUILDING RATING STANDARD IN A MANNER PRESCRIBED BY THE DEPARTMENT OF COMMERCE
6 ENERGY OFFICE, UNLESS THE STANDARD CAN BE SHOWN NOT TO BE COST-EFFECTIVE ON A
7 LIFE CYCLE COST BASIS. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL
8 MONITOR THE UNITED STATES GREEN BUILDING COUNCIL AND DEVELOPERS OF EQUIVALENT
9 GREEN BUILDING RATING STANDARDS FOR CHANGES TO THE RATING STANDARDS THAT
10 IMPACT STATE BUILDINGS.

11 L. BEGINNING IN 2010, THE ENERGY OFFICE SHALL SUBMIT TO THE
12 LEGISLATURE AN ANNUAL REPORT OF INFORMATION COLLECTED PURSUANT TO THIS
13 SECTION, INCLUDING A DETERMINATION OF THE NUMBER AND PERCENTAGE OF ENERGY
14 EFFICIENT BUILDINGS CONSTRUCTED IN THE PRECEDING YEAR, AN ESTIMATE OF THE
15 PERCENTAGE THAT ALL NEW RESIDENTIAL BUILDINGS IN THE AGGREGATE ON AVERAGE
16 WERE MORE ENERGY EFFICIENT, AN ESTIMATE OF THE PERCENTAGE THAT ALL NEW
17 COMMERCIAL BUILDINGS IN THE AGGREGATE ON AVERAGE WERE MORE ENERGY EFFICIENT
18 THAN THE INTERNATIONAL ENERGY CONSERVATION CODE, A DETERMINATION OF THE
19 PERCENTAGE OF ENERGY USE REDUCTIONS IN THE PRECEDING YEAR AND AN EVALUATION
20 OF THE EFFORTS MADE BY EACH AGENCY TO MEET THE GOALS PROVIDED IN SUBSECTION
21 D, A DETERMINATION OF THE PERCENTAGE OF ENERGY USE REDUCTIONS IN THE
22 PRECEDING YEAR AND AN EVALUATION OF THE EFFORTS MADE BY EACH SCHOOL DISTRICT
23 TO MEET THE GOALS PROVIDED IN SUBSECTION G OF THIS SECTION AND STATEWIDE
24 COMPLIANCE WITH SUBSECTIONS J AND K OF THIS SECTION. THE REPORT MAY INCLUDE
25 ONLY AGGREGATE INFORMATION WITH RESPECT TO SPECIFIC BUILDERS.

26 M. IN ADDITION TO THE REPORT REQUIRED BY SUBSECTION D OF THIS SECTION,
27 THE ENERGY OFFICE SHALL MAKE AN ANNUAL PRESENTATION TO THE HOUSE OF
28 REPRESENTATIVES COMMITTEE ON WATER AND ENERGY AND THE SENATE COMMITTEE ON
29 NATURAL RESOURCES, INFRASTRUCTURE AND PUBLIC DEBT, OR THEIR SUCCESSOR
30 COMMITTEES.

31 N. FOR THE PURPOSES OF THIS SECTION, "ENERGY EFFICIENT BUILDINGS"
32 MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED THE ENERGY
33 EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
34 ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
35 GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING
36 COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST
37 FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE INTERNATIONAL ENERGY
38 CONSERVATION CODE.

39 Sec. 13. Title 41, chapter 23, article 3, Arizona Revised Statutes, is
40 amended by adding section 41-2560, to read:

41 41-2560. Energy performance contracts

42 A. THE DIRECTOR SHALL ENTER INTO ENERGY PERFORMANCE CONTRACTS TO
43 FINANCE ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS OR CONTRACTS FOR THE
44 PURCHASING AGENCY PURSUANT TO SECTION 34-455. ENERGY EFFICIENT AND RENEWABLE

1 ENERGY PROJECTS OR CONTRACTS TO BE FUNDED UNDER THIS SECTION SHALL USE
2 GENERALLY AVAILABLE AND MARKET PROVEN COMMERCIAL TECHNOLOGIES AS DEFINED
3 PROGRAMMATICALLY BY THE DEPARTMENT OF COMMERCE ENERGY OFFICE. THE FUNDING
4 FOR SERVICES UNDER AN ENERGY PERFORMANCE CONTRACT ENTERED INTO PURSUANT TO
5 THIS SECTION MAY INCLUDE APPROPRIATE LEASE-PURCHASE OR OTHER THIRD-PARTY
6 AGREEMENTS. FUNDING FOR AN ENERGY PERFORMANCE CONTRACT ENTERED INTO PURSUANT
7 TO THIS SECTION MAY INCLUDE APPROPRIATE LEASE-PURCHASE FINANCING AGREEMENTS
8 OR THIRD-PARTY AGREEMENTS. THE QUALIFIED PROVIDER OR QUALIFIED ENERGY
9 SERVICE COMPANY SHALL GUARANTEE THAT THE ENERGY OR COST SAVINGS TO BE
10 GENERATED WILL BE AT LEAST SUFFICIENT TO COVER ANY DEBT SERVICE AND FEES
11 ASSOCIATED WITH THE PROJECT FINANCING.

12 B. IF AN ENERGY PERFORMANCE CONTRACT HAS BEEN EXECUTED, OPERATING AND
13 UTILITIES APPROPRIATIONS FOR A STATE AGENCY TO FUND ENERGY PERFORMANCE
14 CONTRACTS SHALL NOT BE DECREASED OVER THE CONTRACT TERM ON THE EXCLUSIVE
15 BASIS THAT THE PROJECT HAS BEEN IMPLEMENTED.

16 Sec. 14. Section 42-11054, Arizona Revised Statutes, is amended to
17 read:

18 42-11054. Standard appraisal methods and techniques

19 A. Subject to subsection B of this section, the department shall:

20 1. Prescribe guidelines for applying standard appraisal methods and
21 techniques that shall be used by the department and county assessors in
22 determining the valuation of property.

23 2. Prepare and maintain manuals and other necessary guidelines,
24 consistent with this section, reflecting the standard methods and techniques
25 to perpetuate a current inventory of taxable property and the valuation of
26 that property.

27 B. Before they are adopted, the department shall submit each
28 substantive proposed guideline, table and manual that is developed, amended
29 or otherwise modified from and after December 31, 2006 to the joint
30 legislative oversight committee on property tax assessment and appeals. The
31 department shall not finally adopt, amend or otherwise modify a substantive
32 guideline, table or manual for at least thirty days after submitting the
33 measure to the committee. The committee may hold one or more informational
34 hearings on the proposed measure within thirty days after submission. In
35 adopting, amending or modifying the measure the department shall consider the
36 committee's comments. If the committee fails to hold a hearing within thirty
37 days after submission, the department may adopt, amend or modify the measure
38 without further consideration.

39 C. In applying prescribed standard appraisal methods and techniques:

40 1. Current usage shall be included in the formula for reaching a
41 determination of full cash value.

42 2. Solar energy devices, as defined in section 44-1761, GRID-TIED
43 PHOTOVOLTAIC SYSTEMS and any other device or system designed for the
44 production of solar energy PRIMARILY for on-site consumption are considered

1 to HAVE NO VALUE AND TO add no value to the property ON WHICH SUCH DEVICE OR
2 SYSTEM IS INSTALLED.

3 3. ENERGY EFFICIENT BUILDING COMPONENTS, RENEWABLE ENERGY EQUIPMENT
4 AND COMBINED HEAT AND POWER SYSTEMS ARE CONSIDERED TO ADD NO VALUE TO THE
5 PROPERTY, IF THE PROPERTY OWNER PROVIDES THE COUNTY ASSESSOR WITH
6 DOCUMENTATION OF ALL ELEMENTS THAT QUALIFY PURSUANT TO THIS PARAGRAPH,
7 INCLUDING DOCUMENTS SHOWING ACTUAL ACQUISITION AND INSTALLATION COSTS. THE
8 DOCUMENTATION MUST BE SUBMITTED TO THE COUNTY ASSESSOR NO LATER THAN SIX
9 MONTHS BEFORE THE NOTICE OF FULL CASH VALUE IS ISSUED FOR THE INITIAL
10 EVALUATION YEAR PURSUANT TO SECTION 42-15101 OR, IF THE COMPONENT IS ADDED
11 AFTER SEPTEMBER 30 OF THE PRECEDING YEAR, NO LATER THAN MARCH 31 OF THE
12 INITIAL VALUATION YEAR. FOR THE PURPOSES OF THIS PARAGRAPH:

13 (a) "COMBINED HEAT AND POWER SYSTEM" MEANS A SYSTEM THAT GENERATES
14 ELECTRICITY OR MECHANICAL POWER AND USEFUL THERMAL ENERGY IN A SINGLE,
15 INTEGRATED SYSTEM SUCH THAT THE USEFUL POWER OUTPUT OF THE FACILITY PLUS
16 ONE-HALF THE USEFUL THERMAL OUTPUT DURING ANY 12-MONTH PERIOD IS NO LESS THAN
17 42.5 PER CENT OF THE TOTAL ENERGY INPUT OF FUEL TO THE FACILITY.

18 (b) "ENERGY EFFICIENT BUILDING COMPONENTS" MEANS HIGH PERFORMANCE
19 SUSTAINABLE BUILDING COMPONENTS INSTALLED SO THAT THE BUILDINGS OR BUILDING
20 COMPONENTS MEET OR EXCEED THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED
21 STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP
22 IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED
23 BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING
24 STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN
25 THE INTERNATIONAL ENERGY CONSERVATION CODE IN EFFECT AT THE TIME OF BUILDING
26 PERMIT ISSUANCE.

27 (c) "RENEWABLE ENERGY EQUIPMENT" MEANS EQUIPMENT THAT IS USED TO
28 PRODUCE ENERGY PRIMARILY FOR ON-SITE CONSUMPTION FROM RENEWABLE RESOURCES,
29 INCLUDING WIND, FOREST THINNINGS, AGRICULTURAL WASTE, BIOGAS, BIOMASS,
30 GEOTHERMAL, LOW-IMPACT HYDROPOWER AND SOLAR ENERGY NOT INCLUDED UNDER
31 PARAGRAPH 2 OF THIS SUBSECTION.

32 D. If the methods and techniques prescribe using market data as an
33 indication of market value, the price paid for future anticipated property
34 value increments shall be excluded.

35 E. For purposes of determining full cash value, the department and
36 county assessors shall use and apply the ratio standard guidelines issued by
37 the department for tax year 1993 in the same manner as they were applied in
38 tax year 1993. This subsection does not apply to property that is valued
39 according to prescribed statutory methods or to property for which values are
40 determined in the year after an appeal pursuant to section 42-16002.

41 Sec. 15. Repeal

42 Section 42-12056, Arizona Revised Statutes, is repealed.

1 Sec. 16. Section 44-1375, Arizona Revised Statutes, is amended to
2 read:

3 44-1375. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Automatic commercial icemaker" means a factory made assembly that
6 is shipped in one or more packages, that consists of a condensing unit and
7 icemaking section operating as an integrated unit, that makes and harvests
8 ice cubes and that may store or dispense ice. Automatic commercial icemaker
9 includes machines with capacities between fifty and two thousand five hundred
10 pounds per twenty-four hours.

11 2. "Ballast" means a device used with an electric discharge lamp to
12 obtain necessary circuit conditions such as voltage, current and waveform for
13 starting and operating the lamp.

14 3. "Commercial clothes washer" means a soft mount horizontal or
15 vertical axis clothes washer that both:

16 (a) Has a clothes container compartment no greater than three and
17 one-half cubic feet in the case of a horizontal axis product or no greater
18 than four cubic feet in the case of a vertical axis product.

19 (b) Is designed for use by more than one household, such as in
20 multifamily housing, apartments or coin laundries.

21 4. "Commercial prerinse spray valve" means a handheld device designed
22 to spray water on dishes, flatware and other food service items for the
23 purpose of removing food residue prior to cleaning.

24 5. "Commercial refrigerator, freezer and refrigerator freezer" means
25 self-contained refrigeration equipment that:

26 (a) Is not a consumer product as regulated pursuant to 42 United
27 States Code chapter 77.

28 (b) Operates at a chilled, frozen, combination chilled-frozen or
29 variable temperature for the purpose of storing or merchandising food,
30 beverages or ice.

31 (c) May have transparent or solid or both transparent and solid hinged
32 doors, sliding doors or a combination of hinged and sliding doors.

33 (d) Incorporates most components involved in the vapor-compression
34 cycle and the refrigerated compartment in a single cabinet.

35 (e) Does not include:

36 (i) Units with eighty-five cubic feet or more of internal volume.

37 (ii) Walk-in refrigerators or freezers.

38 (iii) Units with no doors.

39 (iv) Freezers specifically designed for ice cream.

40 6. "High-intensity discharge lamp" means a lamp in which light is
41 produced by the passage of an electric current through a vapor or gas and in
42 which the light producing arc is stabilized by bulb wall temperature and the
43 arc tube has a bulb wall loading in excess of three watts per square
44 centimeter.

1 7. "Illuminated exit sign" means an internally illuminated sign that
2 is designed to be permanently fixed in place to identify a building exit and
3 that consists of an electrically powered integral light source that both
4 illuminates the legend "exit" and any directional indicators and provides
5 contrast between the legend, any directional indicators and the background.

6 8. "Large packaged air conditioning equipment" means electrically
7 operated, air cooled air conditioning and air conditioning heat pump
8 equipment that has cooling capacity greater than or equal to two hundred
9 forty thousand Btu per hour but less than seven hundred sixty thousand BTU
10 per hour and that is built as a package and shipped as a whole to end user
11 sites.

12 9. "Low voltage dry type distribution transformer" means a transformer
13 to which all of the following apply:

14 (a) Has an input voltage of six hundred volts or less.

15 (b) Is air cooled.

16 (c) Does not use oil as a coolant.

17 (d) Is rated for operation at a frequency of sixty hertz.

18 10. "Metal halide lamp" means a high intensity discharge lamp in which
19 the major portion of the light is produced by radiation of metal halides and
20 their products of dissociation, possibly in combination with metallic vapors.

21 11. "Metal halide lamp fixture" means a light fixture designed to be
22 operated with a metal halide lamp and a ballast for a metal halide lamp.

23 12. "PORTABLE ELECTRIC SPA" MEANS A FACTORY-BUILT ELECTRIC SPA OR HOT
24 TUB THAT IS SUPPLIED WITH EQUIPMENT FOR HEATING AND CIRCULATING WATER.

25 ~~12.~~ 13. "Probe start metal halide ballast" means a ballast used to
26 operate metal halide lamps that does not contain an ignitor and which instead
27 starts lamps by using a third starting electrode probe in the arc tube.

28 ~~13.~~ 14. "Pulldown refrigerator" means a commercial refrigerator
29 specifically designed to rapidly reduce all integrated product temperatures
30 from ninety degrees fahrenheit to thirty-eight degrees fahrenheit over a
31 twelve hour period when fully loaded with beverage containers.

32 15. "RESIDENTIAL POOL PUMP" MEANS A PUMP THAT IS USED TO CIRCULATE AND
33 FILTER RESIDENTIAL SWIMMING POOL WATER IN ORDER TO MAINTAIN CLARITY AND
34 SANITATION AND THAT CONSISTS, IN PART, OF A MOTOR AND AN IMPELLER AND
35 HOUSING.

36 16. "RESIDENTIAL POOL PUMP MOTOR" MEANS A DEFINITE PURPOSE MOTOR
37 DESIGNED FOR USE IN A RESIDENTIAL POOL PUMP.

38 ~~14.~~ 17. "Single voltage external AC to DC power supply" means a device
39 that:

40 (a) Is designed to convert line voltage AC input into lower voltage DC
41 output.

42 (b) Is able to convert to only one DC output voltage at a time.

43 (c) Is sold with, or intended to be used with, a separate end use
44 product that constitutes the primary power load.

1 (d) Is contained within a separate physical enclosure from the end use
2 product.

3 (e) Is connected to the end use product via a removable or hard wired
4 male/female electrical connection, cable, cord or other wiring.

5 (f) Does not have batteries or battery packs, including those that are
6 removable and that physically attach directly to the power supply unit.

7 (g) Does not have a battery chemistry or type selector switch and
8 indicator light or does not have a battery chemistry or type selector switch
9 and a state of charge meter.

10 (h) Has a nameplate output power less than or equal to two hundred
11 fifty watts.

12 ~~15.~~ 18. "Torchiere" means a portable electric lighting fixture with a
13 reflective bowl that directs light upward onto a ceiling so as to produce
14 indirect illumination on the surfaces below. A torchiere may include
15 downward directed lamps in addition to the upward, indirect illumination.

16 ~~16.~~ 19. "Traffic signal module" means a standard eight inch or twelve
17 inch traffic signal indication, consisting of a light source, a lens and all
18 other parts necessary for operation.

19 ~~17.~~ 20. "Transformer" means a device that consists of two or more
20 coils of insulated wire and that is designed to transfer alternating current
21 by electromagnetic induction from one coil to another to change the original
22 voltage or current value. Transformer does not include:

23 (a) Transformers with multiple voltage taps, with the highest voltage
24 tap equaling at least twenty per cent more than the lowest voltage tap.

25 (b) Transformers, such as those commonly known as drive transformers,
26 rectifier transformers, auto transformers, uninterruptible power system
27 transformers, impedance transformers, regulating transformers, sealed and
28 nonventilating transformers, machine tool transformers, welding transformers,
29 grounding transformers or testing transformers, that are designed to be used
30 in a special purpose application and that are unlikely to be used in general
31 purpose applications.

32 ~~18.~~ 21. "Unit heater" means a self-contained, vented fan type
33 commercial space heater that uses natural gas or propane and that is designed
34 to be installed without ducts within a heated space, except that unit heater
35 does not include any products covered by federal standards established
36 pursuant to 42 United States Code chapter 77 or any product that is a direct
37 vent, forced flue heater with a sealed combustion burner.

38 Sec. 17. Section 44-1375.01, Arizona Revised Statutes, is amended to
39 read:

40 ~~44-1375.01.~~ Applicability

41 A. This article applies to the following types of new products sold,
42 offered for sale or installed in this state:

43 1. Automatic commercial icemakers.

44 2. Commercial clothes washers.

- 1 3. Commercial prerinse spray valves.
- 2 4. Commercial refrigerators, freezers and refrigerator freezers.
- 3 5. Illuminated exit signs.
- 4 6. Large packaged air conditioning equipment.
- 5 7. Low voltage dry type distribution transformers.
- 6 8. Metal halide lamp fixtures.
- 7 9. Single voltage external AC to DC power supplies.
- 8 10. Torchieres.
- 9 11. Traffic signal modules.
- 10 12. Unit heaters.
- 11 13. PORTABLE ELECTRIC SPAS.
- 12 14. RESIDENTIAL POOL PUMPS AND RESIDENTIAL POOL PUMP MOTORS.
- 13 B. This article does not apply to:
- 14 1. New products manufactured in this state and sold outside this
- 15 state.
- 16 2. New products manufactured outside this state and sold at wholesale
- 17 inside this state for final retail sale and installation outside this state.
- 18 3. Products installed in mobile manufactured homes at the time of
- 19 construction.
- 20 4. Products designed expressly for installation and use in
- 21 recreational vehicles.
- 22 5. Products installed in a laundry facility located within an
- 23 apartment complex or mobile home park at the time of construction or
- 24 replacement. For the purposes of this paragraph, "apartment complex" means
- 25 any real property that has one or more structures and that contains four or
- 26 more dwelling units for rent or lease that are subject to the Arizona
- 27 residential landlord and tenant act prescribed by title 33, chapter 10.
- 28 Sec. 18. Section 44-1375.02, Arizona Revised Statutes, is amended to
- 29 read:
- 30 44-1375.02. Standards
- 31 A. Except as provided in subsection ~~B~~ C, the following standards
- 32 apply beginning January 1, 2008:
- 33 1. Automatic commercial icemakers shall meet the requirements of
- 34 section 1605.3 of the California Code of Regulations, title 20: division 2,
- 35 chapter 4, article 4, in effect on ~~the effective date of this article~~ AUGUST
- 36 12, 2005.
- 37 2. Commercial clothes washers shall meet the requirements of section
- 38 1605.3 of the California Code of Regulations, title 20: division 2, chapter
- 39 4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12,
- 40 2005.
- 41 3. Commercial prerinse spray valves shall have a flow rate equal to or
- 42 less than 1.6 gallons per minute.

1 4. Commercial refrigerators, freezers and refrigerator freezers shall
2 meet the requirements of section 1605.3 of the California Code of
3 Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the~~
4 ~~effective date of this article~~ AUGUST 12, 2005, except that pulldown
5 refrigerators with transparent doors shall meet a requirement five per cent
6 less stringent than shown in the California regulations.

7 5. Illuminated exit signs shall have an input power demand of five
8 watts or less per illuminated face and shall either have a power factor of at
9 least 0.70 or meet the power factor product specification of the energy star
10 program requirements, whichever is higher.

11 6. Large packaged air conditioning equipment shall meet a minimum
12 energy efficiency ratio of 10.0 for air conditioning without an integrated
13 heating component or with electric resistance heating integrated into the
14 unit, 9.8 for air conditioning with heating other than electric resistance
15 integrated into the unit, 9.5 for air conditioning heat pumps without an
16 integrated heating component or with electric resistance heating integrated
17 into the unit and 9.3 for air conditioning heat pump equipment with heating
18 other than electric resistance integrated into the unit. Large packaged air
19 conditioning heat pumps shall meet a minimum coefficient of performance in
20 the heating mode of 3.2 measured at a high temperature rating of forty-seven
21 degrees Fahrenheit.

22 7. ~~THROUGH DECEMBER 31, 2010,~~ low voltage dry type distribution
23 transformers shall meet the class 1 efficiency levels for low voltage
24 distribution transformers specified in table 4-2 of the guide for determining
25 energy efficiency for distribution transformers, published by the national
26 electrical manufacturers association (NEMA standard TP-1-2002), in effect on
27 ~~the effective date of this article~~ AUGUST 12, 2005.

28 8. Metal halide lamp fixtures designed to be operated with lamps rated
29 greater than or equal to one hundred fifty watts but less than or equal to
30 five hundred watts shall not contain a probe start metal ~~halid~~ HALIDE lamp
31 ballast.

32 9. Single voltage external AC to DC power supplies shall meet the tier
33 one energy efficiency requirements of section 1605.3 of the California Code
34 of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the~~
35 ~~effective date of this article~~ AUGUST 12, 2005. This standard applies to
36 single voltage AC to DC power supplies that are sold individually and to
37 those that are sold as a component of or in conjunction with another product.

38 10. Torchieres shall not use more than one hundred ninety watts. A
39 torchiere shall be deemed to use more than one hundred ninety watts if any
40 commercially available lamp or combination of lamps can be inserted in its
41 socket and cause the torchiere to draw more than one hundred ninety watts
42 when operated at full brightness.

11. Traffic signal modules shall meet the product specification of the energy star program requirements for traffic signals developed by the United States environmental protection agency that took effect in February 2001, shall have a power factor of at least 0.90 and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

12. Unit heaters shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

B. BEGINNING JANUARY 1, 2012, THE FOLLOWING STANDARDS APPLY:

1. PORTABLE ELECTRIC SPAS SHALL NOT HAVE A NORMALIZED STANDBY POWER GREATER THAN FIVE TIMES THE SPA'S FILL VOLUME IN GALLONS RAISED TO THE TWO-THIRDS POWER.

2. RESIDENTIAL POOL PUMPS AND RESIDENTIAL POOL PUMP MOTORS SHALL COMPLY WITH BOTH OF THE FOLLOWING:

(a) MOTORS SHALL NOT BE SPLIT-PHASE OR CAPACITOR START-INDUCTION RUN TYPE MOTORS, EXCEPT FOR THE FOLLOWING:

(i) THE LOW-SPEED SECTION OF TWO-SPEED MOTORS MAY BE CAPACITOR START-INDUCTION RUN TYPE.

(ii) FORTY-EIGHT-FRAME MOTORS DESIGNED FOR USE WITH ABOVE-GROUND POOLS ARE EXEMPT FROM THIS REQUIREMENT.

(b) MOTORS WITH A TOTAL HORSEPOWER CAPACITY OF ONE OR MORE SHALL HAVE THE CAPABILITY OF OPERATING AT TWO OR MORE SPEEDS WITH A LOW SPEED HAVING A ROTATION RATE THAT IS NO MORE THAN ONE-HALF OF THE MOTOR'S MAXIMUM ROTATION RATE AND SHALL BE OPERATED WITH A PUMP CONTROL WITH THE CAPABILITY OF OPERATING THE PUMP AT TWO OR MORE SPEEDS. RESIDENTIAL POOL PUMP MOTOR CONTROLS THAT ARE SOLD FOR USE WITH A TWO OR MORE SPEED MOTOR SHALL HAVE A DEFAULT CIRCULATION SPEED SETTING NO MORE THAN ONE-HALF OF THE MOTOR'S MAXIMUM ROTATION RATE. ANY HIGH SPEED OVERRIDE CAPABILITY SHALL BE FOR A TEMPORARY PERIOD NOT TO EXCEED ONE TWENTY-FOUR HOUR CYCLE WITHOUT RESETTING TO THE DEFAULT SETTING.

~~B.~~ C. The standards prescribed by subsection A apply beginning January 1, 2010, if the product is a commercial refrigerator, freezer or refrigerator freezer or large packaged air conditioning equipment.

~~C.~~ D. Beginning on May 31, 2008, and every three years thereafter, the department of commerce energy office shall conduct a comparative review and assessment of the standards prescribed by subsection A and energy efficiency standards adopted in other states. The department of commerce energy office shall:

1. Submit a report of its findings and recommendations to the speaker of the house of representatives and president of the senate.

2. Provide a copy of the report to the director of the Arizona state library, archives and public records.