

REFERENCE TITLE: energy standards; buildings; contracting

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
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2009

## HB 2337

Introduced by  
Representatives Mason, Ableser, Campbell CH, Deschene, Farley, Patterson:  
Chabin, Goodale, Lopes, Miranda B

### 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, 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. A CITY OR TOWN SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY  
6 OFFICE INFORMATION COLLECTED AS PART OF THE MUNICIPAL BUILDING PERMIT  
7 APPLICATION AND APPROVAL PROCESS WHETHER THE BUILDING WILL MEET THE  
8 REQUIREMENTS OF AN ENERGY EFFICIENT RESIDENTIAL OR COMMERCIAL BUILDING AND  
9 SHALL REPORT THE ENERGY RATING SYSTEM VALUE FOR THE BUILDING IF THE BUILDING  
10 RECEIVES AN ENERGY RATING.

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

13 1. THE TOTAL NUMBER OF BUILDING PERMITS ISSUED IN THE CITY OR TOWN IN  
14 THE PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR ALL NEW  
15 COMMERCIAL BUILDINGS.

16 2. THE NUMBER AND PERCENTAGE OF THOSE PERMITS THAT WERE ISSUED FOR NEW  
17 ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY RATING  
18 SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE PERFORMED.

19 C. FOR THE PURPOSES OF THIS SECTION AND FOR PURPOSES OF REPORTING  
20 ENERGY EFFICIENT BUILDINGS PURSUANT TO SECTION 41-1511, "ENERGY EFFICIENT  
21 BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED  
22 THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL  
23 PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND  
24 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED  
25 STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR  
26 THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006  
27 INTERNATIONAL ENERGY CONSERVATION CODE.

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

30 11-324. Energy efficiency construction; report; definition

31 A. A COUNTY SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE  
32 INFORMATION COLLECTED AS PART OF THE BUILDING PERMIT APPLICATION AND APPROVAL  
33 PROCESS WHETHER THE BUILDING WILL MEET THE REQUIREMENTS OF AN ENERGY  
34 EFFICIENT RESIDENTIAL OR COMMERCIAL BUILDING AND SHALL REPORT THE ENERGY  
35 RATING SYSTEM VALUE FOR THE BUILDING IF THE BUILDING RECEIVES AN ENERGY  
36 RATING.

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

39 1. THE TOTAL NUMBER OF BUILDING PERMITS ISSUED IN THE COUNTY IN THE  
40 PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR ALL NEW  
41 COMMERCIAL BUILDINGS.

42 2. THE NUMBER AND PERCENTAGE OF THOSE PERMITS THAT WERE ISSUED FOR NEW  
43 ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY RATING  
44 SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE PERFORMED.

1 C. FOR THE PURPOSES OF THIS SECTION AND FOR PURPOSES OF REPORTING  
2 ENERGY EFFICIENT BUILDINGS PURSUANT TO SECTION 41-1511, "ENERGY EFFICIENT  
3 BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED  
4 THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL  
5 PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND  
6 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED  
7 STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR  
8 THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006  
9 INTERNATIONAL ENERGY CONSERVATION CODE.

10 Sec. 3. Section 15-213, Arizona Revised Statutes, is amended to read:

11 15-213. Procurement practices of school districts and charter  
12 schools; definitions

13 A. The state board of education shall adopt rules prescribing  
14 procurement practices for all school districts in this state as follows:

15 1. The state board shall submit to the auditor general proposed rules  
16 consistent with the procurement practices prescribed in title 41, chapter 23,  
17 modifying the provisions for public notice of invitation for bids, requests  
18 for proposals and requests for qualifications to allow a governing board to  
19 give public notice of the invitation for bids, requests for proposals and  
20 requests for qualifications by publication in the official newspaper of the  
21 county as defined in section 11-255, modifying the provisions relating to  
22 disposal of materials to comply with section 15-342, paragraph 18, providing  
23 for governing board delegation of procurement authority and modifying as  
24 necessary other provisions which the state board determines are not  
25 appropriate for school districts. The rules shall include provisions  
26 specifying that school districts are not required to engage in competitive  
27 bidding in order to make the decision to participate in programs pursuant to  
28 section 15-382 and that a program authorized by section 15-382 is not  
29 required to engage in competitive bidding for the services necessary to  
30 administer the program or for purchase of insurance or reinsurance. The  
31 rules for procurement of construction projects shall include provisions  
32 specifying that surety bonds furnished as bid security and performance and  
33 payment bonds shall be executed and furnished as required by title 34,  
34 chapter 2 or 6, as applicable. The rules shall specify the total cost of a  
35 procurement that is subject to invitations for bids, requests for proposals  
36 and requests for clarification. The state board shall not exceed the  
37 aggregate dollar amount limits for procurements prescribed in section  
38 41-2535.

39 2. The state board of education shall adopt rules for procurements  
40 involving construction not exceeding one hundred fifty thousand dollars which  
41 shall be known as the simplified school construction procurement program. At  
42 a minimum, the rules for a simplified construction procurement program shall  
43 require that:

1 (a) A list be maintained by each county school superintendent of  
2 persons who desire to receive solicitations to bid on construction projects  
3 to which additions shall be permitted throughout the year.

4 (b) The list of persons be available for public inspection.

5 (c) A performance bond and a payment bond as required by this section  
6 be provided for contracts for construction by contractors.

7 (d) All bids for construction be opened at a public opening and the  
8 bids shall remain confidential until the public opening.

9 (e) All persons desiring to submit bids be treated equitably and the  
10 information related to each project be available to all eligible persons.

11 (f) Competition for construction projects under the simplified school  
12 construction procurement program be encouraged to the maximum extent  
13 possible. At a minimum, a school district shall submit information on each  
14 project to all persons listed with the county school superintendent by any  
15 school district within that county.

16 (g) A provision, covenant, clause or understanding in, collateral to  
17 or affecting a construction contract that makes the contract subject to the  
18 laws of another state or that requires any litigation, arbitration or other  
19 dispute resolution proceeding arising from the contract to be conducted in  
20 another state is against this state's public policy and is void and  
21 unenforceable.

22 3. IN LIEU OF THE PROCUREMENT RULES UNDER PARAGRAPH 2 OF THIS  
23 SUBSECTION, THE STATE BOARD OF EDUCATION SHALL ADOPT RULES FOR A SCHOOL  
24 CONSTRUCTION PROCUREMENT PROGRAM FOR ENERGY PERFORMANCE CONTRACTS AND  
25 RENEWABLE ENERGY POWER PURCHASE CONTRACTS TO PURCHASE ENERGY SAVING AND  
26 RENEWABLE ENERGY MEASURES.

27 ~~3-~~ 4. ~~On or before December 31, 2004,~~ The state board of education  
28 shall adopt rules for the procurement of goods and information services by  
29 school districts and charter schools using electronic, ~~on-line~~ ONLINE  
30 bidding. The rules adopted by the state board shall include the use of  
31 reverse auctions and shall be consistent with the procurement practices  
32 prescribed in title 41, chapter 23, article 13, modifying as necessary those  
33 provisions and the rules adopted pursuant to that article that the state  
34 board determines are not appropriate for school districts and charter  
35 schools. Until the rules are adopted school districts and charter schools  
36 may procure goods and information services pursuant to title 41, chapter 23,  
37 article 13 using the rules adopted by the department of administration in  
38 implementing that article.

39 ~~4-~~ 5. The auditor general shall review the proposed rules to  
40 determine whether the rules are consistent with the procurement practices  
41 prescribed in title 41, chapter 23 and any modifications are required to  
42 adapt the procedures for school districts.

43 ~~5-~~ 6. If the auditor general approves the proposed rules, the auditor  
44 general shall notify the state board in writing and the state board shall  
45 adopt such rules.

1           ~~6.~~ 7. If the auditor general objects to the proposed rules, the  
2 auditor general shall notify the state board of the objections in writing and  
3 the state board, in adopting the rules, shall conform the proposed rules to  
4 meet the objections of the auditor general or revise the proposed rules to  
5 which an objection has been made and submit the revisions to the auditor  
6 general for approval.

7           B. After the bids submitted in response to an invitation for bids are  
8 opened and the award is made or after the proposals or qualifications are  
9 submitted in response to a request for proposals or a request for  
10 qualifications and the award is made, the governing board shall make  
11 available for public inspection all information, all bids, proposals and  
12 qualifications submitted and all findings and other information considered in  
13 determining whose bid conforms to the invitation for bids and will be the  
14 most advantageous with respect to price, conformity to the specifications and  
15 other factors or whose proposal or qualifications are to be selected for the  
16 award. The invitation for bids, request for proposals or request for  
17 qualifications shall include a notice that all information and bids,  
18 proposals and qualifications submitted will be made available for public  
19 inspection. The rules adopted by the state board shall prohibit the use in  
20 connection with procurement of specifications in any way proprietary to one  
21 supplier unless the specification includes all of the following:

22           1. A statement of the reasons why no other specification is  
23 practicable.

24           2. A description of the essential characteristics of the specified  
25 product.

26           3. A statement specifically permitting an acceptable alternative  
27 product to be supplied.

28           C. No project or purchase may be divided or sequenced into separate  
29 projects or purchases in order to avoid the limits prescribed by the state  
30 board under subsection A of this section.

31           D. A contract for the procurement of construction or construction  
32 services shall include a provision which provides for negotiations between  
33 the school district and the contractor for the recovery of damages related to  
34 expenses incurred by the contractor for a delay for which the school district  
35 is responsible, which is unreasonable under the circumstances and which was  
36 not within the contemplation of the parties to the contract. This subsection  
37 shall not be construed to void any provision in the contract which requires  
38 notice of delays, provides for arbitration or other procedure for settlement  
39 or provides for liquidated damages.

40           E. The auditor general may conduct discretionary reviews,  
41 investigations and audits of the financial and operational procurement  
42 activities of school districts, nonexempt charter schools and school  
43 purchasing cooperatives. The auditor general has final review and approval  
44 authority over all school district, nonexempt charter school and school

1 purchasing cooperative audit contracts and any audit reports issued in  
2 accordance with this section.

3 F. In addition to the requirements of sections 15-914 and 15-914.01,  
4 school districts, nonexempt charter schools and school purchasing  
5 cooperatives, in connection with any audit conducted by a certified public  
6 accountant, shall contract for a systematic review of purchasing practices  
7 using methodology consistent with sampling guidelines established by the  
8 auditor general. The auditor general shall consider cost when establishing  
9 guidelines pursuant to this subsection and to the extent possible shall  
10 attempt to minimize the cost of the review. The purpose of the review is to  
11 determine whether the school district, nonexempt charter school or school  
12 purchasing cooperative is in compliance with the procurement laws and  
13 applicable procurement rules of this state. A copy of the review shall be  
14 submitted upon completion to the auditor general. The auditor general may  
15 conduct discretionary reviews of school districts, nonexempt charter schools  
16 and school purchasing cooperatives not required to contract for independent  
17 audits.

18 G. The attorney general or county attorney has jurisdiction to enforce  
19 this section. The attorney general or county attorney may seek relief for  
20 any violation of this section through an appropriate civil or criminal action  
21 in superior court including an action to enjoin a threatened or pending  
22 violation of this section and including an action to enforce compliance with  
23 any request for documents made by the auditor general pursuant to this  
24 section.

25 H. The department of education shall enact policies and procedures for  
26 the acceptance and disposition of complaints from the public regarding school  
27 procurement practices and shall forward all school procurement complaints to  
28 the attorney general.

29 I. The state board of education shall adopt, and the auditor general  
30 shall review, rules authorizing school districts to procure construction  
31 services by construction-manager-at-risk, design-build, qualified select  
32 bidders list and job-order-contracting methods of project delivery. The  
33 rules adopted shall require each school district that uses  
34 construction-manager-at-risk, design-build, qualified select bidders list or  
35 job-order-contracting to procure construction services to submit, on or  
36 before January 15 of each year, a report to the secretary of state on the  
37 benefits associated with the use of such procurement methods. The report  
38 shall include the number of projects completed in the preceding calendar year  
39 using that procurement method, the cost and description of each project and  
40 an estimate of any cost savings or other benefits realized through the use of  
41 that procurement method.

42 J. A school district or charter school may evaluate United States  
43 general services administration contracts for materials and services. The  
44 governing board or governing body may authorize purchases under a current  
45 contract for materials or services without complying with the requirements of

1 the procurement rules adopted by the state board of education if the  
2 governing board or governing body determines in writing that all of the  
3 following apply:

4 1. The price for materials or services is equal to or less than the  
5 contractor's current federal supply contract price with the general services  
6 administration.

7 2. The contractor has indicated in writing that the contractor is  
8 willing to extend the current federal supply contract pricing, terms and  
9 conditions to the school district or charter school.

10 3. The purchase order adequately identifies the federal supply  
11 contract on which the order is based.

12 4. The purchase contract is cost effective and is in the best  
13 interests of the school district or charter school.

14 K. For the purposes of this section:

15 1. "Nonexempt charter school" means a charter school that is not  
16 exempted from procurement laws pursuant to section 15-183, subsection E,  
17 paragraph 6.

18 2. "School purchasing cooperative" means an entity engaged in  
19 cooperative purchasing as defined in section 41-2631.

20 3. "Total cost" means the cost of all materials and services,  
21 including the cost of labor performed by employees of the school district,  
22 for all construction as provided in subsection A of this section.

23 Sec. 4. Section 15-213.01, Arizona Revised Statutes, is amended to  
24 read:

25 15-213.01. Procurement practices: guaranteed energy cost  
26 savings contracts: definitions

27 A. Notwithstanding section 15-213, subsection A, a school district may  
28 contract for the procurement of a guaranteed energy cost savings contract  
29 with a qualified provider through a competitive sealed proposal process as  
30 provided by the procurement practices adopted by the state board of  
31 education. To the extent the qualified provider subcontracts with  
32 contractors who will be involved in any construction associated with the  
33 guaranteed energy cost savings contract, the qualified provider must follow  
34 ~~the provisions of~~ section 41-2533 in selecting these contractors.

35 B. A school district may enter into a guaranteed energy cost savings  
36 contract with a qualified provider if it determines that the amount it would  
37 spend on the energy cost savings measures recommended in the proposal would  
38 not exceed the amount to be saved in energy and operational costs over the  
39 expected life of the energy cost savings measures implemented or within  
40 twenty-five years, whichever is shorter, after the date installation or  
41 implementation is complete, if the recommendations in the proposal are  
42 followed. **THE SCHOOL DISTRICT SHALL RETAIN THE COST SAVINGS ACHIEVED BY A**  
43 **GUARANTEED ENERGY COST SAVING CONTRACT, AND THESE COST SAVINGS MAY BE USED TO**  
44 **PAY FOR THE CONTRACT AND PROJECT IMPLEMENTATION. A SCHOOL DISTRICT SHALL NOT**  
45 **USE EXCESS UTILITIES MONIES FOR THE CONTRACT OR FOR PROJECT IMPLEMENTATION.**

1 C. The school district shall use objective criteria in selecting the  
2 qualified provider, including the ~~cost of the contract, the energy and~~  
3 ~~operational cost savings, the net projected energy savings, the quality of~~  
4 ~~the technical approach, the quality of the project management plan, the~~  
5 financial solvency of the qualified provider and the experience of the  
6 qualified provider with projects of similar size and scope. The school  
7 district shall set forth each criterion with its respective numerical  
8 weighting in the request for proposal.

9 D. In selecting a contractor to perform any construction work related  
10 to performing the guaranteed energy cost savings contract, the qualified  
11 provider may develop and use a prequalification process for contractors  
12 wishing to bid on this work. These prequalifications may require the  
13 contractor to demonstrate that the contractor is adequately bonded to perform  
14 the work and that the contractor has not failed to perform on a prior job.  
15 The qualified provider may use performance specifications in soliciting bids  
16 from contractors.

17 E. ~~An in-depth feasibility~~ A study shall be performed by the selected  
18 qualified provider in order to establish the exact scope of the guaranteed  
19 energy cost savings contract, the fixed cost savings guarantee amount and the  
20 methodology for determining actual savings. This report shall be reviewed  
21 and approved by the school district ~~prior to~~ BEFORE the actual installation  
22 of any equipment. The qualified provider shall transmit a copy of the  
23 approved in-depth feasibility study to the superintendent of public  
24 instruction AND THE DEPARTMENT OF COMMERCE ENERGY OFFICE.

25 F. The guaranteed energy COST savings contract shall require that  
26 ~~a qualified provider perform an energy audit of the facility or facilities~~  
27 ~~one year after the energy cost savings measures are installed or implemented~~  
28 ~~and every three years thereafter for the length of the contract. The~~  
29 ~~qualified provider shall transmit a copy of the audit to the superintendent~~  
30 ~~of public instruction. The qualified provider shall pay the cost of the~~  
31 ~~audit.~~ in determining whether the projected energy savings calculations have  
32 been met, the energy or operational cost savings shall be computed by  
33 comparing the energy baseline before installation or implementation of the  
34 energy cost savings measures with the energy consumed and operational costs  
35 avoided after installation or implementation of the energy cost savings  
36 measures. The qualified provider and the school district may agree to make  
37 modifications to the energy baseline only for any of the following:

- 38 1. Changes in utility rates.
- 39 2. Changes in the number of days in the utility billing cycle.
- 40 3. Changes in the square footage of the facility.
- 41 4. Changes in the operational schedule of the facility.
- 42 5. Changes in facility temperature.
- 43 6. Significant changes in the weather.
- 44 7. Significant changes in the amount of equipment or lighting utilized  
45 in the facility.

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

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

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

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

23 1. PREPARE A MEASUREMENT AND VERIFICATION REPORT ON AN ANNUAL BASIS IN  
24 ADDITION TO AN ANNUAL RECONCILIATION OF SAVINGS.

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

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

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

33 M. When selecting subcontractors to perform construction work, the  
34 qualified provider is required to make public information in the  
35 subcontractor's bids only if the qualified provider is awarded the guaranteed  
36 energy COST savings contract by the school district.

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

39 1. THE NAME OF THE PROJECT.

40 2. THE QUALIFIED PROVIDER.

41 3. THE TOTAL COST OF THE PROJECT.

42 4. THE EXPECTED ENERGY AND COST SAVINGS.

43 ~~N.~~ 0. This section does not apply to the construction of new  
44 buildings, EXCEPT THAT GUARANTEED ENERGY COST SAVINGS CONTRACTS MAY BE USED

1 TO FINANCE OR IMPLEMENT ENERGY COST SAVINGS MEASURES INSTALLED DURING  
2 CONSTRUCTION OF NEW BUILDINGS.

3 ~~0.~~ P. For the purposes of this section:

4 1. "Construction" means the process of building, altering, repairing,  
5 improving or demolishing any school district structure or building, or other  
6 public improvements of any kind to any school district real property.  
7 Construction does not include the routine operation, routine repair or  
8 routine maintenance of existing structures, buildings or real property.

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

12 3. "Energy cost savings measure" means a training program or facility  
13 alteration designed to reduce energy consumption or operating costs and may  
14 include one or more of the following:

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

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

20 (c) Automated or computerized energy control systems.

21 (d) Heating, ventilating or air conditioning system modifications or  
22 replacements.

23 (e) Replacing or modifying lighting fixtures to increase the energy  
24 efficiency of the lighting system without increasing the overall illumination  
25 of a facility unless an increase in illumination is necessary to conform to  
26 the applicable state or local building code for the lighting system after the  
27 proposed modifications are made.

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

30 (g) Energy recovery systems.

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

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

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

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

38 (l) DEVICES THAT REDUCE WATER CONSUMPTION AND WATER COSTS OR THAT  
39 REDUCE SEWER CHARGES.

40 (m) RAINWATER HARVESTING SYSTEMS.

41 (n) COMBINED HEAT AND POWER SYSTEMS.

42 (o) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS AND RENEWABLE ENERGY  
43 POWER PURCHASE CONTRACTS.

44 (p) SELF-GENERATION SYSTEMS.

1 (q) ANY ADDITIONAL BUILDING SYSTEMS AND INFRASTRUCTURE THAT PRODUCE  
2 ENERGY, OR THAT PROVIDE UTILITY OR OPERATIONAL COST SAVINGS NOT SPECIFICALLY  
3 MENTIONED IN THIS PARAGRAPH, IF THE IMPROVEMENTS MEET THE LIFE CYCLE COST  
4 REQUIREMENT AND ENHANCE BUILDING SYSTEM PERFORMANCE OR OCCUPANT COMFORT AND  
5 SAFETY.

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

8 5. "LIFE CYCLE COST" MEANS THE SUM OF PRESENT VALUES OF INVESTMENT  
9 COSTS, CAPITAL COSTS, INSTALLATION COSTS, ENERGY COSTS, OPERATING COSTS,  
10 MAINTENANCE COSTS AND DISPOSAL COSTS OVER THE LIFE OF THE PROJECT, PRODUCT OR  
11 MEASURE AS PROVIDED BY FEDERAL LIFE CYCLE COST RULES, REGULATIONS AND  
12 CRITERIA CONTAINED IN THE UNITED STATES DEPARTMENT OF ENERGY FEDERAL ENERGY  
13 MANAGEMENT PROGRAM "GUIDANCE ON LIFE-CYCLE COST ANALYSIS" REQUIRED BY  
14 EXECUTIVE ORDER 13122, APRIL 2005.

15 ~~5-~~ 6. "Operational savings" means reductions in actual budget line  
16 items currently being expended or savings realized from the implementation or  
17 installation of energy cost savings measures.

18 ~~6-~~ 7. "Qualified provider" means a person or a business experienced  
19 in designing, implementing or installing energy cost savings measures.

20 Sec. 5. Section 15-342, Arizona Revised Statutes, is amended to read:

21 ~~15-342.~~ Discretionary powers

22 The governing board may:

23 1. Expel pupils for misconduct.

24 2. Exclude from grades one through eight children under six years of  
25 age.

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

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

29 5. Permit a superintendent or principal or representatives of the  
30 superintendent or principal to travel for a school purpose, as determined by  
31 a majority vote of the board. The board may permit members and members-elect  
32 of the board to travel within or without the school district for a school  
33 purpose and receive reimbursement. Any expenditure for travel and  
34 subsistence pursuant to this paragraph shall be as provided in title 38,  
35 chapter 4, article 2. The designated post of duty referred to in section  
36 38-621 shall be construed, for school district governing board members, to be  
37 the member's actual place of residence, as opposed to the school district  
38 office or the school district boundaries. Such expenditures shall be a  
39 charge against the budgeted school district funds. The governing board of a  
40 school district shall prescribe procedures and amounts for reimbursement of  
41 lodging and subsistence expenses. Reimbursement amounts shall not exceed the  
42 maximum amounts established pursuant to section 38-624, subsection C.

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

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

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

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

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

18           (a) The market value of the school property is less than fifty  
19 thousand dollars **OR THE PROPERTY IS PROCURED THROUGH AN ENERGY PERFORMANCE**  
20 **CONTRACT OR RENEWABLE ENERGY POWER PURCHASE CONTRACT PURSUANT TO SECTION**  
21 **15-213 OR 15-213.01.**

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

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

38           (d) The transaction involves the sale of improved or unimproved  
39 property pursuant to a formally adopted plan and the school district uses the  
40 proceeds of this sale to purchase other property that will be used for  
41 similar purposes as the property that was originally sold, provided that the  
42 sale proceeds of the improved or unimproved property are used within two  
43 years after the date of the original sale to purchase the replacement  
44 property. If the sale proceeds of the improved or unimproved property are  
45 not used within two years after the date of the original sale to purchase

1 replacement property, the sale proceeds shall be used towards payment of any  
2 outstanding bonded indebtedness. If any sale proceeds remain after paying  
3 for outstanding bonded indebtedness, or if the district has no outstanding  
4 bonded indebtedness, sale proceeds shall be used to reduce the district's  
5 primary tax levy. A school district shall not use ~~the provisions of~~ this  
6 subdivision unless all of the following conditions exist:

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

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

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

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

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

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

42 14. Include in the curricula which it prescribes for high schools in  
43 the school district career and technical education, vocational education and  
44 technology education programs and career and technical, vocational and  
45 technology program improvement services for the high schools, subject to

1 approval by the state board of education. The governing board may contract  
2 for the provision of career and technical, vocational and technology  
3 education as provided in section 15-789.

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

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

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

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

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

17 18. Donate surplus or outdated learning materials to nonprofit  
18 community organizations where the governing board determines that the  
19 anticipated cost of selling the learning materials equals or exceeds the  
20 estimated market value of the materials.

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

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

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

36 22. Require students to wear uniforms.

37 23. Exchange unimproved property or improved property, including school  
38 sites, where the governing board determines that the improved property is  
39 unnecessary for the continued operation of the school district without  
40 requesting authorization by a vote of the school district electors if the  
41 governing board determines that the exchange is necessary to protect the  
42 health, safety or welfare of pupils or when the governing board determines  
43 that the exchange is based on sound business principles for either:

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

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

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

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

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

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

32 (c) Monies specifically donated for the purpose of constructing school  
33 buildings.

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

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

1           27. Sell advertising space on the exterior of school buses as  
2 follows:

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

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

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

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

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

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

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

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

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

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

31           28. Assess reasonable damage deposits to pupils in grades seven through  
32 twelve for the use of textbooks, musical instruments, band uniforms or other  
33 equipment required for academic courses. The governing board shall adopt  
34 policies on any damage deposits assessed pursuant to this paragraph at a  
35 public meeting called for this purpose after providing notice to all parents  
36 of pupils in grades seven through twelve in the school district. Principals  
37 of individual schools within the district may waive the damage deposit  
38 requirement for any textbook or other item if the payment of the damage  
39 deposit would create an economic hardship for the pupil. The school district  
40 shall return the full amount of the damage deposit for any textbook or other  
41 item if the pupil returns the textbook or other item in reasonably good  
42 condition within the time period prescribed by the governing board. For the  
43 purposes of this paragraph, "in reasonably good condition" means the textbook  
44 or other item is in the same or a similar condition as it was when the pupil  
45 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  
45 section 15-2041, subsection 0 meet the minimum adequacy standards prescribed

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

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

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

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

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

1 acres, which may be noncontiguous, that is the subject of a zoning ordinance  
2 approved by the governing body of the county, city or town in which the land  
3 is located that establishes the use of the land area as a planned area  
4 development or district, planned community development or district, planned  
5 unit development or district or other land use category or district that is  
6 recognized in the local ordinance of such county, city or town and that  
7 specifies the use of such land is for a master planned development.

8 Sec. 6. Title 15, chapter 9, article 1, Arizona Revised Statutes, is  
9 amended by adding section 15-910.02, to read:

10 15-910.02. Energy and water savings accounts

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

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

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

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

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

1 OR WATER SAVINGS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS BY A QUALIFIED  
2 PROVIDER OR A UTILITY, ENERGY OR WATER SERVICES COMPANY.

3 2. THE REPAYMENT TO THE QUALIFIED PROVIDER OR UTILITY, ENERGY OR WATER  
4 SERVICES COMPANY OF CAPITAL INVESTMENT MONIES DEPOSITED IN THE ACCOUNT PLUS  
5 REASONABLE CARRYING CHARGES PURSUANT TO THE TERMS OF THE CONTRACT.

6 E. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL PROCURE ENERGY OR WATER  
7 SAVINGS MEASURES OR SERVICES WITH MONIES DISTRIBUTED FROM THE ENERGY AND  
8 WATER SAVINGS ACCOUNTS.

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

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

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

1 BY THE AMOUNT OF MONIES TRANSFERRED TO THE ENERGY AND WATER SAVINGS ACCOUNT  
2 PURSUANT TO THIS SECTION.

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

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

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

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

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

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

38 Sec. 7. Section 34-201, Arizona Revised Statutes, is amended to read:

39 34-201. Notice of intention to receive bids and enter contract;  
40 procedure; doing work without advertising for bids;  
41 county compliance

42 A. Except as provided in subsections B through G and L of this  
43 section, every agent ~~shall~~, ~~upon~~ ON acceptance and approval of the working  
44 drawings and specifications, SHALL publish a notice to contractors of  
45 intention to receive bids and contract for the proposed work. This notice

1 shall be published by advertising in a newspaper of general circulation in  
2 the county in which the agent is located for two consecutive publications if  
3 it is a weekly newspaper or for two publications that are at least six but no  
4 more than ten days apart if it is a daily newspaper. The notice shall state:

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

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

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

28 Now, therefore, if the obligee accepts the proposal of the  
29 principal and the principal enters into a contract with the  
30 obligee in accordance with the terms of the proposal and gives  
31 the bonds and certificates of insurance as specified in the  
32 standard specifications with good and sufficient surety for the  
33 faithful performance of the contract and for the prompt payment  
34 of labor and materials furnished in the prosecution of the  
35 contract, or in the event of the failure of the principal to  
36 enter into the contract and give the bonds and certificates of  
37 insurance, if the principal pays to the obligee the difference  
38 not to exceed the penalty of the bond between the amount  
39 specified in the proposal and such larger amount for which the  
40 obligee may in good faith contract with another party to perform  
41 the work covered by the proposal then this obligation is void.  
42 Otherwise it remains in full force and effect provided, however,  
43 that this bond is executed pursuant to the provisions of section  
44 34-201, Arizona Revised Statutes, and all liabilities on this

1 bond shall be determined in accordance with the provisions of  
2 the section to the extent as if it were copied at length herein.

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

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

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

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

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

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

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

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

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

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

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

35 2. Construct recreational projects, including trails, playgrounds,  
36 ballparks and other similar facilities and excluding buildings, structures,  
37 building additions and alterations to buildings, structures and building  
38 additions, with volunteer workers or workers provided by a nonprofit  
39 organization without advertising for bids for labor and materials, provided  
40 that the total cost of the work does not exceed:

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

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

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

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

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

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

21 I. Any construction by a county under this section shall comply with  
22 the uniform accounting system prescribed for counties by the auditor general  
23 under section 41-1279.21. Any construction by a city or town under this  
24 section shall comply with generally accepted accounting principles.

25 J. Any construction, building addition or alteration project ~~which~~  
26 ~~THAT~~ is financed by monies of this state or its political subdivisions shall  
27 not use endangered wood species unless an exemption is granted by the  
28 director of the department of administration. The director shall only grant  
29 an exemption if the use of endangered wood species is deemed necessary for  
30 historical restoration or to repair existing facilities and the use of any  
31 substitute material is not practical. Any lease-purchase agreement entered  
32 into by this state or its political subdivisions for construction shall  
33 specify that no endangered wood species may be used in the construction  
34 unless an exemption is granted by the director. ~~As used in~~ FOR THE PURPOSES  
35 OF this subsection, "endangered wood species" includes those listed in  
36 appendix I of the convention on international trade in endangered species of  
37 wild flora and fauna.

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

41 L. Any building, structure, addition or alteration may be constructed  
42 without complying with this article if the construction, including  
43 construction of buildings or structures on public or private property, is  
44 required as a condition of development of private property and is authorized  
45 by section 9-463.01 or 11-806.01. For the purposes of this subsection,

1 building does not include police, fire, school, library, ~~or other public~~  
2 buildings.

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

11 Sec. 8. Section 34-451, Arizona Revised Statutes, is amended to read:  
12 34-451. Energy conservation standards for public buildings;  
13 energy sources

14 A. The department of commerce ENERGY OFFICE in consultation with  
15 persons responsible for building systems shall adopt and publish energy  
16 conservation standards for construction of all new capital projects as  
17 defined in section 41-790, including buildings designed and constructed by  
18 THE SCHOOL FACILITIES BOARD, school districts, community college districts  
19 and universities. These standards shall be consistent with the recommended  
20 energy conservation standards of the American society of heating,  
21 refrigerating and air conditioning engineers and the international energy  
22 conservation code.

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

25 C. The following state agencies THROUGH THE USE OF ENERGY PERFORMANCE  
26 CONTRACTING OR OTHER SIMILAR PROCUREMENT MECHANISMS shall reduce energy use  
27 in public buildings that they administer by ten per cent per square foot of  
28 floor area on or before July 1, 2008, and by fifteen per cent per square foot  
29 of floor area on or before July 1, 2011, BY TWENTY PER CENT PER SQUARE FOOT  
30 OF FLOOR AREA ON OR BEFORE JULY 1, 2020, using July 1, 2001 through June  
31 30, 2002 as the baseline year:

- 32 1. The department of administration for its building systems.
- 33 2. The Arizona board of regents for its building systems.
- 34 3. The department of transportation for its building systems.

35 D. ALL SCHOOL DISTRICTS THROUGH THE USE OF ENERGY PERFORMANCE  
36 CONTRACTING OR OTHER SIMILAR PROCUREMENT MECHANISMS SHALL ACHIEVE THE GOAL OF  
37 REDUCING SCHOOL DISTRICT-WIDE AVERAGE ENERGY USE IN BUILDINGS THAT THEY  
38 ADMINISTER BY TEN PER CENT PER SQUARE FOOT OF FLOOR AREA ON OR BEFORE JULY 1,  
39 2012, BY FIFTEEN PER CENT PER SQUARE FOOT OF FLOOR AREA ON OR BEFORE JULY 1,  
40 2016 AND BY TWENTY PER CENT PER SQUARE FOOT OF FLOOR AREA ON OR BEFORE JULY  
41 1, 2019, USING THE SCHOOL DISTRICT-WIDE AVERAGE FOR JULY 1, 2001 THROUGH JUNE  
42 30, 2002 AS THE BASELINE YEAR.

43 ~~D.~~ E. The ~~state~~ DEPARTMENT OF COMMERCE energy office shall provide  
44 technical assistance to the state agencies prescribed in subsection C of this  
45

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

10 ~~E.~~ F. All state agencies, SCHOOL DISTRICTS, COMMUNITY COLLEGES AND  
11 UNIVERSITIES shall procure energy efficient products that are certified by  
12 the United States department of energy or the United States environmental  
13 protection agency as energy star or that are certified under the federal  
14 energy management program in all categories that are available unless the  
15 products are shown not to be cost-effective on a life cycle cost basis.

16 G. ON OR BEFORE JULY 1, 2015, THROUGH THE USE OF RENEWABLE ENERGY  
17 POWER PURCHASE CONTRACTS OR OTHER MECHANISMS, ALL STATE AGENCIES,  
18 UNIVERSITIES AND SCHOOL DISTRICTS SHALL USE OR PURCHASE AT LEAST TEN PER CENT  
19 OF THEIR ENERGY REQUIREMENTS IN PUBLIC BUILDINGS THAT THEY ADMINISTER FROM  
20 RENEWABLE SOURCES AND NONPOLLUTING ENERGY SOURCES THAT INCLUDE SOLAR, WIND,  
21 BIOMASS, GEOTHERMAL, AGRICULTURAL WASTE, COMBINED HEAT AND POWER, LANDFILL  
22 GAS AND LOW IMPACT HYDROELECTRIC GENERATION PLANTS. THE DEPARTMENT OF  
23 COMMERCE ENERGY OFFICE SHALL INCLUDE IN ITS REPORT PRESCRIBED BY SUBSECTION E  
24 OF THIS SECTION AN EXPLANATION OF THE REASONS FOR ANY FAILURE TO ACHIEVE THE  
25 ENERGY REQUIREMENTS IN SPECIFIC BUILDING SYSTEMS AS PRESCRIBED IN THIS  
26 SUBSECTION.

27 H. ALL STATE AGENCY BUILDINGS CONSTRUCTED ON OR AFTER JULY 1, 2010  
28 SHALL CONFORM TO THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN  
29 BUILDING RATING STANDARDS DEVELOPED BY THE UNITED STATES GREEN BUILDING  
30 COUNCIL OR AN EQUIVALENT GREEN BUILDING RATING STANDARD IN A MANNER  
31 PRESCRIBED BY THE DEPARTMENT OF COMMERCE ENERGY OFFICE, UNLESS THE STANDARD  
32 CAN BE SHOWN NOT TO BE COST-EFFECTIVE ON A LIFE CYCLE COST BASIS. THE  
33 DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL MONITOR THE UNITED STATES GREEN  
34 BUILDING COUNCIL AND DEVELOPERS OF EQUIVALENT GREEN BUILDING RATING STANDARDS  
35 FOR CHANGES TO THE RATING STANDARDS THAT IMPACT STATE BUILDINGS.

36 Sec. 9. Repeal

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

38 Sec. 10. Section 34-454, Arizona Revised Statutes, is amended to read:

39 34-454. Establishment and use of life cycle cost methods and  
40 procedures; definition

41 A. The director of the department of administration, in consultation  
42 with the department of commerce ENERGY OFFICE, shall establish practical and  
43 effective present value methods for estimating and comparing life cycle costs  
44 for state capital projects, ~~using~~ the sum of all capital and operating  
45 expenses associated with the energy system of the building involved over the

1 expected life of the system or during a period of twenty-five years,  
2 whichever is shorter, and using average fuel costs and a discount rate  
3 determined by the director. The director shall develop and prescribe the  
4 procedures to be followed in applying and implementing the methods and  
5 procedures established by this subsection.

6 B. THE DIRECTOR OF THE SCHOOL FACILITIES BOARD, IN CONSULTATION WITH  
7 THE DEPARTMENT OF COMMERCE ENERGY OFFICE, SHALL USE THE LIFE CYCLE COST  
8 METHODS ESTABLISHED IN SUBSECTION A, OR SHALL ESTABLISH PRACTICAL AND  
9 EFFECTIVE METHODS FOR ESTIMATING AND COMPARING LIFE CYCLE COSTS CONSISTENT  
10 WITH THE STANDARDS PRESCRIBED IN SUBSECTION A, FOR CAPITAL PROJECTS FOR THE  
11 SCHOOL FACILITIES BOARD UNDER TITLE 15, CHAPTER 16 SOLELY FOR PURPOSES OF  
12 SCHOOL DISTRICTS ENTERING INTO GUARANTEED ENERGY COST SAVINGS CONTRACTS UNDER  
13 TITLE 15 FOR MEASURES THAT PROVIDE DOLLAR SAVINGS IN EXCESS OF THE COST OF  
14 THE MEASURE IN A TIME PERIOD GREATER THAN EIGHT YEARS FROM INSTALLATION.

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

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

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

28 Sec. 11. Section 34-455, Arizona Revised Statutes, is amended to read:

29 34-455. Performance contracting; definitions

30 A. The department of administration, WITH TECHNICAL SUPPORT FROM THE  
31 DEPARTMENT OF COMMERCE ENERGY OFFICE, shall develop and implement a program  
32 to enter into ENERGY performance contracts ~~solely~~ for the purpose of  
33 achieving energy OR COST savings as measured in dollars and benefits  
34 ancillary to that purpose AND FOR THE PURPOSE OF IMPLEMENTING RENEWABLE  
35 ENERGY PROJECTS OR CONTRACTS. PERFORMANCE CONTRACTS MAY ALSO BE USED TO  
36 REDUCE WATER CONSUMPTION AND WATER COSTS, TO REDUCE SEWER COSTS AND FOR  
37 RAINWATER HARVESTING SYSTEMS. WATER AND SEWER MEASURES MAY BE COMBINED WITH  
38 ENERGY MEASURES IN THE SAME PERFORMANCE CONTRACT, OR WATER AND SEWER MEASURES  
39 MAY BE INCLUDED IN A SEPARATE WATER SAVINGS PERFORMANCE CONTRACT.

40 B. PURSUANT TO TITLE 41, CHAPTER 23, each contract may be for a period  
41 of not more than the expected life of the energy savings OR RENEWABLE ENERGY  
42 measures implemented or twenty-five years, whichever is shorter. The  
43 contract shall provide that the energy and operational savings generated  
44 cover all costs, after accounting for any financial incentives or assistance  
45 provided by utilities, associated with implementation of energy ~~conservation~~

1 SAVINGS OR RENEWABLE ENERGY measures to include audits, design equipment,  
 2 purchase and installation, metering, interest on monies borrowed and  
 3 training, and the contract shall include contractor profit. ~~The contractor~~  
 4 ~~shall recover an amount not to exceed the summation of these costs and the~~  
 5 ~~agreed upon profit. Energy dollar savings realized as a result of a~~  
 6 ~~performance contract under this section shall be shared at a negotiated rate~~  
 7 ~~between the state and the contractor, until such time as the contractor has~~  
 8 ~~recovered the amount specified in the contract, at which time all savings~~  
 9 ~~shall accrue to the state. Interest rates charged on each contract shall be~~  
 10 ~~mutually agreed upon by the department of administration and the contractor.~~  
 11 ~~Contracts shall contain contingency provisions agreed upon by the department~~  
 12 ~~and the contractor for cases where measured energy dollar savings do not meet~~  
 13 ~~predicted energy dollar savings.~~

14 ~~B.~~ C. For the purposes of this section:  
 15 1. "Combined heat and power" means any system that simultaneously or  
 16 sequentially generates both electric or mechanical energy and useful thermal  
 17 energy using the same unit of fuel.

18 2. "Energy ~~dollar~~ OR COST savings" means a reduction in the cost of  
 19 energy, from a base energy cost established through a methodology set forth  
 20 in the contract, utilized in an existing or new state owned or leased  
 21 building as a result of ~~either~~ ANY OF THE FOLLOWING:

22 (a) The lease or purchase of operating equipment by the state or  
 23 contractor, improvements made, altered operation and maintenance, technical  
 24 services provided or renewable energy sources utilized.

25 (b) The increased efficient use of existing energy sources by  
 26 cogeneration or combined heat and power.

27 (c) RENEWABLE ENERGY CONTRACTS.

28 Sec. 12. Repeal

29 Section 34-456, Arizona Revised Statutes, is repealed.

30 Sec. 13. Title 41, chapter 10, article 1, Arizona Revised Statutes, is  
 31 amended by adding section 41-1511, to read:

32 41-1511. Energy efficient buildings; report; definition

33 A. IT IS THE POLICY OF THIS STATE TO PROMOTE THE CONSTRUCTION OF  
 34 ENERGY EFFICIENT BUILDINGS. IN ORDER TO ACCOMPLISH THE CONSTRUCTION OF  
 35 ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS, THE FOLLOWING  
 36 VOLUNTARY STATEWIDE GOALS ARE ESTABLISHED:

YEAR	PERCENTAGE BY WHICH NEW BUILDINGS ON AVERAGE ARE MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE
42 2012	15%
43 2016	30%
44 2020	50%

1 B. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL TRACK THE NUMBER OF  
2 ENERGY EFFICIENT BUILDINGS THAT ARE CONSTRUCTED IN THIS STATE.

3 C. MUNICIPALITIES AND COUNTIES THAT COMPILE DATA ON ENERGY EFFICIENT  
4 BUILDINGS PURSUANT TO SECTIONS 9-469 AND 11-324 SHALL PROVIDE THAT  
5 INFORMATION TO THE ENERGY OFFICE ON OR BEFORE FEBRUARY 1 OF EACH YEAR AS  
6 PRESCRIBED BY THE ENERGY OFFICE.

7 D. BEGINNING IN 2010, THE ENERGY OFFICE SHALL SUBMIT TO THE  
8 LEGISLATURE AN ANNUAL REPORT OF INFORMATION COLLECTED PURSUANT TO SUBSECTIONS  
9 B AND C OF THIS SECTION, A DETERMINATION OF THE NUMBER AND PERCENTAGE OF  
10 ENERGY EFFICIENT BUILDINGS CONSTRUCTED IN THE PRECEDING YEAR AND AN ESTIMATE  
11 OF THE PERCENTAGE THAT ALL NEW RESIDENTIAL BUILDINGS IN THE AGGREGATE ON  
12 AVERAGE WERE MORE ENERGY EFFICIENT AND AN ESTIMATE OF THE PERCENTAGE THAT ALL  
13 NEW COMMERCIAL BUILDINGS IN THE AGGREGATE ON AVERAGE WERE MORE ENERGY  
14 EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE. THE REPORT  
15 MAY INCLUDE ONLY AGGREGATE INFORMATION WITH RESPECT TO SPECIFIC BUILDERS.

16 E. IN ADDITION TO THE REPORT REQUIRED BY SUBSECTION D OF THIS SECTION,  
17 THE ENERGY OFFICE SHALL MAKE AN ANNUAL PRESENTATION TO THE HOUSE OF  
18 REPRESENTATIVES COMMITTEE ON WATER AND ENERGY AND THE SENATE COMMITTEE ON  
19 NATURAL RESOURCES, INFRASTRUCTURE AND PUBLIC DEBT, OR THEIR SUCCESSOR  
20 COMMITTEES.

21 F. FOR THE PURPOSES OF THIS SECTION, "ENERGY EFFICIENT BUILDINGS"  
22 MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED THE ENERGY  
23 EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
24 ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN  
25 GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING  
26 COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST  
27 FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY  
28 CONSERVATION CODE.

29 Sec. 14. Title 41, chapter 23, article 3, Arizona Revised Statutes, is  
30 amended by adding section 41-2560, to read:

31 41-2560. Energy performance contracts; joint legislative budget  
32 committee consultation

33 A. THE DIRECTOR SHALL ENTER INTO ENERGY PERFORMANCE CONTRACTS TO  
34 FINANCE ENERGY EFFICIENCY AND RENEWABLE ENERGY PROJECTS OR CONTRACTS FOR THE  
35 PURCHASING AGENCY PURSUANT TO SECTION 34-455. ENERGY EFFICIENT AND RENEWABLE  
36 ENERGY PROJECTS OR CONTRACTS TO BE FUNDED UNDER THIS SECTION SHALL USE  
37 GENERALLY AVAILABLE AND MARKET PROVEN COMMERCIAL TECHNOLOGIES AS DEFINED  
38 PROGRAMMATICALLY BY THE DEPARTMENT OF COMMERCE ENERGY OFFICE. THE FUNDING  
39 FOR SERVICES UNDER AN ENERGY PERFORMANCE CONTRACT ENTERED INTO PURSUANT TO  
40 THIS SECTION MAY INCLUDE APPROPRIATE LEASE-PURCHASE OR OTHER THIRD-PARTY  
41 AGREEMENTS. FUNDING FOR AN ENERGY PERFORMANCE CONTRACT ENTERED INTO PURSUANT  
42 TO THIS SECTION MAY INCLUDE APPROPRIATE LEASE-PURCHASE FINANCING AGREEMENTS  
43 OR THIRD-PARTY AGREEMENTS AND SHALL NOT EXCEED TEN MILLION DOLLARS FOR ANY  
44 SINGLE PROJECT. THE QUALIFIED PROVIDER OR QUALIFIED ENERGY SERVICE COMPANY  
45 SHALL GUARANTEE THAT THE ENERGY OR COST SAVINGS TO BE GENERATED WILL BE AT

1 LEAST SUFFICIENT TO COVER ANY DEBT SERVICE AND FEES ASSOCIATED WITH THE  
2 PROJECT FINANCING.

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

7 C. BEFORE AN ENERGY PERFORMANCE CONTRACT IS AWARDED PURSUANT TO THIS  
8 SECTION, THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF SHALL BE CONSULTED WITH  
9 REGARD TO THE POTENTIAL FISCAL IMPACT OF THE CONTRACT TO THE STATE. AT THE  
10 BEGINNING OF THIS CONSULTATION AND NO LATER THAN FIFTEEN DAYS AFTER A REQUEST  
11 FROM THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF, THE DEPARTMENT OF COMMERCE  
12 ENERGY OFFICE SHALL PROVIDE AN OPINION TO THE JOINT LEGISLATIVE BUDGET  
13 COMMITTEE AS TO WHETHER THE COST OF THE PROJECT, INCLUDING ALL INTEREST,  
14 COSTS AND FEES RELATED TO LEASE-PURCHASE OR THIRD-PARTY AGREEMENTS, CAN BE  
15 REPAID ENTIRELY FROM PROJECT SAVINGS. ON REQUEST FROM THE JOINT LEGISLATIVE  
16 BUDGET COMMITTEE STAFF AND WITHIN FIFTEEN DAYS AFTER THE DATE OF THE REQUEST,  
17 THE STATE AGENCY SHALL PROVIDE ANY ADDITIONAL INFORMATION TO THE JOINT  
18 LEGISLATIVE BUDGET COMMITTEE STAFF TO COMPLETE ITS FINDINGS. THE JOINT  
19 LEGISLATIVE BUDGET COMMITTEE STAFF SHALL PROVIDE THE STATE AGENCY WITH ITS  
20 ASSESSMENT WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE REQUESTED INFORMATION.  
21 IF THE JOINT LEGISLATIVE BUDGET COMMITTEE STAFF FINDS A SIGNIFICANT NEGATIVE  
22 FISCAL IMPACT TO THE STATE, THE STAFF SHALL REPORT ITS FINDINGS TO THE JOINT  
23 LEGISLATIVE BUDGET COMMITTEE.

24 Sec. 15. Section 42-11054, Arizona Revised Statutes, is amended to  
25 read:

26 42-11054. Standard appraisal methods and techniques

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

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

31 2. Prepare and maintain manuals and other necessary guidelines,  
32 consistent with this section, reflecting the standard methods and techniques  
33 to perpetuate a current inventory of taxable property and the valuation of  
34 that property.

35 B. Before they are adopted, the department shall submit each  
36 substantive proposed guideline, table and manual that is developed, amended  
37 or otherwise modified from and after December 31, 2006 to the joint  
38 legislative oversight committee on property tax assessment and appeals. The  
39 department shall not finally adopt, amend or otherwise modify a substantive  
40 guideline, table or manual for at least thirty days after submitting the  
41 measure to the committee. The committee may hold one or more informational  
42 hearings on the proposed measure within thirty days after submission. In  
43 adopting, amending or modifying the measure the department shall consider the  
44 committee's comments. If the committee fails to hold a hearing within thirty

1 days after submission, the department may adopt, amend or modify the measure  
2 without further consideration.

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

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

6 2. Solar energy devices, as defined in section 44-1761, **GRID-TIDE**  
7 **SOLAR PHOTOVOLTAIC SYSTEMS** and any other device or system designed for the  
8 production of solar energy **PRIMARILY** for on-site consumption are considered  
9 to add no value to the property.

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

20 (a) **"COMBINED HEAT AND POWER SYSTEM" MEANS A PROCESS FOR THE**  
21 **SIMULTANEOUS OR SEQUENTIAL GENERATION OF ELECTRICAL OR MECHANICAL ENERGY AND**  
22 **USEFUL THERMAL ENERGY USING THE SAME UNIT OF FUEL, WITH A TOTAL FUEL**  
23 **EFFICIENCY OF SEVENTY PER CENT OR GREATER. THE EQUIPMENT OR SYSTEM MUST**  
24 **DEMONSTRATE, OR BE CERTIFIED TO BE CAPABLE OF, AT LEAST SEVENTY PER CENT**  
25 **TOTAL FUEL EFFICIENCY CAPABILITY.**

26 (b) **"ENERGY EFFICIENT BUILDING COMPONENTS" MEANS HIGH PERFORMANCE**  
27 **SUSTAINABLE BUILDING COMPONENTS INSTALLED SO THAT THE BUILDINGS OR BUILDING**  
28 **COMPONENTS MEET OR EXCEED THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED**  
29 **STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP**  
30 **IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED**  
31 **BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING**  
32 **STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN**  
33 **THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE.**

34 (c) **"RENEWABLE ENERGY EQUIPMENT" MEANS EQUIPMENT THAT IS USED TO**  
35 **PRODUCE ENERGY PRIMARILY FOR ON-SITE CONSUMPTION FROM RENEWABLE RESOURCES,**  
36 **INCLUDING WIND, FOREST THINNINGS, AGRICULTURAL WASTE, LANDFILL GAS, BIOGAS,**  
37 **GEOTHERMAL, LOW-IMPACT HYDROPOWER AND SOLAR ENERGY NOT INCLUDED UNDER**  
38 **PARAGRAPH 2 OF THIS SUBSECTION.**

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

42 E. For purposes of determining full cash value, the department and  
43 county assessors shall use and apply the ratio standard guidelines issued by  
44 the department for tax year 1993 in the same manner as they were applied in  
45 tax year 1993. This subsection does not apply to property that is valued

1 according to prescribed statutory methods or to property for which values are  
2 determined in the year after an appeal pursuant to section 42-16002.

3 Sec. 16. Repeal

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

5 Sec. 17. Section 44-1375, Arizona Revised Statutes, is amended to  
6 read:

7 44-1375. Definitions

8 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

39 (e) Does not include:

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

41 (ii) Walk-in refrigerators or freezers.

42 (iii) Units with no doors.

43 (iv) Freezers specifically designed for ice cream.

44 6. "High-intensity discharge lamp" means a lamp in which light is  
45 produced by the passage of an electric current through a vapor or gas and in

1 which the light producing arc is stabilized by bulb wall temperature and the  
2 arc tube has a bulb wall loading in excess of three watts per square  
3 centimeter.

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

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

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

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

18 (b) Is air cooled.

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

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

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

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

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

28 ~~12-~~ 13. "Probe start metal halide ballast" means a ballast used to  
29 operate metal halide lamps that does not contain an ignitor and which instead  
30 starts lamps by using a third starting electrode probe in the arc tube.

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

35 15. "RESIDENTIAL POOL PUMP" MEANS A PUMP THAT IS USED TO CIRCULATE AND  
36 FILTER POOL WATER IN ORDER TO MAINTAIN CLARITY AND SANITATION.

37 ~~14-~~ 16. "Single voltage external AC to DC power supply" means a device  
38 that:

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

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

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

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

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

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

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

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

10 ~~15-~~ 17. "Torchiere" means a portable electric lighting fixture with a  
11 reflective bowl that directs light upward onto a ceiling so as to produce  
12 indirect illumination on the surfaces below. A torchiere may include  
13 downward directed lamps in addition to the upward, indirect illumination.

14 ~~16-~~ 18. "Traffic signal module" means a standard eight inch or twelve  
15 inch traffic signal indication, consisting of a light source, a lens and all  
16 other parts necessary for operation.

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

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

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

30 ~~18-~~ 20. "Unit heater" means a self-contained, vented fan type  
31 commercial space heater that uses natural gas or propane and that is designed  
32 to be installed without ducts within a heated space, except that unit heater  
33 does not include any products covered by federal standards established  
34 pursuant to 42 United States Code chapter 77 or any product that is a direct  
35 vent, forced flue heater with a sealed combustion burner.

36 Sec. 18. Section 44-1375.01, Arizona Revised Statutes, is amended to  
37 read:

38 44-1375.01. Applicability

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

- 41 1. Automatic commercial icemakers.
- 42 2. Commercial clothes washers.
- 43 3. Commercial prerinse spray valves.
- 44 4. Commercial refrigerators, freezers and refrigerator freezers.
- 45 5. Illuminated exit signs.

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

- 1           5. Illuminated exit signs shall have an input power demand of five  
2 watts or less per illuminated face and shall either have a power factor of at  
3 least 0.70 or meet the power factor product specification of the energy star  
4 program requirements, whichever is higher.
- 5           6. Large packaged air conditioning equipment shall meet a minimum  
6 energy efficiency ratio of 10.0 for air conditioning without an integrated  
7 heating component or with electric resistance heating integrated into the  
8 unit, 9.8 for air conditioning with heating other than electric resistance  
9 integrated into the unit, 9.5 for air conditioning heat pumps without an  
10 integrated heating component or with electric resistance heating integrated  
11 into the unit and 9.3 for air conditioning heat pump equipment with heating  
12 other than electric resistance integrated into the unit. Large packaged air  
13 conditioning heat pumps shall meet a minimum coefficient of performance in  
14 the heating mode of 3.2 measured at a high temperature rating of forty-seven  
15 degrees Fahrenheit.
- 16           7. ~~THROUGH DECEMBER 31, 2010,~~ low voltage dry type distribution  
17 transformers shall meet the class 1 efficiency levels for low voltage  
18 distribution transformers specified in table 4-2 of the guide for determining  
19 energy efficiency for distribution transformers, published by the national  
20 electrical manufacturers association (NEMA standard TP-1-2002), in effect on  
21 ~~the effective date of this article~~ AUGUST 12, 2005.
- 22           8. Metal halide lamp fixtures designed to be operated with lamps rated  
23 greater than or equal to one hundred fifty watts but less than or equal to  
24 five hundred watts shall not contain a probe start metal ~~halid~~ HALIDE lamp  
25 ballast.
- 26           9. Single voltage external AC to DC power supplies shall meet the tier  
27 one energy efficiency requirements of section 1605.3 of the California Code  
28 of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the~~  
29 ~~effective date of this article~~ AUGUST 12, 2005. This standard applies to  
30 single voltage AC to DC power supplies that are sold individually and to  
31 those that are sold as a component of or in conjunction with another product.
- 32           10. Torchieres shall not use more than one hundred ninety watts. A  
33 torchiere shall be deemed to use more than one hundred ninety watts if any  
34 commercially available lamp or combination of lamps can be inserted in its  
35 socket and cause the torchiere to draw more than one hundred ninety watts  
36 when operated at full brightness.
- 37           11. Traffic signal modules shall meet the product specification of the  
38 energy star program requirements for traffic signals developed by the United  
39 States environmental protection agency that took effect in February 2001,  
40 shall have a power factor of at least 0.90 and shall be installed with  
41 compatible, electrically connected signal control interface devices and  
42 conflict monitoring systems.
- 43           12. Unit heaters shall be equipped with an intermittent ignition device  
44 and shall have either power venting or an automatic flue damper.

- 1           B. BEGINNING JANUARY 1, 2012, THE FOLLOWING STANDARDS APPLY:
- 2           1. PORTABLE ELECTRIC SPAS SHALL NOT HAVE A STANDBY POWER GREATER THAN
- 3 FIVE TIMES THE SPA'S VOLUME IN GALLONS RAISED TO THE TWO-THIRDS POWER.
- 4           2. RESIDENTIAL POOL PUMP MOTORS SHALL NOT BE SPLIT-PHASE OR CAPACITOR
- 5 START-INDUCTION RUN TYPE. POOL PUMP MOTORS WITH A CAPACITY OF ONE HORSEPOWER
- 6 OR MORE SHALL HAVE THE CAPABILITY OF OPERATING AT TWO OR MORE SPEEDS WITH A
- 7 LOW SPEED HAVING A ROTATION RATE THAT IS NO MORE THAN ONE-HALF OF THE MOTOR'S
- 8 MAXIMUM ROTATION RATE. POOL PUMP MOTOR CONTROLS SHALL HAVE THE CAPABILITY OF
- 9 OPERATING THE POOL PUMP IN AT LEAST TWO SPEEDS. THE DEFAULT CIRCULATION
- 10 SPEED SHALL BE THE LOWEST SPEED, WITH A HIGH SPEED OVERRIDE CAPABILITY BEING
- 11 FOR A TEMPORARY PERIOD NOT TO EXCEED ONE NORMAL CYCLE.
- 12           ~~B.~~ C. The standards prescribed by subsection A apply beginning
- 13 January 1, 2010, if the product is a commercial refrigerator, freezer or
- 14 refrigerator freezer or large packaged air conditioning equipment.
- 15           ~~C.~~ D. Beginning on May 31, 2008, and every three years thereafter,
- 16 the department of commerce energy office shall conduct a comparative review
- 17 and assessment of the standards prescribed by subsection A and energy
- 18 efficiency standards adopted in other states. The department of commerce
- 19 energy office shall:
- 20           1. Submit a report of its findings and recommendations to the speaker
- 21 of the house of representatives and president of the senate.
- 22           2. Provide a copy of the report to the director of the Arizona state
- 23 library, archives and public records.