

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SENATE BILL 1036

AN ACT

AMENDING SECTIONS 4-112, 4-210, 4-210.02, 5-113 AND 5-522, ARIZONA REVISED STATUTES; REPEALING SECTION 15-994, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-3002, 33-812, 36-771, 41-1276, 41-3506, 41-3955, 42-2003, 42-3001, 42-3151, 42-3153 AND 42-3154, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3155; AMENDING SECTIONS 42-3212, 42-3253, 42-3306, 42-15001, 42-15002, 42-15003, 42-15004, 42-15005, 42-15006, 42-15009, 43-1183, 44-302, 44-313, 48-4202, 48-4203, 48-4204 AND 48-4231, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 26, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 48-4231.01 AND 48-4231.02; REPEALING LAWS 2008, CHAPTER 291, SECTION 12; MAKING APPROPRIATIONS; RELATING TO REVENUE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 4-112, Arizona Revised Statutes, is amended to
3 read:

4 4-112. Powers and duties of board and director of department of
5 liquor licenses and control; investigations; county
6 and municipal regulation

7 A. The board shall:

8 1. Grant and deny applications in accordance with the provisions of
9 this title.

10 2. Adopt rules in order to carry out the provisions of this section.

11 3. Hear appeals and hold hearings as provided in this section.

12 B. Except as provided in subsection A of this section, the director
13 shall administer the provisions of this title, including:

14 1. Adopting rules:

15 (a) For carrying out the provisions of this title.

16 (b) For the proper conduct of the business to be carried on under each
17 specific type of spirituous liquor license.

18 (c) To enable and assist state officials and political subdivisions to
19 collect taxes levied or imposed in connection with spirituous liquors.

20 (d) For the issuance and revocation of certificates of registration of
21 retail agents, including provisions governing the shipping, storage and
22 delivery of spirituous liquors by registered retail agents, the keeping of
23 records and the filing of reports by registered retail agents.

24 (e) To establish requirements for licensees under section 4-209,
25 subsection B, paragraph 12.

26 2. Employing necessary personnel and fixing their compensation.

27 3. Keeping an index record which shall be a public record open to
28 public inspection and shall contain the name and address of each licensee and
29 the name and address of any person having an interest, either legal or
30 equitable, in each license as shown by any written document, which document
31 shall be placed on file in the office of the board.

32 4. Providing the board with such supplies and personnel as may be
33 directed by the board.

34 5. Responding in writing to any law enforcement agency that submits an
35 investigative report to the department relating to a violation of this title,
36 setting forth what action, if any, the department has taken or intends to
37 take on the report and, if the report lacks sufficient information or is
38 otherwise defective for use by the department, what the agency must do to
39 remedy the report.

40 6. Taking such steps as are necessary to maintain effective liaison
41 with the department of public safety and all local law enforcement agencies
42 in the enforcement of this title including the laws of this state against the
43 consumption of spirituous liquor by persons under the legal drinking age.

44 7. Providing training to law enforcement agencies in the proper
45 investigation and reporting of violations of this title.

1 C. THE DIRECTOR SHALL INVESTIGATE AND ENFORCE COMPLIANCE WITH LAWS
2 REGARDING THE SALE OF CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS THAT ARE
3 SUBJECT TO TAXATION UNDER TITLE 42, CHAPTER 3 AND SHALL ADOPT RULES THAT ARE
4 NECESSARY TO ACCOMPLISH THAT RESPONSIBILITY.

5 ~~E.~~ D. The director shall establish within the department a separate
6 investigations unit which has as its sole responsibility the investigation of
7 compliance with this title AND TITLE 42, CHAPTER 3 including the
8 investigation of licensees alleged to have sold or distributed spirituous
9 liquor in any form AND CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS to
10 persons under the legal drinking age AND THE LEGAL AGE FOR POSSESSING OR
11 USING CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS. Investigations
12 conducted by this unit may include covert undercover investigations.

13 ~~D.~~ E. All employees of the department of liquor licenses and control,
14 except members of the state liquor board and the director of the department,
15 shall be employed by the department in the manner prescribed by the
16 department of administration.

17 ~~E.~~ F. The director may enter into a contract or agreement with any
18 public agency for any joint or cooperative action as provided for by title
19 11, chapter 7, article 3.

20 ~~F.~~ G. The board or the director may take evidence, administer oaths
21 or affirmations, issue subpoenas requiring attendance and testimony of
22 witnesses, cause depositions to be taken and require by subpoena duces tecum
23 the production of books, papers and other documents which are necessary for
24 the enforcement of this title. Proceedings held during the course of a
25 confidential investigation are exempt from title 38, chapter 3, article
26 3.1. If a person refuses to obey a subpoena or fails to answer questions as
27 provided by this subsection, the board or the director may apply to the
28 superior court in the manner provided in section 12-2212. The board or
29 director may serve subpoenas by personal service or certified mail, return
30 receipt requested.

31 ~~G.~~ H. The director may:

- 32 1. Examine books, records and papers of a licensee.
- 33 2. Require applicants, licensees, employees who serve, sell or furnish
34 spirituous liquors to retail customers, managers and managing agents to take
35 training courses approved by the director in spirituous liquor handling and
36 spirituous liquor laws and rules. The director shall adopt rules that set
37 standards for approving training courses.
- 38 3. Delegate to employees of the department authority to exercise
39 powers of the director in order to administer the department.
- 40 4. Regulate signs that advertise a spirituous liquor product at
41 licensed retail premises.
- 42 5. Cause to be removed from the marketplace spirituous liquor that may
43 be contaminated.

1 6. Regulate the age and conduct of erotic entertainers at licensed
2 premises. The age limitation governing these erotic entertainers may be
3 different from other employees of the licensee.

4 7. Issue and enforce cease and desist orders against any person or
5 entity that sells beer, wine or spirituous liquor without an appropriate
6 license or permit.

7 8. Confiscate wines carrying a label including a reference to Arizona
8 or any Arizona city, town or place unless at least seventy-five per cent by
9 volume of the grapes used in making the wine were grown in this state.

10 9. Accept and expend private grants of monies, gifts and devises for
11 conducting educational programs for parents and students on the repercussions
12 of underage alcohol consumption. State general fund monies shall not be
13 expended for the purposes of this paragraph. If the director does not
14 receive sufficient monies from private sources to carry out the purposes of
15 this paragraph, the director shall not provide the educational programs
16 prescribed in this paragraph. Grant monies received pursuant to this
17 paragraph are nonlapsing and do not revert to the state general fund at the
18 close of the fiscal year.

19 ~~H.~~ I. A county or municipality may enact and enforce ordinances
20 regulating the age and conduct of erotic entertainers at licensed premises in
21 a manner at least as restrictive as rules adopted by the director.

22 Sec. 2. Section 4-210, Arizona Revised Statutes, is amended to read:

23 4-210. Grounds for revocation, suspension and refusal to renew;
24 notice; complaints; hearings

25 A. After notice and hearing, the director may suspend, revoke or
26 refuse to renew any license issued pursuant to this chapter for any of the
27 following reasons:

28 1. There occurs on the licensed premises repeated acts of violence or
29 disorderly conduct.

30 2. The licensee fails to satisfactorily maintain the capability,
31 qualifications and reliability requirements of an applicant for a license
32 prescribed in section 4-202 or 4-203.

33 3. The licensee or controlling person knowingly files with the
34 department an application or other document which contains material
35 information which is false or misleading or while under oath knowingly gives
36 testimony in an investigation or other proceeding under this title which is
37 false or misleading.

38 4. The licensee or controlling person is on the premises habitually
39 intoxicated.

40 5. The licensed business is delinquent for more than ninety days in
41 the payment of taxes, penalties or interest to the state or to any political
42 subdivision of the state.

43 6. The licensee or controlling person obtains, assigns, transfers or
44 sells a spirituous liquor license without compliance with this title or
45 leases or subleases a license.

1 7. The licensee fails to keep for two years and make available to the
2 department upon reasonable request all invoices, records, bills or other
3 papers and documents relating to the purchase, sale and delivery of
4 spirituous liquors and, in the case of a restaurant or hotel-motel licensee,
5 all invoices, records, bills or other papers and documents relating to the
6 purchase, sale and delivery of food.

7 8. The licensee or controlling person is convicted of a felony
8 provided that for a conviction of a corporation to serve as a reason for any
9 action by the director, conduct which constitutes the corporate offense and
10 was the basis for the felony conviction must have been engaged in,
11 authorized, solicited, commanded or recklessly tolerated by the directors of
12 the corporation or by a high managerial agent acting within the scope of
13 employment.

14 9. The licensee or controlling person violates or fails to comply with
15 this title, any rule adopted pursuant to this title or any liquor law of this
16 state or any other state.

17 10. The licensee fails to take reasonable steps to protect the safety
18 of a customer of the licensee entering, leaving or remaining on the licensed
19 premises when the licensee knew or reasonably should have known of the danger
20 to such person, or the licensee fails to take reasonable steps to intervene
21 by notifying law enforcement officials or otherwise to prevent or break up an
22 act of violence or an altercation occurring on the licensed premises or
23 immediately adjacent to the premises when the licensee knew or reasonably
24 should have known of such acts of violence or altercations.

25 11. The licensee or controlling person lacks good moral character.

26 12. The licensee or controlling person knowingly associates with a
27 person who has engaged in racketeering, as defined in section 13-2301, or has
28 been convicted of a felony, and the association is of such a nature as to
29 create a reasonable risk that the licensee will fail to conform to the
30 requirements of this title or of any criminal statute of this state.

31 B. For the purposes of:

32 1. Subsection A, paragraph 8 of this section, "high managerial agent"
33 means an officer of a corporation or any other agent of the corporation in a
34 position of comparable authority with respect to the formulation of corporate
35 policy.

36 2. Subsection A, paragraphs 9 and 10 of this section, acts or
37 omissions of an employee of a licensee, which violate any provision of this
38 title or rules adopted pursuant to this title shall be deemed to be acts or
39 omissions of the licensee. Acts or omissions by an employee or licensee
40 committed during the time the licensed premises were operated pursuant to an
41 interim permit or without a license may be charged as if they had been
42 committed during the period the premises were duly licensed.

43 C. The director may suspend, revoke or refuse to issue, transfer or
44 renew a license under this section based solely on the unrelated conduct or
45 fitness of any officer, director, managing agent or other controlling person

1 if the controlling person retains any interest in or control of the licensee
2 after sixty days following written notice to the licensee. If the
3 controlling person holds stock in a corporate licensee or is a partner in a
4 partnership licensee, the controlling person may only divest himself of his
5 interest by transferring the interest to the existing stockholders or
6 partners who must demonstrate to the department that they meet all the
7 requirements for licensure. For the purposes of this subsection, the conduct
8 or fitness of a controlling person is unrelated if it would not be
9 attributable to the licensee.

10 D. If the director finds, based on clear and convincing evidence in
11 the record, that a violation involves the use by the licensee of a
12 drive-through or other physical feature of the licensed premises that allows
13 a customer to purchase spirituous liquor without leaving the customer's
14 vehicle and that the use of that drive-through or other physical feature
15 caused the violation, the director may suspend or terminate the licensee's
16 use of the drive-through or other physical feature for the sale of spirituous
17 liquor, in addition to any other sanction.

18 E. The director may refuse to transfer any license or issue a new
19 license at the same location if the director has filed a complaint against
20 the license or location which has not been resolved alleging a violation of
21 any of the grounds set forth in subsection A of this section until such time
22 as the complaint has been finally adjudicated.

23 F. The director shall receive all complaints of alleged violations of
24 this chapter and is responsible for the investigation of all allegations of a
25 violation of, or noncompliance with, this title, any rule adopted pursuant to
26 this title or any condition imposed upon the licensee by the license. When
27 the director receives three such complaints from any law enforcement agency
28 resulting from three separate incidents at a licensed establishment within a
29 twelve-month period, the director shall transmit a written report to the
30 board setting forth the complaints, the results of any investigation
31 conducted by the law enforcement agency or the department relating to the
32 complaints and a history of all prior complaints against the license and
33 their disposition. The board shall review the report and may direct the
34 director to conduct further investigation of a complaint or to serve a
35 licensee with a complaint and notice of a hearing pursuant to subsection G of
36 this section.

37 G. Upon the director's initiation of an investigation or upon the
38 receipt of a complaint and an investigation of the complaint as deemed
39 necessary, the director may cause a complaint and notice of a hearing to be
40 directed to the licensee setting forth the violations alleged against the
41 licensee and directing the licensee, within fifteen days after service of the
42 complaint and notice of a hearing, to appear by filing with the director an
43 answer to the complaint. Failure of the licensee to answer may be deemed an
44 admission by the licensee of commission of the act charged in the complaint.
45 The director may then vacate the hearing and impose any sanction provided by

1 this article. The director may waive any sanction for good cause shown
2 including excusable neglect. With respect to any violation of this title or
3 any rule adopted pursuant to this title that is based on the act or omission
4 of a licensee's employee, the director shall consider evidence of mitigation
5 presented by the licensee and established by a preponderance of the evidence
6 that the employee acted intentionally and in violation of the express
7 direction or policy adopted by the licensee and communicated to the employee
8 and that the employee successfully completed training in a course approved by
9 the director pursuant to section 4-112, subsection ~~G~~ H, paragraph 2. The
10 director may set the hearing before himself or an administrative law judge on
11 any of the grounds set forth in subsection A of this section. Instead of
12 issuing a complaint, the director may provide for informal disposition of the
13 matter by consent agreement or may issue a written warning to the licensee.
14 If a warning is issued, the licensee may reply in writing and the director
15 shall keep a record of the warning and the reply.

16 H. A hearing shall conform to the requirements of title 41, chapter 6,
17 article 10. At the hearing an attorney or corporate officer or employee of a
18 corporation may represent the corporation.

19 I. The expiration, cancellation, revocation, reversion, surrender,
20 acceptance of surrender or termination in any other manner of a license does
21 not prevent the initiation or completion of a disciplinary proceeding
22 pursuant to this section against the licensee or license. An order issued
23 pursuant to a disciplinary proceeding against a license is enforceable
24 against other licenses or subsequent licenses in which the licensee or
25 controlling person of the license has a controlling interest.

26 J. The department shall provide the same notice as is provided to the
27 licensee to a lienholder, which has provided a document under section 4-112,
28 subsection B, paragraph 3, of all disciplinary or compliance action with
29 respect to a license issued pursuant to this title. The state shall not be
30 liable for damages for any failure to provide any notice pursuant to this
31 subsection.

32 K. In any disciplinary action pursuant to this title, a lienholder may
33 participate in the determination of the action. The director shall consider
34 mitigation on behalf of the lienholder if the lienholder proves all of the
35 following by a preponderance of the evidence:

36 1. That the lienholder's interest is a bona fide security interest.
37 For the purposes of this paragraph, "bona fide security interest" means the
38 lienholder provides actual consideration to the licensee or the licensee's
39 predecessor in interest in exchange for the lienholder's interest. Bona fide
40 security interest includes a lien taken by the seller of a license as
41 security for the seller's receipt of all or part of the purchase price of the
42 license.

43 2. That a statement of legal or equitable interest was filed with the
44 department before the alleged conduct occurred which is the basis for the
45 action against the license.

1 3. That the lienholder took reasonable steps to correct the licensee's
2 prior actions, if any, or initiated an action pursuant to available contract
3 rights against the licensee for the forfeiture of the license after being
4 provided with notice by the department of disciplinary action as provided in
5 subsection J of this section.

6 4. That the lienholder was free of responsibility for the conduct
7 which is the basis for the proposed revocation.

8 5. That the lienholder reasonably attempted to remain informed by the
9 licensee about the business' conduct.

10 L. If the director decides not to revoke the license based on the
11 circumstances provided in subsection K of this section, the director may
12 issue an order requiring either, or both, of the following:

13 1. The forfeiture of all interest of the licensee in the license.

14 2. The lienholder to pay any civil monetary penalty imposed on the
15 licensee.

16 M. If any on-sale licensee proposes to provide large capacity
17 entertainment events or sporting events with an attendance capacity exceeding
18 a limit established by the director, the director may request a security plan
19 from the licensee that may include trained security officers, lighting and
20 other requirements. This subsection exclusively prescribes the security
21 requirements for a licensee and does not create any civil liability for the
22 state, its agencies, agents or employees or a person licensed under this
23 title or agents or employees of a licensee.

24 Sec. 3. Section 4-210.02, Arizona Revised Statutes, is amended to
25 read:

26 4-210.02. Appeals from director

27 A. Except as provided in section 4-203.01, subsection E, a decision
28 issued by the director is not final for purposes of appeal to superior court
29 until it has first been appealed to and ruled on by the board. Any aggrieved
30 party may appeal any final decision of the director regarding applicants or
31 licensees to the board based on a contention that the decision was any of the
32 following:

33 1. Founded on or contained errors of law which shall specifically
34 include errors of construction or application of any relevant rules.

35 2. Unsupported by any competent evidence as disclosed by the entire
36 record.

37 3. Materially affected by unlawful procedures.

38 4. Based on a violation of any constitutional provision.

39 5. Arbitrary or capricious.

40 B. The aggrieved party shall file the appeal in writing with the
41 department within fifteen days after service of the notice of the decision of
42 the director. The decision of the director is suspended until the
43 determination of any appeal by the board.

44 C. The board or an administrative law judge shall conduct a hearing on
45 the appeal pursuant to title 41, chapter 6, article 10 and may accept any

1 relevant and material evidence and testimony and exercise the rights
2 prescribed by section 12-2212 or section 4-112, subsection ~~F~~ G. At the
3 hearing an attorney or corporate officer or employee of a corporation may
4 represent the corporation. The department shall prepare an official record
5 of the hearing, including all testimony recorded mechanically or
6 stenographically and all exhibits introduced. The department is not required
7 to transcribe such record except pursuant to an appeal to the superior court,
8 except that, upon written request and receipt of a reasonable fee for
9 transcribing such record, the department may transcribe the record or allow
10 for its transcription by the person requesting.

11 D. The board may affirm, reverse or modify any decision issued by the
12 director.

13 Sec. 4. Section 5-113, Arizona Revised Statutes, is amended to read:

14 5-113. Disposition of revenues and monies; funds; committee

15 A. All revenues derived from permittees, permits and licenses, ~~as~~
16 provided by this article, ~~and all monies transferred pursuant to section~~
17 ~~44-313, subsection A~~ shall be deposited, pursuant to sections 35-146 and
18 35-147, ~~or distributed as follows~~ IN THE STATE GENERAL FUND. ~~:-~~

19 ~~1. One million two hundred thousand dollars or twenty-two per cent,~~
20 ~~whichever is less, shall be deposited in the Arizona county fairs racing~~
21 ~~betterment fund established by subsection B of this section.~~

22 ~~2. One million eight hundred thousand dollars or thirty-three per~~
23 ~~cent, whichever is less, shall be deposited in the county fairs livestock and~~
24 ~~agriculture promotion fund established by subsection C of this section.~~

25 ~~3. One million two hundred thousand dollars or twenty-two per cent,~~
26 ~~whichever is less, shall be deposited in the Arizona breeders' award fund~~
27 ~~established by subsection F of this section.~~

28 ~~4. Sixty thousand dollars or one per cent, whichever is less, shall be~~
29 ~~deposited in the Arizona stallion award fund established by subsection G of~~
30 ~~this section.~~

31 ~~5. Four hundred fifty thousand dollars or nine per cent, whichever is~~
32 ~~less, shall be deposited in the county fair racing fund established by~~
33 ~~subsection I of this section.~~

34 ~~6. One per cent of the revenues and monies shall be deposited in the~~
35 ~~agricultural consulting and training fund established by subsection J of this~~
36 ~~section.~~

37 ~~7. Sixty-seven thousand dollars or one per cent, whichever is less,~~
38 ~~shall be subject to legislative appropriation to the department for~~
39 ~~administration of the Arizona county fairs racing betterment fund, the~~
40 ~~Arizona breeders' award fund, the Arizona stallion award fund and the~~
41 ~~greyhound adoption fund. Monies that are distributed pursuant to this~~
42 ~~paragraph and that remain unspent at the end of a fiscal year do not revert~~
43 ~~to the state general fund.~~

1 ~~8. Four hundred thousand dollars or eleven per cent, whichever is~~
2 ~~less, shall be deposited in the Arizona exposition and state fair fund~~
3 ~~established by section 3-1005 for the purpose of capital outlay.~~

4 ~~9. Any revenues and monies that are not distributed pursuant to~~
5 ~~paragraphs 1 through 8 of this subsection at the end of a fiscal year shall~~
6 ~~be deposited in the state general fund.~~

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

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

- 34 1. Three members representing county fairs.
- 35 2. One member representing Arizona livestock fairs.
- 36 3. One member representing the university of Arizona college of
37 agriculture.
- 38 4. One member representing the livestock industry.
- 39 5. One member representing the farming industry.
- 40 6. One member representing the governor's office.
- 41 7. One member representing the Arizona state fair conducted by the
42 Arizona exposition and state fair board.
- 43 8. One member representing the general public.

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

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

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

20 G. The Arizona stallion award fund is established under the
21 jurisdiction of the department to promote, improve and advance the quality of
22 stallions in this state. The department shall distribute monies from the
23 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or
24 successors, of every Arizona stallion whose certified Arizona bred offspring,
25 as prescribed in section 5-114, finishes first, second or third in an
26 eligible race in this state. The department may contract with a breeders'
27 association to provide data, statistics and other information necessary to
28 enable the department to carry out the purposes of this subsection. Balances
29 remaining in the fund at the end of a fiscal year do not revert to the state
30 general fund. The commission shall adopt rules pursuant to title 41, chapter
31 6 to carry out the purposes of this subsection. The rules shall prescribe at
32 a minimum:

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

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

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

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

41 H. The greyhound and retired racehorse adoption fund is established.
42 The department shall administer the fund and maintain separate accounts for
43 greyhound adoptions and retired racehorse adoptions. All revenues derived
44 from license fees collected from dog breeders, racing kennels and other
45 operations pursuant to section 5-104, subsection F, paragraphs 7, 8 and 9

1 shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound
2 adoption account of the fund. All revenues derived from retired racehorse
3 adoption surcharges collected pursuant to section 5-104, subsection G shall
4 be deposited, pursuant to sections 35-146 and 35-147, in the retired
5 racehorse adoption account of the fund. The department shall distribute
6 monies from the fund to provide financial assistance to nonprofit enterprises
7 approved by the commission to promote the adoption of former racing
8 greyhounds as domestic pets and to promote the adoption of retired racehorses
9 pursuant to section 5-104, subsection G in a manner and in an amount
10 established by rules of the commission. Balances remaining in the fund at
11 the end of a fiscal year do not revert to the state general fund.

12 I. The county fair racing fund is established. The department shall
13 administer the fund. ~~Subject to legislative appropriation,~~ The department
14 shall use fund monies for the administration of county fair racing. Any
15 monies remaining unexpended in the fund at the end of the fiscal year in
16 excess of seventy-five thousand dollars shall revert to the state general
17 fund.

18 J. The agricultural consulting and training fund is established. The
19 Arizona department of agriculture shall administer the fund. ~~Subject to~~
20 ~~legislative appropriation,~~ The Arizona department of agriculture shall use
21 monies in the fund for the agricultural consulting and training program
22 established by section 3-109.01. Balances remaining in the fund at the end
23 of a fiscal year do not revert to the state general fund.

24 Sec. 5. Section 5-522, Arizona Revised Statutes, is amended to read:
25 5-522. Use of monies in state lottery fund; report

26 A. The monies in the state lottery fund shall be expended only for the
27 following purposes and in the order provided:

28 1. For the expenses of the commission incurred in carrying out its
29 powers and duties and in the operation of the lottery.

30 2. For payment to the commerce and economic development commission
31 fund established by section 41-1505.10 of not less than twenty-one and
32 one-half per cent of the revenues received from the sale of two special
33 lottery games conducted for the benefit of economic development.

34 3. Except as provided in subsection F of this section, for payment to
35 the local transportation assistance fund established by section 28-8101 of
36 not less than nine million dollars, increasing each year that total revenues
37 to the state lottery fund increase up to a maximum of eighteen million
38 dollars each fiscal year, except that payments pursuant to this paragraph
39 shall not increase by more than ten per cent per year.

40 B. Of the monies remaining in the state lottery fund after the
41 appropriations authorized in subsection A of this section, up to a maximum of
42 twenty-three million dollars each fiscal year shall be deposited in the local
43 transportation assistance fund established by section 28-8101 and up to a
44 maximum of seven million six hundred fifty thousand dollars each fiscal year
45 shall be deposited in the county assistance fund established by section

1 41-175. Monies distributed pursuant to this subsection shall be in addition
2 to monies distributed pursuant to subsection A, paragraph 3 of this section.

3 C. Notwithstanding subsection B of this section, if the state lottery
4 director determines at the beginning of any fiscal year that monies available
5 to cities, towns and counties under this section may not equal thirty million
6 six hundred fifty thousand dollars, the director shall not authorize deposits
7 to the county assistance fund until the deposits to the local transportation
8 assistance fund equal twenty-three million dollars.

9 D. Of the monies remaining in the state lottery fund each fiscal year
10 after appropriations and deposits authorized in subsections A, B and C of
11 this section, ten million dollars shall be deposited in the Arizona state
12 parks board heritage fund established by section 41-502 and ten million
13 dollars shall be deposited in the Arizona game and fish commission heritage
14 fund established by section 17-297.

15 E. Of the monies remaining in the state lottery fund each fiscal year
16 after appropriations and deposits authorized in subsections A, B, C and D of
17 this section, and appropriations and deposits to the local transportation
18 assistance fund authorized by this section, five million dollars shall be
19 allocated to the department of economic security for the healthy families
20 program established by section 8-701, four million dollars shall be allocated
21 to the Arizona board of regents for the Arizona area health education system
22 established by section 15-1643, three million dollars shall be allocated to
23 the department of health services to fund the teenage pregnancy prevention
24 programs established in Laws 1995, chapter 190, sections 2 and 3, two million
25 dollars shall be allocated to the department of health services for the
26 health start program established by section 36-697, two million dollars shall
27 be deposited in the disease control research fund established by section
28 36-274 and one million dollars shall be allocated to the department of health
29 services for the federal women, infants and children food program. The
30 allocations in this subsection shall be adjusted annually according to
31 changes in the GDP price deflator as defined in section 41-563 and the
32 allocations are exempt from the provisions of section 35-190, relating to
33 lapsing of appropriations. If there are not sufficient monies available
34 pursuant to this subsection, the allocation of monies for each program shall
35 be reduced on a pro rata basis.

36 F. Notwithstanding subsection A, paragraph 3 of this section, if the
37 state lottery director determines that monies available to the state general
38 fund may not equal thirty-one million dollars in a fiscal year, the director
39 shall not authorize deposits to the local transportation assistance fund
40 pursuant to subsection A, paragraph 3 of this section until the deposits to
41 the state general fund equal thirty-one million dollars in a fiscal year.

42 G. Of the monies remaining in the state lottery fund each fiscal year
43 after appropriations and deposits authorized in subsections A through F of
44 this section, one million dollars or the remaining balance in the fund,
45 whichever is less, is appropriated to the department of economic security for

1 grants to nonprofit organizations, including faith based organizations, for
2 homeless emergency and transitional shelters and related support services.
3 The department of economic security shall submit a report on the amounts,
4 recipients, purposes and results of each grant to the governor, the speaker
5 of the house of representatives and the president of the senate on or before
6 December 31 of each year for the prior fiscal year and shall provide a copy
7 of this report to the secretary of state and the director of the Arizona
8 state library, archives and public records.

9 H. Beginning in fiscal year 2009-2010, of the monies remaining in the
10 state lottery fund each fiscal year after appropriations and deposits
11 authorized in subsections A through G of this section, and after a total of
12 at least forty-six million four hundred ninety thousand dollars has been
13 deposited in the state general fund, the remaining balance in the state
14 lottery fund shall be deposited in the university capital improvement
15 lease-to-own and bond fund established by section 15-1682.03, up to a maximum
16 of eighty per cent of the total annual payments of lease-to-own and bond
17 agreements entered into by the Arizona board of regents.

18 ~~I. Beginning in fiscal year 2009-2010, of the monies remaining in the~~
19 ~~state lottery fund each fiscal year after appropriations and deposits~~
20 ~~authorized in subsections A through H of this section, ten million dollars or~~
21 ~~the remaining balance in the fund, whichever is less, is appropriated to the~~
22 ~~department of environmental quality's water supply development fund line~~
23 ~~item.~~

24 ~~J. Beginning in fiscal year 2009-2010, of the monies remaining in the~~
25 ~~state lottery fund each fiscal year after appropriations and deposits~~
26 ~~authorized in subsections A through I of this section, three million dollars~~
27 ~~or the remaining balance in the fund, whichever is less, is appropriated to~~
28 ~~the community protection initiative fund established by section 37-641.~~

29 ~~K. I.~~ I. All monies remaining in the state lottery fund after the
30 appropriations and deposits authorized in this section shall be deposited in
31 the state general fund.

32 ~~L. J.~~ J. Except for monies expended for prizes as provided in section
33 5-504, subsection G and section 41-1505.10, monies expended under subsection
34 A of this section are subject to legislative appropriation.

35 Sec. 6. Repeal

36 Section 15-994, Arizona Revised Statutes, is repealed.

37 Sec. 7. Section 28-3002, Arizona Revised Statutes, is amended to read:
38 28-3002. Fees; driver licenses; disposition

39 A. The following fees are required:

40 1. For each original or initial application or renewal application, if
41 a written examination is required, for the following:

42 (a) Class A driver license, twenty-five dollars.

43 (b) Class B driver license, twenty-five dollars.

44 (c) Class C driver license, twelve dollars fifty cents.

1 (d) Class D driver license issued pursuant to section 28-3171, ten
2 dollars.

3 (e) Class M driver license issued pursuant to section 28-3171, ten
4 dollars.

5 2. Except as provided in paragraph 1, for each original, renewal or
6 reinstatement application for a class D, G or M license:

7 Age	Fee
8 50 or older	\$10.00
9 45-49	\$15.00
10 40-44	\$20.00
11 39 or younger	\$25.00

12 3. For each original or initial application or renewal examination, if
13 a written application is required, for the following endorsements to a driver
14 license:

- 15 (a) Bus endorsement, ten dollars.
- 16 (b) Hazardous materials endorsement, ten dollars.
- 17 (c) Tank vehicle endorsement, ten dollars.
- 18 (d) Double-triple trailer endorsement, ten dollars.
- 19 (e) Motorcycle endorsement, seven dollars.

20 4. For taking each driving test for a:

- 21 (a) Class A driver license, twenty-five dollars.
- 22 (b) Class B driver license, twenty-five dollars.
- 23 (c) Class C driver license, twelve dollars fifty cents.
- 24 (d) Bus endorsement, five dollars.

25 5. For each application for an instruction permit under:

- 26 (a) Section 28-3154 or 28-3156, seven dollars.
- 27 (b) Section 28-3155, three dollars.
- 28 (c) Section 28-3225, class A, twenty-five dollars.
- 29 (d) Section 28-3225, class B, twenty-five dollars.
- 30 (e) Section 28-3225, class C, twelve dollars fifty cents.

31 6. For each renewal application, if a written examination is not
32 required, for a:

- 33 (a) Class A driver license and any endorsement, other than a hazardous
34 materials endorsement, to the license, fifteen dollars.
- 35 (b) Class B driver license and any endorsement, other than a hazardous
36 materials endorsement, to the license, fifteen dollars.
- 37 (c) Class C driver license and any endorsement, other than a hazardous
38 materials endorsement, to the license, ten dollars.

39 7. For each application for a duplicate of a driver license, ~~four~~
40 ~~dollars~~ AN AMOUNT DETERMINED BY THE DIRECTOR.

41 8. For each application for a duplicate of an instruction permit, two
42 dollars.

43 9. In addition to the fees prescribed in paragraph 2 and except as
44 provided in paragraph 11:

1 (a) For reinstatement of driving privileges after suspension or
2 disqualification, ten dollars.

3 (b) For reinstatement of driving privileges after revocation, twenty
4 dollars.

5 10. For each application for an extension by mail of a driver license,
6 five dollars.

7 11. In addition to the fees prescribed in paragraph 2, for
8 reinstatement of driving privileges that were suspended or denied pursuant to
9 section 28-1385 after completion of the suspension or revocation, fifty
10 dollars.

11 12. For vision screening tests of out-of-state drivers, five dollars.

12 13. For class D or M driver license skills tests for out-of-state
13 drivers, fifteen dollars.

14 B. Except as otherwise provided by statute, the director shall
15 immediately deposit, pursuant to sections 35-146 and 35-147, fees collected
16 under this section in the Arizona highway user revenue fund.

17 Sec. 8. Section 33-812, Arizona Revised Statutes, is amended to read:
18 33-812. Disposition of proceeds of sale

19 A. The trustee shall apply the proceeds of the trustee's sale in the
20 following order of priority:

21 1. To the costs and expenses of exercising the power of sale and the
22 sale, including the payment of the trustee's fees and reasonable attorney
23 fees actually incurred.

24 2. To the payment of the contract or contracts secured by the trust
25 deed.

26 3. To the payment of all other obligations provided in or secured by
27 the trust deed and actually paid by the beneficiary before the trustee's
28 sale.

29 4. To any condominium association or planned community association as
30 defined in ~~chapters~~ CHAPTER 9 or ~~10~~ 16 of this title ~~who~~ THAT had a
31 subordinate lien as provided by law, even if the trustee intends to deposit
32 the balance pursuant to subsection C of this section. The trustee may pay an
33 association's lien on receipt of a written claim and shall be discharged from
34 any liability for any payment made in good faith. The trustee may inquire as
35 to the existence of a lien if there is a recorded declaration on the property
36 without regard to whether a lien has been recorded. Any person who is an
37 applicant or respondent pursuant to subsection ~~G~~ H of this section may
38 require the condominium ASSOCIATION or planned community association to prove
39 its entitlement to any funds received from the trustee. An association that
40 demonstrates that the amount it received from the trustee was proper in all
41 material respects is entitled to an award of its reasonable attorney fees and
42 court costs against the applicant or respondent who contested the payment.
43 If the applicant or respondent against whom the association's award is
44 entered is entitled to excess proceeds of the sale, the award of attorney
45 fees and costs shall be payable from those excess proceeds.

1 5. To the junior lienholders or encumbrancers in order of their
2 priority as they existed at the time of the sale. After payment in full of
3 all sums due to all junior lienholders and encumbrancers as of the date of
4 the sale and excluding any postsale attorney fees, payment shall be made to
5 the trustor, except that if the trustor has sold or transferred the property
6 to another owner before the trustee's sale, payment shall be made to the
7 person who is the owner of record at the time of the trustee's sale.

8 B. After application of the proceeds pursuant to subsection A,
9 paragraphs 1, 2 and 3 of this section, if there are additional proceeds to be
10 distributed, the trustee, within fifteen days of the completion of the
11 trustee's sale, shall mail by first class mail and by certified or registered
12 mail, postage prepaid, a notice of any excess proceeds to the trustor as of
13 the date of the recording of the notice of sale. The trustee may deduct the
14 costs of mailing the notice of excess proceeds from the additional proceeds.

15 C. In the trustee's discretion and instead of any one or more of the
16 applications specified in subsection A of this section, the trustee may elect
17 to deposit the balance of the proceeds with the county treasurer in the
18 county in which the sale took place pending an order of the superior court in
19 the county. On deposit of the balance of the monies and after complying with
20 subsection D of this section, the trustee shall be discharged from all
21 responsibility for acts performed in good faith according to this chapter.
22 The county treasurer shall reject any deposit that does not comply with
23 subsection D of this section.

24 D. If the trustee elects to deposit the balance of the sale proceeds
25 as prescribed by subsection C of this section, the trustee as plaintiff shall
26 commence a civil action in the superior court in the county in which the sale
27 occurred. The action shall name the applicable county treasurer as the
28 defendant, but the county treasurer has no obligation to respond to the
29 complaint or appear in the action. The trustee shall mail by certified or
30 registered mail, with postage prepaid, a conformed copy of the complaint that
31 displays the filing stamp of the court clerk to the county treasurer and all
32 persons, other than the beneficiary, who are entitled to notice pursuant to
33 section 33-809 and to any other person known by the trustee to have an
34 interest of record in the property at the time of the sale. The trustee
35 shall incorporate in or attach to the complaint:

36 1. A copy of any one of the following:

37 (a) The trustee sale guarantee and all amendments or endorsements
38 obtained by the trustee.

39 (b) The title search used by the trustee in connection with the
40 trustee's sale of the subject property and all amendments or endorsements
41 obtained by the trustee.

42 (c) A detailed description of the liens and encumbrances used by the
43 trustee in connection with the trustee's sale of the property.

44 2. A copy of the list of the persons and each of the addresses to
45 which the complaint will be mailed.

1 3. A detailed description of any disbursements made by the trustee
2 pursuant to this section.

3 4. A narrative description of the liens and encumbrances as shown in
4 the trustee's sale guarantee, title report or detailed description, including
5 an analysis of the apparent priority of potential claimants. The trustee
6 shall not be liable for any error in the narrative description or analysis.

7 E. The trustee may withhold from the proceeds of the sale a reasonable
8 trustee's fee and reasonable attorney fees actually incurred and the costs of
9 filing the complaint, depositing the proceeds and mailing the notices.

10 F. Upon filing the complaint, the trustee as plaintiff is discharged
11 without prejudice from the proceedings.

12 G. Any person with a recorded or other legal interest in the property
13 at the time of the sale may apply for the release of the proceeds by filing
14 an application for distribution in the civil action that was filed by the
15 trustee pursuant to subsection D of this section. The applicant shall mail
16 postage prepaid by any form of mail that requires a signed and returned
17 receipt a copy of the application to the county treasurer and all persons at
18 each of the addresses named on the list of persons that is incorporated in or
19 attached to the complaint. On return of the signed receipt or the
20 undelivered or unclaimed original envelope, the applicant shall file with the
21 court an affidavit that states that the application was mailed to the person
22 and that the application was either:

23 1. Received, as evidenced by the receipt. The applicant shall attach
24 to the affidavit a copy of the receipt.

25 2. Not received, as evidenced by the returned envelope. The applicant
26 shall attach to the affidavit a copy of the original unopened and undelivered
27 or unclaimed returned envelope.

28 H. Any person who receives the application or who claims a right to
29 the proceeds may file a response to the application within thirty days of the
30 mailing of the application. The person filing a response shall mail a copy
31 of the response to each applicant. Within ten calendar days from the date
32 the response is mailed, an applicant may file with the clerk and mail to each
33 respondent a reply to the response. On expiration of the time for filing a
34 reply, an applicant shall provide the court with postage prepaid business
35 envelopes that are addressed to all persons who are entitled to receive
36 copies of the complaint pursuant to subsection D of this section. If an
37 association with a claim is not paid by the trustee pursuant to subsection A,
38 paragraph 4 of this section and is required to file an application or
39 response pursuant to this subsection in order to recover proceeds, the
40 association may request from the excess proceeds of the sale an award of its
41 reasonable attorney fees and costs incurred.

42 I. Except as provided in subsection L of this section, the court shall
43 issue an order to the county treasurer to release the proceeds deposited with
44 the county treasurer to the party entitled to receive them after applying the
45 priorities prescribed by subsection A of this section. On notice to all

1 persons who have received a copy of the complaint or who have filed a
2 responsive pleading, the court may, and if there are competing claims to the
3 proceeds, the court shall, hold a hearing to determine entitlement to the
4 proceeds. Every applicant or respondent shall acknowledge the existence of
5 any apparent lien, encumbrance or interest that could have priority over the
6 applicant or respondent. If the court finds that a person other than an
7 applicant or respondent has a superior right to receive the proceeds, the
8 court shall not issue an order on the proceeds until one hundred eighty days
9 from the date the complaint was filed. At any time before the expiration of
10 the one hundred eighty day period, an applicant or respondent may move for a
11 hearing to determine whether the claimed superior right is valid or
12 enforceable and whether the claim is entitled to receive priority over the
13 claim of the applicant or respondent. The motion shall set forth the
14 specific facts and evidence that support the applicant's or respondent's
15 position and shall be mailed to all persons who have received a copy of the
16 complaint or filed a responsive pleading. If a response is not filed within
17 the one hundred eighty day period by the person found by the court to have a
18 superior right to receive the proceeds, the court shall enter an order in
19 favor of any applicant or respondent entitled to the proceeds. On release of
20 the proceeds, the county treasurer may assess and deduct from the proceeds a
21 reasonable fee not to exceed one hundred dollars for the treasurer's costs
22 associated with the civil action.

23 J. Within ninety days after completion of the sale, the trustee shall
24 apply the proceeds of the sale pursuant to subsection A of this section or
25 shall deposit the proceeds with the treasurer pursuant to subsection C of
26 this section. If the trustee fails to comply with this subsection, the
27 trustee forfeits any entitlement to the fees and costs prescribed in
28 subsection ~~D~~ E of this section and shall pay interest at the rate provided
29 for judgments pursuant to section 44-1201 from the date of completion of the
30 sale until the trustee complies with this subsection. Any person with a
31 recorded or other legal interest in the property at the time of the sale may
32 commence a civil action against the trustee for the trustee's failure to
33 comply with this subsection. The court may award the prevailing party its
34 reasonable attorney fees and costs incurred in that civil action.

35 K. Excess proceeds deposited with the county treasurer pursuant to
36 subsection C of this section are presumed abandoned if the monies remain with
37 the treasurer for at least ~~three~~ TWO years from the date of deposit and there
38 is no pending application for distribution.

39 L. Excess proceeds that are fifty dollars or less and that are
40 presumed abandoned under this section shall be transferred to the county
41 general fund. No further application for distribution by any applicant or
42 claim by the department of revenue may be made on these monies.

43 M. For all excess proceeds that are greater than fifty dollars and
44 that are presumed abandoned under this section, the county treasurer shall
45 submit a report to the department of revenue pursuant to section 44-307. The

1 county treasurer may assess and deduct from the proceeds a reasonable fee of
2 not more than fifty dollars for the treasurer's costs associated with
3 reporting each deposit.

4 N. The county treasurer shall be discharged from all claims and
5 responsibility for acts performed in good faith pursuant to this chapter
6 after remitting the presumed abandoned excess proceeds to the department of
7 revenue pursuant to section 44-308.

8 O. A claimant may enter into an agreement with a third party to pay
9 for the recovery of or for assistance in the recovery of excess proceeds on
10 deposit with the county treasurer. The agreement shall be in writing, signed
11 by the claimant, and the claimant's signature shall be acknowledged by a
12 notary public or other person authorized to accept an acknowledgment pursuant
13 to section 33-511. Any agreement entered into before the expiration of
14 thirty days after the date the trustee's sale was held, but not including the
15 date of the sale, is void and unenforceable. Any fee or payment provided for
16 in an agreement shall be reasonable. The fee or payment shall be presumed to
17 be unreasonable and the obligation to pay the fee or payment is unenforceable
18 if the fee or payment agreed on exceeds two thousand five hundred dollars
19 excluding attorney fees and the costs of filing the claim and providing the
20 statutorily required notices. Any person seeking a fee or payment exceeding
21 two thousand five hundred dollars may apply to the court for additional
22 compensation but the person has the burden of establishing that the
23 additional compensation is reasonable under the circumstances. This
24 subsection does not preclude a claimant from contesting the reasonableness of
25 any fee or payment that is provided for in an agreement for the recovery of
26 or for assistance in the recovery of excess proceeds.

27 Sec. 9. Section 36-771, Arizona Revised Statutes, is amended to read:
28 36-771. Tobacco tax and health care fund

29 A. The tobacco tax and health care fund is established. The fund
30 consists of all revenues deposited in the fund pursuant to sections 42-3252
31 and 42-3302 and interest earned on those monies. On notice from the
32 department OF HEALTH SERVICES, the state treasurer shall invest and divest
33 monies in the fund and in all accounts in the fund as provided by section
34 35-313, and monies earned from investment shall be credited to the fund.

35 B. The fund shall be deposited in four separate accounts and shall be
36 administered pursuant to the provisions of and for the purposes prescribed by
37 this article.

38 C. Except as provided by subsection F of this section, the fund and
39 its accounts are not subject to appropriation. Expenditures from each
40 account are not subject to additional approval, notwithstanding any statutory
41 provision to the contrary.

42 D. Monies in the fund and its accounts:

43 1. Do not revert to the state general fund under any circumstances.

44 2. Are exempt from the provisions of section 35-190 relating to
45 lapsing of appropriations.

1 E. Monies in the fund:

2 1. Shall be spent only for purposes that are authorized by this
3 article.

4 2. Shall not be used for expenditures on capital construction
5 projects, lobbying activities involving elected officials or political
6 campaigns for individuals or any ballot proposal.

7 F. Notwithstanding any other provision of this section, the
8 legislature may appropriate monies from the fund to the department of revenue
9 for the reasonable administration ~~and enforcement~~ costs of the department in
10 administering the levy AND COLLECTION of taxes that are dedicated to the fund
11 pursuant to section 42-3252. THE LEGISLATURE MAY APPROPRIATE MONIES FROM THE
12 FUND TO THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL FOR THE REASONABLE
13 ENFORCEMENT COSTS OF THE DEPARTMENT IN ENFORCING COMPLIANCE WITH LAWS
14 REGARDING THE SALE OF CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS THAT ARE
15 SUBJECT TO TAXATION UNDER TITLE 42, CHAPTER 3. The ~~appropriation~~
16 APPROPRIATIONS shall be applied before monies are deposited in the fund
17 accounts. Any unused monies at the end of the fiscal year revert to the
18 fund.

19 Sec. 10. Section 41-1276, Arizona Revised Statutes, is amended to
20 read:

21 41-1276. Truth in taxation levy for equalization assistance to
22 school districts

23 A. On or before February 15 of each year, the joint legislative budget
24 committee shall compute and transmit the truth in taxation rates for
25 equalization assistance for school districts for the following fiscal year
26 to:

27 1. The chairmen of the house of representatives ways and means
28 committee and the senate finance committee or their successor committees.

29 2. The chairmen of the appropriations committees of the senate and the
30 house of representatives or their successor committees.

31 B. The truth in taxation rates consist of the qualifying tax rate for
32 a high school district or a common school district within a high school
33 district that does not offer instruction in high school subjects pursuant to
34 section 15-971, subsection B, paragraph 1, ~~AND~~ a qualifying tax rate for a
35 unified district, a common school district not within a high school district
36 or a common school district within a high school district that offers
37 instruction in high school subjects pursuant to section 15-971, subsection B,
38 paragraph 2 ~~and a state equalization assistance property tax rate pursuant to~~
39 ~~section 15-994~~ that will offset the change in net assessed valuation of
40 property that was subject to tax in the prior year.

41 C. The joint legislative budget committee shall compute the truth in
42 taxation rates as follows:

43 1. Determine the statewide primary net assessed value for the
44 preceding tax year as provided in section 42-17151, subsection A,
45 paragraph 3.

1 The proposed tax increase will cause the taxes on a
2 \$100,000 home to increase by \$_____.

3 All interested citizens are invited to attend a public
4 hearing on the tax increase that is scheduled to be held
5 _____ (date and time) at _____ (location).

6 (e) For purposes of computing the tax increase on a one hundred
7 thousand dollar home as required by the notice, the joint meeting of the
8 house of representatives ways and means committee and the senate finance
9 committee or their successor committees shall consider the difference between
10 the truth in taxation rate and the proposed increased rate.

11 2. The joint meeting of the house of representatives ways and means
12 committee and the senate finance committee or their successor committees
13 shall consider any motion to recommend the proposed tax rates to the full
14 legislature by roll call vote.

15 F. In addition to publishing the truth in taxation notice under
16 subsection E, paragraph 1 of this section, the joint meeting of the house of
17 representatives ways and means committee and the senate finance committee or
18 their successor committees shall issue a press release containing the truth
19 in taxation notice.

20 G. Notwithstanding any other law, the legislature shall not adopt a
21 state budget that provides for ~~either~~ qualifying tax rates pursuant to
22 section 15-971 ~~or a state equalization assistance property tax rate pursuant~~
23 ~~to section 15-994~~ that exceeds EXCEED the truth in taxation rates computed
24 pursuant to subsection A of this section unless the rates are adopted by a
25 concurrent resolution approved by an affirmative roll call vote of two-thirds
26 of the members of each house of the legislature before the legislature enacts
27 the general appropriations bill. If the resolution is not approved by
28 two-thirds of the members of each house of the legislature, the rates for the
29 following fiscal year shall be the truth in taxation rates determined
30 pursuant to subsection C of this section and shall be transmitted to the
31 superintendent of public instruction and the county boards of supervisors.

32 H. Notwithstanding subsection C of this section and if approved by the
33 qualified electors voting at a statewide general election, the legislature
34 shall not set a qualifying tax rate that exceeds \$2.1265 for a common or high
35 school district or \$4.253 for a unified school district. The legislature
36 shall not set a county equalization assistance for education rate that
37 exceeds \$0.5123.

38 I. Pursuant to subsection C of this section, the qualifying tax rate
39 in tax year ~~2008~~ 2009 for a high school district or a common school district
40 within a high school district that does not offer instruction in high school
41 subjects as provided in section 15-447 is ~~\$1.4622~~ \$1.3726 and for a unified
42 school district, a common school district not within a high school district
43 or a common school district within a high school district that offers
44 instruction in high school subjects as provided in section 15-447 is ~~\$2.9244~~
45 \$2.7452. ~~The state equalization assistance property tax rate in tax years~~

1 ~~2006, 2007 and 2008 is zero. The state equalization assistance property tax~~
2 ~~rate in tax year 2009 shall be computed by annually adjusting the tax year~~
3 ~~2005 rate of \$0.4358 as provided by this section through tax year 2009.~~

4 Sec. 11. Section 41-3506, Arizona Revised Statutes, is amended to
5 read:

6 41-3506. State web portal fund; exemption

7 A. The state web portal fund is established and is subject to
8 legislative appropriation. The government information technology agency
9 shall administer the fund. The state web portal fund shall consist of:

10 1. Monies appropriated to the fund by the legislature.

11 2. Any web portal usage fees collected under any agreement between
12 this state and an independent contractor providing services for the common
13 web portal ~~less the contractor's price of maintaining and operating the web~~
14 ~~portal.~~

15 3. Monies received from private grants or donations if designated for
16 the fund by the grantor or donor.

17 4. Monies received from the federal government by grant or otherwise
18 to assist this state in providing any common web portal projects.

19 B. Monies in the state web portal fund may be used for improving or
20 expanding this state's information technology services and projects,
21 including the common web portal.

22 C. Monies in the state web portal fund are exempt from the provisions
23 of section 35-190 relating to lapsing of appropriations.

24 Sec. 12. Section 41-3955, Arizona Revised Statutes, is amended to
25 read:

26 41-3955. Housing trust fund; purpose

27 A. The housing trust fund is established, and the director shall
28 administer the fund. The fund consists of ~~monies from unclaimed property~~
29 ~~deposited in the fund pursuant to section 44-313~~ A PORTION OF INTEREST EARNED
30 ON THE MONIES IN THE FEDERAL DEPOSIT INSURANCE CORPORATION TRUST FUND
31 PURSUANT TO SECTION 44-314 and investment earnings.

32 B. On notice from the department, the state treasurer shall invest and
33 divest monies in the fund as provided by section 35-313, and monies earned
34 from investment shall be credited to the fund.

35 C. Fund monies shall be spent on approval of the department for
36 developing projects and programs connected with providing housing
37 opportunities for low and moderate income households and for housing
38 affordability and Arizona housing finance authority programs. Pursuant to
39 section 44-313, subsection A, a portion of fund monies shall be used
40 exclusively for housing in rural areas.

41 D. In approving the expenditure of monies, the director shall give
42 priority to funding projects that provide for operating, constructing or
43 renovating facilities for housing for low income families and that provide
44 housing and shelter to families that have children.

1 E. The director shall report annually to the legislature on the status
2 of the housing trust fund. The report shall include a summary of facilities
3 for which funding was provided during the preceding fiscal year and shall
4 show the cost and geographic location of each facility and the number of
5 individuals benefiting from the operation, construction or renovation of the
6 facility. The report shall be submitted to the president of the senate and
7 the speaker of the house of representatives no later than September 1 of each
8 year.

9 F. Monies in the housing trust fund are exempt from the provisions of
10 section 35-190 relating to lapsing of appropriations.

11 G. An amount not to exceed ten per cent of the housing trust fund
12 monies may be appropriated annually by the legislature to the department for
13 administrative costs in providing services relating to the housing trust
14 fund.

15 H. For any construction project financed by the department pursuant to
16 this section, the department shall notify a city, town, county or tribal
17 government that a project is planned for its jurisdiction and, before
18 proceeding, shall seek comment from the governing body of the city, town,
19 county or tribal government or an official authorized by the governing body
20 of the city, town, county or tribal government. The department shall not
21 interfere with or attempt to override the local jurisdiction's planning,
22 zoning or land use regulations.

23 Sec. 13. Section 42-2003, Arizona Revised Statutes, is amended to
24 read:

25 42-2003. Authorized disclosure of confidential information

26 A. Confidential information relating to:

27 1. A taxpayer may be disclosed to the taxpayer, its successor in
28 interest or a designee of the taxpayer who is authorized in writing by the
29 taxpayer. A principal corporate officer of a parent corporation may execute
30 a written authorization for a controlled subsidiary.

31 2. A corporate taxpayer may be disclosed to any principal officer, any
32 person designated by a principal officer or any person designated in a
33 resolution by the corporate board of directors or other similar governing
34 body.

35 3. A partnership may be disclosed to any partner of the
36 partnership. This exception does not include disclosure of confidential
37 information of a particular partner unless otherwise authorized.

38 4. An estate may be disclosed to the personal representative of the
39 estate and to any heir, next of kin or beneficiary under the will of the
40 decedent if the department finds that the heir, next of kin or beneficiary
41 has a material interest which will be affected by the confidential
42 information.

43 5. A trust may be disclosed to the trustee or trustees, jointly or
44 separately, and to the grantor or any beneficiary of the trust if the

1 department finds that the grantor or beneficiary has a material interest
2 which will be affected by the confidential information.

3 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
4 to confidentiality either in writing or on the record in any administrative
5 or judicial proceeding.

6 7. The name and taxpayer identification numbers of persons issued
7 direct payment permits may be publicly disclosed.

8 B. Confidential information may be disclosed to:

9 1. Any employee of the department whose official duties involve tax
10 administration.

11 2. The office of the attorney general solely for its use in
12 preparation for, or in an investigation which may result in, any proceeding
13 involving tax administration before the department or any other agency or
14 board of this state, or before any grand jury or any state or federal court.

15 3. The department of liquor licenses and control for its use in:

16 (a) Determining whether a spirituous liquor licensee has paid all
17 transaction privilege taxes and affiliated excise taxes incurred as a result
18 of the sale of spirituous liquor, as defined in section 4-101, at the
19 licensed establishment and imposed on the licensed establishments by this
20 state and its political subdivisions.

21 (b) ENFORCING COMPLIANCE WITH LAWS REGARDING THE SALE OF CIGARETTES,
22 CIGARS AND OTHER TOBACCO PRODUCTS THAT ARE SUBJECT TO TAXATION UNDER CHAPTER
23 3 OF THIS TITLE.

24 4. Other state tax officials whose official duties require the
25 disclosure for proper tax administration purposes if the information is
26 sought in connection with an investigation or any other proceeding conducted
27 by the official. Any disclosure is limited to information of a taxpayer who
28 is being investigated or who is a party to a proceeding conducted by the
29 official.

30 5. The following agencies, officials and organizations, if they grant
31 substantially similar privileges to the department for the type of
32 information being sought, pursuant to statute and a written agreement between
33 the department and the foreign country, agency, state, Indian tribe or
34 organization:

35 (a) The United States internal revenue service, alcohol and tobacco
36 tax and trade bureau of the United States treasury, United States bureau of
37 alcohol, tobacco, firearms and explosives of the United States department of
38 justice, United States drug enforcement agency and federal bureau of
39 investigation.

40 (b) A state tax official of another state.

41 (c) An organization of states, federation of tax administrators or
42 multistate tax commission that operates an information exchange for tax
43 administration purposes.

1 (d) An agency, official or organization of a foreign country with
2 responsibilities that are comparable to those listed in subdivision (a), (b)
3 or (c) of this paragraph.

4 (e) An agency, official or organization of an Indian tribal government
5 with responsibilities comparable to the responsibilities of the agencies,
6 officials or organizations identified in subdivision (a), (b) or (c) of this
7 paragraph.

8 6. The auditor general, in connection with any audit of the department
9 subject to the restrictions in section 42-2002, subsection D.

10 7. Any person to the extent necessary for effective tax administration
11 in connection with:

12 (a) The processing, storage, transmission, destruction and
13 reproduction of the information.

14 (b) The programming, maintenance, repair, testing and procurement of
15 equipment for purposes of tax administration.

16 8. The office of administrative hearings relating to taxes
17 administered by the department pursuant to section 42-1101, but the
18 department shall not disclose any confidential information:

19 (a) Regarding income tax, withholding tax or estate tax.

20 (b) On any tax issue relating to information associated with the
21 reporting of income tax, withholding tax or estate tax.

22 9. The United States treasury inspector general for tax administration
23 for the purpose of reporting a violation of internal revenue code section
24 7213A (26 United States Code section 7213A), unauthorized inspection of
25 returns or return information.

26 10. The financial management service of the United States treasury
27 department for use in the treasury offset program.

28 11. The United States treasury department or its authorized agent for
29 use in the state income tax levy program and in the electronic federal tax
30 payment system.

31 12. The department of commerce for its use in:

32 (a) Qualifying motion picture production companies for the tax
33 incentives provided for motion picture production under chapter 5 of this
34 title and sections 43-1075 and 43-1163.

35 (b) Fulfilling its annual reporting responsibility pursuant to section
36 41-1517, subsections S and T.

37 (c) Qualifying applicants for the motion picture infrastructure
38 project tax credits under sections 43-1075.01 and 43-1163.01.

39 13. A prosecutor for purposes of section 32-1164, subsection C.

40 14. The state fire marshal for use in determining compliance with and
41 enforcing title 41, chapter 16, article 3.1.

42 C. Confidential information may be disclosed in any state or federal
43 judicial or administrative proceeding pertaining to tax administration
44 pursuant to the following conditions:

45 1. One or more of the following circumstances must apply:

1 (a) The taxpayer is a party to the proceeding.

2 (b) The proceeding arose out of, or in connection with, determining
3 the taxpayer's civil or criminal liability, or the collection of the
4 taxpayer's civil liability, with respect to any tax imposed under this title
5 or title 43.

6 (c) The treatment of an item reflected on the taxpayer's return is
7 directly related to the resolution of an issue in the proceeding.

8 (d) Return information directly relates to a transactional
9 relationship between a person who is a party to the proceeding and the
10 taxpayer and directly affects the resolution of an issue in the proceeding.

11 2. Confidential information may not be disclosed under this subsection
12 if the disclosure is prohibited by section 42-2002, subsection C or D.

13 D. Identity information may be disclosed for purposes of notifying
14 persons entitled to tax refunds if the department is unable to locate the
15 persons after reasonable effort.

16 E. The department, upon the request of any person, shall provide the
17 names and addresses of bingo licensees as defined in section 5-401, verify
18 whether or not a person has a privilege license and number, a distributor's
19 license and number or a withholding license and number or disclose the
20 information to be posted on the department's ~~web-site~~ WEBSITE or otherwise
21 publicly accessible pursuant to section 42-1124, subsection F and section
22 42-3201, subsection A.

23 F. A department employee, in connection with the official duties
24 relating to any audit, collection activity or civil or criminal
25 investigation, may disclose return information to the extent that disclosure
26 is necessary to obtain information which is not otherwise reasonably
27 available. These official duties include the correct determination of and
28 liability for tax, the amount to be collected or the enforcement of other
29 state tax revenue laws.

30 G. If an organization is exempt from this state's income tax as
31 provided in section 43-1201 for any taxable year, the name and address of the
32 organization and the application filed by the organization upon which the
33 department made its determination for exemption together with any papers
34 submitted in support of the application and any letter or document issued by
35 the department concerning the application are open to public inspection.

36 H. Confidential information relating to transaction privilege tax, use
37 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
38 be disclosed to any county, city or town tax official if the information
39 relates to a taxpayer who is or may be taxable by the county, city or town.
40 Any taxpayer information released by the department to the county, city or
41 town:

42 1. May only be used for internal purposes.

43 2. May not be disclosed to the public in any manner that does not
44 comply with confidentiality standards established by the department. The
45 county, city or town shall agree in writing with the department that any

1 release of confidential information that violates the confidentiality
2 standards adopted by the department will result in the immediate suspension
3 of any rights of the county, city or town to receive taxpayer information
4 under this subsection.

5 I. The department may disclose statistical information gathered from
6 confidential information if it does not disclose confidential information
7 attributable to any one taxpayer. In order to comply with the requirements
8 of section 42-5029, subsection A, paragraph 3, the department may disclose to
9 the state treasurer statistical information gathered from confidential
10 information, even if it discloses confidential information attributable to a
11 taxpayer.

12 J. The department may disclose the aggregate amounts of any tax
13 credit, tax deduction or tax exemption enacted after January 1, 1994.
14 Information subject to disclosure under this subsection shall not be
15 disclosed if a taxpayer demonstrates to the department that such information
16 would give an unfair advantage to competitors.

17 K. Except as provided in section 42-2002, subsection C, confidential
18 information, described in section 42-2001, paragraph 2, subdivision (a), item
19 (iii), may be disclosed to law enforcement agencies for law enforcement
20 purposes.

21 L. The department may provide transaction privilege tax license
22 information to property tax officials in a county for the purpose of
23 identification and verification of the tax status of commercial property.

24 M. The department may provide transaction privilege tax, luxury tax,
25 use tax, property tax and severance tax information to the ombudsman-citizens
26 aide pursuant to title 41, chapter 8, article 5.

27 N. Except as provided in section 42-2002, subsection D, a court may
28 order the department to disclose confidential information pertaining to a
29 party to an action. An order shall be made only upon a showing of good cause
30 and that the party seeking the information has made demand upon the taxpayer
31 for the information.

32 O. This section does not prohibit the disclosure by the department of
33 any information or documents submitted to the department by a bingo licensee.
34 Before disclosing the information the department shall obtain the name and
35 address of the person requesting the information.

36 P. If the department is required or permitted to disclose confidential
37 information, it may charge the person or agency requesting the information
38 for the reasonable cost of its services.

39 Q. Except as provided in section 42-2002, subsection D, the department
40 of revenue shall release confidential information as requested by the
41 department of economic security pursuant to section 42-1122 or 46-291.
42 Information disclosed under this subsection is limited to the same type of
43 information that the United States internal revenue service is authorized to
44 disclose under section 6103(1)(6) of the internal revenue code.

1 R. Except as provided in section 42-2002, subsection D, the department
2 of revenue shall release confidential information as requested by the courts
3 and clerks of the court pursuant to section 42-1122.

4 S. To comply with the requirements of section 42-5031, the department
5 may disclose to the state treasurer, to the county stadium district board of
6 directors and to any city or town tax official that is part of the county
7 stadium district confidential information attributable to a taxpayer's
8 business activity conducted in the county stadium district.

9 T. The department shall release confidential information as requested
10 by the attorney general for purposes of determining compliance with and
11 enforcing section 44-7101, the master settlement agreement referred to
12 therein and subsequent agreements to which the state is a party that amend or
13 implement the master settlement agreement. Information disclosed under this
14 subsection is limited to luxury tax information relating to tobacco
15 manufacturers, distributors, wholesalers and retailers and information
16 collected by the department pursuant to section 44-7101(2)(j).

17 U. For proceedings before the department, the office of administrative
18 hearings, the board of tax appeals or any state or federal court involving
19 penalties that were assessed against a return preparer or electronic return
20 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
21 information may be disclosed only before the judge or administrative law
22 judge adjudicating the proceeding, the parties to the proceeding and the
23 parties' representatives in the proceeding prior to its introduction into
24 evidence in the proceeding. The confidential information may be introduced
25 as evidence in the proceeding only if the taxpayer's name, the names of any
26 dependents listed on the return, all social security numbers, the taxpayer's
27 address, the taxpayer's signature and any attachments containing any of the
28 foregoing information are redacted and if either:

29 1. The treatment of an item reflected on such return is or may be
30 related to the resolution of an issue in the proceeding.

31 2. Such return or return information relates or may relate to a
32 transactional relationship between a person who is a party to the proceeding
33 and the taxpayer which directly affects the resolution of an issue in the
34 proceeding.

35 V. The department may disclose to the attorney general confidential
36 information received under section 44-7111 and requested by the attorney
37 general for purposes of determining compliance with and enforcing section
38 44-7111. The department and attorney general shall share with each other the
39 information received under section 44-7111, and may share the information
40 with other federal, state or local agencies only for the purposes of
41 enforcement of section 44-7101, section 44-7111 or corresponding laws of
42 other states.

1 Sec. 14. Section 42-3001, Arizona Revised Statutes, is amended to
2 read:

3 42-3001. Definitions

4 In this chapter, unless the context otherwise requires:

5 1. "Affix" and "affixed" includes imprinting tax meter stamps on
6 packages and individual containers as authorized by the department.

7 2. "Cider" means vinous liquor that is made from the normal alcoholic
8 fermentation of the juice of sound, ripe apples, including flavored,
9 sparkling and carbonated cider and cider made from condensed apple must, and
10 that contains more than one-half of one per cent of alcohol by volume but not
11 more than seven per cent of alcohol by volume.

12 3. "Cigar" means any roll of tobacco wrapped in leaf tobacco or in any
13 substance containing tobacco other than any roll of tobacco that is a
14 cigarette, as defined in paragraph 4, subdivision (b) of this section.

15 4. "Cigarette" means either of the following:

16 (a) Any roll of tobacco or any substitute for tobacco wrapped in paper
17 or any substance not containing tobacco.

18 (b) Any roll of tobacco wrapped in any substance containing tobacco
19 that, because of its appearance, the type of tobacco used in the filler or
20 its packaging and labeling, is likely to be offered to or purchased by a
21 consumer as a cigarette described in subdivision (a) of this paragraph. This
22 subdivision shall be interpreted consistently with the classification
23 guidelines established by the federal alcohol and tobacco tax and trade
24 bureau.

25 5. "Cigarette distributor" means a distributor of cigarettes without
26 stamps affixed as required by this article who is required to be licensed
27 under section 42-3201. Cigarette distributor does not include a retailer or
28 any person who holds a permit as a cigarette manufacturer, export warehouse
29 proprietor or importer under 26 United States Code section 5712 if the person
30 sells or distributes cigarettes in this state only to licensed cigarette
31 distributors or to another person who holds a permit under 26 United States
32 Code section 5712 as an export warehouse proprietor or manufacturer.

33 6. "Cigarette importer" means a distributor who directly or indirectly
34 imports into the United States a finished cigarette for sale or distribution
35 and who is required to be licensed under section 42-3201.

36 7. "Cigarette manufacturer" means a distributor who manufactures,
37 fabricates, assembles, processes or labels a finished cigarette and who is
38 required to be licensed under section 42-3201.

39 8. "Consumer" means a person in this state who comes into possession
40 of any luxury subject to the tax imposed by this chapter and who, on coming
41 into possession of the luxury, is not a distributor intending to sell or
42 distribute the luxury, retailer or wholesaler.

43 9. "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE, EXCEPT WITH RESPECT
44 TO ENFORCING COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER REGARDING THE

1 SALE OF CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS THAT ARE SUBJECT TO
2 TAXATION, DEPARTMENT MEANS THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

3 ~~9.~~ 10. "Distributor" means any person who manufactures, produces,
4 ships, transports or imports into this state or in any manner acquires or
5 possesses for the purpose of making the first sale of the following:

6 (a) Cigarettes without stamps affixed as required by this article.

7 (b) Other tobacco products upon which the taxes have not been paid as
8 required by this chapter.

9 ~~10.~~ 11. "Domestic farm winery" has the same meaning prescribed in
10 section 4-101.

11 ~~11.~~ 12. "Domestic microbrewery" has the same meaning prescribed in
12 section 4-101.

13 ~~12.~~ 13. "First sale" means the initial sale or distribution in
14 intrastate commerce or the initial use or consumption of cigarettes or other
15 tobacco products.

16 ~~13.~~ 14. "Luxury" means any article, object or device upon which a tax
17 is imposed under this chapter.

18 ~~14.~~ 15. "Malt liquor" means any liquid that contains more than
19 one-half of one per cent alcohol by volume and that is made by the process of
20 fermentation and not distillation of hops or grains, but not including:

21 (a) Liquids made by the process of distillation of such substances.

22 (b) Medicines that are unsuitable for beverage purposes.

23 ~~15.~~ 16. "Person" means any individual, firm, partnership, joint
24 venture, association, corporation, municipal corporation, estate, trust,
25 club, society or other group or combination acting as a unit, and the plural
26 as well as the singular number.

27 ~~16.~~ 17. "Retailer" means any person who comes into possession of any
28 luxury subject to the taxes imposed by this chapter for the purpose of
29 selling it for consumption and not for resale.

30 ~~17.~~ 18. "Spirituous liquor" means any liquid that contains more than
31 one-half of one per cent alcohol by volume, that is produced by distillation
32 of any fermented substance and that is used or prepared for use as a
33 beverage. Spirituous liquor does not include medicines that are unsuitable
34 for beverage purposes.

35 ~~18.~~ 19. "Tobacco products" means all luxuries included in section
36 42-3052, paragraphs 5 through 9, except that for the purposes of article 5.1
37 of this chapter tobacco products has the same meaning prescribed in section
38 42-3221.

39 ~~19.~~ 20. "Vinous liquor" means any liquid that contains more than
40 one-half of one per cent alcohol by volume and that is made by the process of
41 fermentation of grapes, berries, fruits, vegetables or other substances but
42 does not include:

43 (a) Liquids in which hops or grains are used in the process of
44 fermentation.

45 (b) Liquids made by the process of distillation of hops or grains.

1 (c) Medicines that are unsuitable for beverage purposes.

2 ~~20.~~ 21. "Wholesaler" means a person who sells any spirituous, vinous
3 or malt liquor taxed under this chapter to retail dealers or for the purposes
4 of resale only.

5 Sec. 15. Section 42-3151, Arizona Revised Statutes, is amended to
6 read:

7 42-3151. Inspection of records and stocks of luxuries

8 A. All books, papers, invoices and records of any wholesaler,
9 distributor or retailer, whether or not required under this chapter to be
10 kept, showing sales, receipts and purchases of luxuries, shall be open for
11 inspection by the department OF REVENUE at all times as provided in
12 subsection C. ALL BOOKS, PAPERS, INVOICES AND RECORDS OF ANY DISTRIBUTOR OR
13 RETAILER, WHETHER OR NOT REQUIRED UNDER THIS CHAPTER TO BE KEPT, SHOWING
14 SALES, RECEIPTS AND PURCHASES OF CIGARETTES, CIGARS AND OTHER TOBACCO
15 PRODUCTS SHALL BE OPEN FOR INSPECTION BY THE DEPARTMENT OF LIQUOR LICENSES
16 AND CONTROL AS PROVIDED IN SUBSECTION C.

17 B. Any stock of luxuries in and upon any building, facility, site or
18 place where placed, produced, stored or sold may be inspected by the
19 department OF REVENUE to determine compliance with this chapter. ANY STOCK
20 OF CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS IN AND UPON ANY BUILDING,
21 FACILITY, SITE OR PLACE WHERE PLACED, PRODUCED, STORED OR SOLD MAY BE
22 INSPECTED BY THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL TO DETERMINE
23 COMPLIANCE WITH THIS CHAPTER.

24 C. Except as provided in subsection D, any inspection must begin
25 during the normal business hours of the building, facility, site or place
26 being inspected.

27 D. Any inspection that does not begin during normal business hours
28 requires a judicial warrant or the prior written consent of the wholesaler,
29 distributor or retailer.

30 Sec. 16. Section 42-3153, Arizona Revised Statutes, is amended to
31 read:

32 42-3153. Remedies for collection

33 A. Every tax and all increases, interest and penalties imposed by this
34 article may be collected by action in tax court instituted in the name of
35 this state by the attorney general upon request of the department. This
36 remedy is in addition to existing remedies or those provided by law.

37 B. At the request of the department OF REVENUE OR THE DEPARTMENT OF
38 LIQUOR LICENSES AND CONTROL, the attorney general or the county attorney
39 shall bring an action in the name of this state to enjoin any person against
40 whom a tax is levied under this chapter from engaging or continuing in any
41 business for which a tax is imposed by this chapter until the taxes have been
42 paid, and until the person has complied with this chapter.

1 Sec. 17. Section 42-3154, Arizona Revised Statutes, is amended to
2 read:

3 42-3154. Failure or refusal to permit examination of records:
4 classification; additional civil and criminal
5 penalties

6 A. It is unlawful for any person to knowingly fail or refuse to permit
7 any lawful examination of any book, paper, account, record or other memoranda
8 by the department OF REVENUE OR THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL
9 or any ~~of its~~ authorized agents or employees OF THOSE DEPARTMENTS. A person
10 violating this section is guilty of a class 2 misdemeanor.

11 B. In addition to the penalties prescribed by this section the civil
12 and criminal penalties prescribed by sections 42-1125 and 42-1127 apply to
13 violations of this chapter.

14 Sec. 18. Title 42, chapter 3, article 4, Arizona Revised Statutes, is
15 amended by adding section 42-3155, to read:

16 42-3155. Enforcement by department of liquor licenses and
17 control

18 THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL IS RESPONSIBLE AND SHALL
19 ENFORCE COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER REGARDING THE SALE OF
20 CIGARETTES, CIGARS AND OTHER TOBACCO PRODUCTS THAT ARE SUBJECT TO TAXATION
21 UNDER THIS CHAPTER AND HAS AUTHORITY, CONCURRENTLY WITH THE DEPARTMENT OF
22 REVENUE, WHETHER SPECIFICALLY NAMED OR NOT UNDER ANY PROVISION OF THIS
23 CHAPTER TO ACCOMPLISH THAT RESPONSIBILITY.

24 Sec. 19. Section 42-3212, Arizona Revised Statutes, is amended to
25 read:

26 42-3212. Records

27 A. Except for retail transactions with consumers, each cigarette
28 manufacturer, cigarette importer and cigarette distributor shall maintain
29 copies of invoices or equivalent documentation for each facility and for each
30 transaction that involves the sale, purchase, transfer, consignment or
31 receipt of cigarettes within this state. The invoices or documentation shall
32 indicate the name and address of the other party and the quantity by brand
33 style of the cigarettes involved in the transaction.

34 B. A cigarette distributor shall issue an invoice or equivalent
35 documentation for each transaction that involves the sale, purchase or
36 consignment of cigarettes to a retailer. The invoice or equivalent
37 documentation must include the license number of the cigarette distributor,
38 which the retailer may use to ascertain whether the license is current and
39 valid.

40 C. Records required under this section shall be preserved on the
41 premises described in the relevant license in a manner as to ensure
42 accessibility for inspection at reasonable hours by authorized personnel of
43 the department OF REVENUE AND THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL.
44 ~~With the department's permission,~~ Persons with multiple places of business
45 may retain centralized records, but shall transmit duplicates of the invoices

1 or the equivalent documentation to each place of business within three
2 business days after a request by EITHER the department OF REVENUE OR THE
3 DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

4 D. The records required by this section shall be retained for a period
5 of four years after the date of the transaction.

6 E. On request, the department OF REVENUE, THE DEPARTMENT OF LIQUOR
7 LICENSES AND CONTROL and the United States secretary of the treasury or
8 secretary's designee shall have access to records required under this section
9 and reports required under section 42-3211. The department OF REVENUE OR THE
10 DEPARTMENT OF LIQUOR LICENSES AND CONTROL at ~~its~~ THE sole discretion OF
11 EITHER DEPARTMENT may share the records and reports required by this chapter
12 with other law enforcement officials of federal and state governments under
13 conditions that assume the confidentiality of taxpayer information contained
14 in the records and reports.

15 Sec. 20. Section 42-3253, Arizona Revised Statutes, is amended to
16 read:

17 42-3253. Administration and enforcement

18 Unless otherwise provided, the administration of this article is vested
19 in and shall be exercised by the department OF REVENUE AND THE ENFORCEMENT OF
20 THIS ARTICLE IS VESTED IN AND SHALL BE EXERCISED BY THE DEPARTMENT OF REVENUE
21 AND THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL according to chapters 1 and
22 2 of this title and articles 1 through 5 of this chapter and this article.

23 Sec. 21. Section 42-3306, Arizona Revised Statutes, is amended to
24 read:

25 42-3306. Administration

26 Unless otherwise provided, the administration of this article is vested
27 in and shall be exercised by the department OF REVENUE AND THE ENFORCEMENT OF
28 THIS ARTICLE IS VESTED IN AND SHALL BE EXERCISED BY THE DEPARTMENT OF REVENUE
29 AND THE DEPARTMENT OF LIQUOR LICENSES AND CONTROL according to chapters 1 and
30 2 of this title and articles 1 through 5 of this chapter and this article.

31 Sec. 22. Section 42-15001, Arizona Revised Statutes, is amended to
32 read:

33 42-15001. Assessed valuation of class one property

34 The assessed valuation of class one property described in section
35 42-12001 is:

36 1. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
37 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED
38 IN PARAGRAPH 2 OF THIS SECTION, the following percentage of its full cash
39 value or limited valuation, as applicable:

40 ~~1-~~ (a) Twenty-five per cent through December 31, 2005.

41 ~~2-~~ (b) Twenty-four and one-half per cent beginning from and after
42 December 31, 2005 through December 31, 2006.

43 ~~3-~~ (c) Twenty-four per cent beginning from and after December 31,
44 2006 through December 31, 2007.

1 ~~4.~~ (d) Twenty-three per cent beginning from and after December 31,
2 2007 through December 31, 2008.

3 ~~5.~~ (e) Twenty-two per cent beginning from and after December 31, 2008
4 through December 31, 2009.

5 ~~6.~~ (f) Twenty-one per cent beginning from and after December 31, 2009
6 through December 31, 2010.

7 ~~7.~~ (g) Twenty per cent beginning from and after December 31, 2010.

8 2. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
9 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
10 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
11 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
12 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
13 ELECTION HELD FROM AND AFTER JUNE 30, 2009, TEN PER CENT. THE ASSESSED
14 VALUATION DETERMINED PURSUANT TO THIS PARAGRAPH DOES NOT APPLY FOR THE
15 PURPOSES OF COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND
16 8.1, CONSTITUTION OF ARIZONA.

17 Sec. 23. Section 42-15002, Arizona Revised Statutes, is amended to
18 read:

19 42-15002. Assessed valuation of class two property

20 The following percentages apply to the full cash value or limited
21 valuation, as applicable, as a basis for determining the assessed valuation
22 of class two property described in section 42-12002:

23 1. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
24 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED
25 IN PARAGRAPH 2 OF THIS SECTION:

26 ~~1.~~ (a) Class two (R): sixteen per cent.

27 ~~2.~~ (b) Class two (P): sixteen per cent of the value exceeding the
28 maximum amount of valuation of personal property that is exempt from taxation
29 pursuant to section 42-11127.

30 2. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
31 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
32 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
33 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
34 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
35 ELECTION HELD FROM AND AFTER JUNE 30, 2009, TEN PER CENT. THE ASSESSED
36 VALUATION DETERMINED PURSUANT TO THIS PARAGRAPH DOES NOT APPLY FOR THE
37 PURPOSES OF COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND
38 8.1, CONSTITUTION OF ARIZONA.

39 Sec. 24. Section 42-15003, Arizona Revised Statutes, is amended to
40 read:

41 42-15003. Assessed valuation of class three property

42 The assessed valuation of class three property described in section
43 42-12003 is:

44 1. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
45 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED

1 IN PARAGRAPH 2 OF THIS SECTION, ten per cent of its full cash value or
2 limited valuation, as applicable.

3 2. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
4 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
5 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
6 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
7 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
8 ELECTION HELD FROM AND AFTER JUNE 30, 2009, TEN PER CENT. THE ASSESSED
9 VALUATION DETERMINED PURSUANT TO THIS PARAGRAPH DOES NOT APPLY FOR THE
10 PURPOSES OF COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND
11 8.1, CONSTITUTION OF ARIZONA.

12 Sec. 25. Section 42-15004, Arizona Revised Statutes, is amended to
13 read:

14 42-15004. Assessed valuation of class four property

15 The assessed valuation of class four property described in section
16 42-12004 is:

17 1. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
18 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED
19 IN PARAGRAPH 2 OF THIS SECTION, ten per cent of its full cash value or
20 limited valuation, as applicable.

21 2. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
22 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
23 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
24 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
25 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
26 ELECTION HELD FROM AND AFTER JUNE 30, 2009, TEN PER CENT. THE ASSESSED
27 VALUATION DETERMINED PURSUANT TO THIS PARAGRAPH DOES NOT APPLY FOR THE
28 PURPOSES OF COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND
29 8.1, CONSTITUTION OF ARIZONA.

30 Sec. 26. Section 42-15005, Arizona Revised Statutes, is amended to
31 read:

32 42-15005. Assessed valuation of class five property

33 The director shall annually determine percentages to apply as a basis
34 for determining the assessed valuation of class five property described in
35 section 42-12005 equal to the ratios that:

36 1. The total net assessed valuation for THE PURPOSES OF EACH SUBSET OF
37 secondary ~~tax purposes~~ PROPERTY TAXES of all taxable property in class one
38 and class six, paragraph 3 and personal property in class two bears to the
39 total full cash value of such property and that ratio shall be used for THE
40 RESPECTIVE SUBSET OF secondary ~~tax purposes~~ PROPERTY TAXES as required by
41 federal law.

42 2. The total net assessed valuation of all taxable property for
43 primary tax purposes in class one and class six, paragraph 3 and personal
44 property in class two bears to the total limited valuation used for primary

1 tax purposes of such property and that ratio shall be used for primary tax
2 purposes as required by federal law.

3 Sec. 27. Section 42-15006, Arizona Revised Statutes, is amended to
4 read:

5 42-15006. Assessed valuation of class six property

6 A. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
7 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED
8 IN SUBSECTION B OF THIS SECTION, the assessed valuation of class six property
9 described in section 42-12006 is based on the following percentages to the
10 full cash value or limited valuation of class six property, as applicable:

11 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6, 7
12 and 8, five per cent.

13 2. Property described in section 42-12006, paragraph 4:

14 (a) For primary property tax purposes, five per cent.

15 (b) Except as provided in subdivision (c), for secondary property tax
16 purposes:

17 (i) Twenty-five per cent through December 31, 2006.

18 (ii) Twenty-four per cent beginning from and after December 31, 2006
19 through December 31, 2007.

20 (iii) Twenty-three per cent beginning from and after December 31, 2007
21 through December 31, 2008.

22 (iv) Twenty-two per cent beginning from and after December 31, 2008
23 through December 31, 2009.

24 (v) Twenty-one per cent beginning from and after December 31, 2009
25 through December 31, 2010.

26 (vi) Twenty per cent beginning from and after December 31, 2010.

27 (c) If subdivision (b) is finally adjudicated to be invalid, for
28 secondary property tax purposes, five per cent.

29 B. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
30 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
31 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
32 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
33 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
34 ELECTION HELD FROM AND AFTER JUNE 30, 2009, THE ASSESSED VALUATION OF CLASS
35 SIX PROPERTY IS TEN PER CENT OF FULL CASH VALUE. THE ASSESSED VALUATION
36 DETERMINED PURSUANT TO THIS SUBSECTION DOES NOT APPLY FOR THE PURPOSES OF
37 COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND 8.1,
38 CONSTITUTION OF ARIZONA.

39 Sec. 28. Section 42-15009, Arizona Revised Statutes, is amended to
40 read:

41 42-15009. Assessed valuation of class nine property

42 The assessed valuation of class nine property described in section
43 42-12009 is:

44 1. FOR THE PURPOSES OF ASSESSING AND LEVYING PRIMARY PROPERTY TAXES
45 AND SECONDARY PROPERTY TAXES, OTHER THAN SECONDARY PROPERTY TAXES DESCRIBED

1 IN PARAGRAPH 2 OF THIS SECTION, one per cent of its full cash value or
2 limited valuation, as applicable.

3 2. FOR THE PURPOSES OF ASSESSING SECONDARY PROPERTY TAXES LEVIED BY
4 COUNTIES, CITIES, TOWNS, COMMUNITY COLLEGE DISTRICTS AND SCHOOL DISTRICTS FOR
5 THE PAYMENT OF PRINCIPAL, INTEREST AND REDEMPTION CHARGES ON BONDED
6 INDEBTEDNESS OR OTHER LAWFUL LONG-TERM OBLIGATIONS ISSUED OR INCURRED FROM
7 AND AFTER JUNE 30, 2009 AND FOR THE PAYMENT OF COSTS APPROVED BY AN OVERRIDE
8 ELECTION HELD FROM AND AFTER JUNE 30, 2009, TEN PER CENT. THE ASSESSED
9 VALUATION DETERMINED PURSUANT TO THIS PARAGRAPH DOES NOT APPLY FOR THE
10 PURPOSES OF COMPUTING DEBT LIMITATIONS PURSUANT TO ARTICLE IX, SECTIONS 8 AND
11 8.1, CONSTITUTION OF ARIZONA.

12 Sec. 29. Section 43-1183, Arizona Revised Statutes, is amended to
13 read:

14 43-1183. Credit for contributions to school tuition
15 organization; definitions

16 A. Beginning from and after June 30, 2006 ~~through June 30, 2011~~, a
17 credit is allowed against the taxes imposed by this title for the amount of
18 voluntary cash contributions made by the taxpayer during the taxable year to
19 a school tuition organization.

20 B. The amount of the credit is the total amount of the taxpayer's
21 contributions for the taxable year under subsection A of this section and is
22 preapproved by the department pursuant to subsection D of this section.

23 C. The department:

24 1. Shall not allow tax credits under this section that exceed in the
25 aggregate, a combined total of ten million dollars in any fiscal year.
26 Beginning in fiscal year 2007-2008, the aggregate amount of the tax credit
27 cap from the previous fiscal year shall be annually increased by twenty per
28 cent.

29 2. Shall preapprove tax credits subject to subsection D of this
30 section.

31 3. Shall allow the tax credits on a first come, first served basis.

32 D. For the purposes of subsection C, paragraph 2 of this section,
33 before making a contribution to a school tuition organization, the taxpayer
34 shall notify the school tuition organization of the total amount of
35 contributions that the taxpayer intends to make to the school tuition
36 organization. Before accepting the contribution, the school tuition
37 organization shall request preapproval from the department for the taxpayer's
38 intended contribution amount. The department shall preapprove or deny the
39 requested amount within twenty days after receiving the request from the
40 school tuition organization. If the department preapproves the request, the
41 school tuition organization shall immediately notify the taxpayer that the
42 requested amount was preapproved by the department. In order to receive a
43 tax credit under this subsection, the taxpayer shall make the contribution to
44 the school tuition organization within ten days after receiving notice from
45 the school tuition organization that the requested amount was preapproved.

1 If the school tuition organization does not receive the preapproved
2 contribution from the taxpayer within the required ten days, the school
3 tuition organization shall immediately notify the department and the
4 department shall no longer include this preapproved contribution amount when
5 calculating the limit prescribed in subsection C, paragraph 1 of this
6 section.

7 E. A school tuition organization that receives contributions under
8 this section shall allow the department to verify that the educational
9 scholarships and tuition grants that are issued pursuant to this section are
10 awarded to students who attend a qualified school.

11 F. If the allowable tax credit exceeds the taxes otherwise due under
12 this title on the claimant's income, or if there are no taxes due under this
13 title, the taxpayer may carry the amount of the claim not used to offset the
14 taxes under this title forward for not more than five consecutive taxable
15 years' income tax liability.

16 G. Co-owners of a business, including corporate partners in a
17 partnership, may each claim only the pro rata share of the credit allowed
18 under this section based on the ownership interest. The total of the credits
19 allowed all such owners may not exceed the amount that would have been
20 allowed a sole owner.

21 H. The credit allowed by this section is in lieu of any deduction
22 pursuant to section 170 of the internal revenue code and taken for state tax
23 purposes.

24 I. The tax credit is not allowed if the taxpayer designates the
25 taxpayer's contribution to the school tuition organization for the direct
26 benefit of any specific student.

27 J. A school tuition organization that receives contributions under
28 this section shall use at least ninety per cent of those contributions to
29 provide educational scholarships or tuition grants only to children whose
30 family income does not exceed one hundred eighty-five per cent of the income
31 limit required to qualify a child for reduced price lunches under the
32 national school lunch and child nutrition acts (42 United States Code
33 sections 1751 through 1785) and who either:

34 1. Attended a governmental primary or secondary school as a full-time
35 student as defined in section 15-901 for at least the first one hundred days
36 of the prior fiscal year and transferred from a governmental primary or
37 secondary school to a qualified school.

38 2. Enroll in a qualified school in a kindergarten program.

39 3. Received an educational scholarship or tuition grant under
40 paragraph 1 or 2 of this subsection if the children continue to attend a
41 qualified school in a subsequent year.

42 K. In 2006, a school tuition organization shall not issue an
43 educational scholarship or a tuition grant in an amount that exceeds four
44 thousand two hundred dollars for students in a kindergarten program or grades
45 one through eight or five thousand five hundred dollars for students in

1 grades nine through twelve. In each year after 2006, the limitation amount
2 for a scholarship or a grant under this subsection shall be increased by one
3 hundred dollars.

4 L. A child is still eligible to receive an educational scholarship or
5 tuition grant under subsection J of this section if the child meets the
6 criteria to receive a reduced price lunch but does not actually claim that
7 benefit.

8 M. The school tuition organization shall require that the children use
9 the educational scholarships or tuition grants on a full-time basis. If a
10 child leaves the qualified school before completing an entire school year,
11 the qualified school shall refund a prorated amount of the educational
12 scholarship or tuition grant to the school tuition organization that issued
13 the educational scholarship or tuition grant to the child. Any refunds
14 received by the school tuition organization under this subsection shall be
15 allocated for educational scholarships or tuition grants to qualified
16 children in the following year.

17 N. Children who receive educational scholarships or tuition grants
18 under this section shall be allowed to attend any qualified school of their
19 parents' choice.

20 O. A school tuition organization that receives a voluntary cash
21 contribution pursuant to subsection A of this section shall report to the
22 department, in a form prescribed by the department, by June 30 of each year
23 the following information:

24 1. The name, address and contact name of the school tuition
25 organization.

26 2. The total number of contributions received during the previous
27 calendar year.

28 3. The total dollar amount of contributions received during the
29 previous calendar year.

30 4. The total number of children awarded educational scholarships or
31 tuition grants during the previous calendar year.

32 5. The total dollar amount of educational scholarships and tuition
33 grants awarded during the previous calendar year.

34 6. For each school to which educational scholarships or tuition grants
35 were awarded:

36 (a) The name and address of the school.

37 (b) The number of educational scholarships and tuition grants awarded
38 during the previous calendar year.

39 (c) The total dollar amount of educational scholarships and tuition
40 grants awarded during the previous calendar year.

41 7. Verification that an independent review of financial statements
42 according to generally accepted accounting principles was completed by a
43 certified public accountant for the previous calendar year.

44 P. The department shall adopt rules necessary for the administration
45 of this section.

1 Q. For the purposes of this section:

2 1. "Qualified school" means a nongovernmental primary school or
3 secondary school:

4 (a) That is located in this state, that does not discriminate on the
5 basis of race, color, handicap, familial status or national origin and that
6 satisfies the requirements prescribed by law for private schools in this
7 state on January 1, 2005.

8 (b) That annually administers and makes available to the public the
9 aggregate test scores of its students on a nationally standardized
10 norm-referenced achievement test, preferably the Arizona instrument to
11 measure standards test administered pursuant to section 15-741.

12 (c) That requires all teaching staff and any personnel that have
13 unsupervised contact with students to be fingerprinted.

14 2. "School tuition organization" means a charitable organization in
15 this state that both:

16 (a) Is exempt from federal taxation under section 501(c)(3) of the
17 internal revenue code and that allocates ninety per cent of its annual
18 revenue for educational scholarships or tuition grants to children to allow
19 them to attend any qualified school of their parents' choice.

20 (b) Provides educational scholarships or tuition grants to students
21 without limiting availability to only students of one school.

22 Sec. 30. Section 44-302, Arizona Revised Statutes, is amended to read:

23 44-302. Presumptions of abandonment

24 A. Property is presumed abandoned if it is unclaimed by the apparent
25 owner according to the following schedule:

26 1. A traveler's check is presumed abandoned ~~fifteen~~ THREE years after
27 issuance.

28 2. A money order or similar written instrument, other than a third
29 party bank check, is presumed abandoned ~~seven~~ THREE years after issuance.

30 3. Any stock or other equity interest in a business association or
31 financial organization, including a security entitlement under title 47,
32 chapter 8, is presumed abandoned ~~three~~ TWO years after any of the following,
33 whichever occurs first:

34 (a) The date of the most recent dividend, stock split or other
35 distribution that is unclaimed by the apparent owner.

36 (b) The date of the second mailing of a statement of account or other
37 notification or communication that was returned as undeliverable.

38 (c) The date the holder discontinued mailings, notifications or
39 communications to the apparent owner.

40 4. The principal on debt, other than a bearer bond or an original
41 issue discount bond, of a business association or financial organization is
42 presumed abandoned ~~three~~ TWO years after the maturity date and the interest
43 on the debt is presumed abandoned ~~three~~ TWO years after the payment date.

44 5. A demand, savings or time deposit, including a deposit that is
45 automatically renewable, and any interest or dividends are presumed abandoned

1 ~~five~~ THREE years after maturity or the date of the last indication by the
2 owner of interest in the property, whichever occurs first. For the purposes
3 of this paragraph, a deposit that is automatically renewable is deemed
4 matured on its initial date of maturity, unless the owner has consented to a
5 renewal at or about the time of the renewal and the consent is in writing or
6 is evidenced by any memorandum or other record on file with the holder.

7 6. Credits owed to a customer as a result of a retail business
8 transaction are presumed abandoned ~~five~~ THREE years after the obligation
9 accrued.

10 7. An amount owed by an insurance company on a life or endowment
11 insurance policy or an annuity that has matured or terminated is presumed
12 abandoned ~~five~~ THREE years after the obligation to pay arose or, in the case
13 of a policy or annuity that is payable on proof of death, the amount is
14 presumed abandoned ~~two-years~~ ONE YEAR after the insured has attained, or
15 would have attained if the insured were living, the limiting age under the
16 mortality table on which the reserve is based. For the purposes of this
17 paragraph all of the following conditions apply:

18 (a) If a person other than the insured or annuitant is entitled to the
19 owed amount and the person's address is not known to the company or it is not
20 definite and certain from the records of the company who is entitled to the
21 amount, it is presumed that the last known address of the person who is
22 entitled to the amount is the same as the last known address of the insured
23 or annuitant according to the company's records.

24 (b) Notwithstanding any law, if the company learns of the death of the
25 insured or annuitant and the beneficiary has not communicated with the
26 insurer within four months after the death, the company shall take reasonable
27 steps to pay the proceeds to the beneficiary.

28 (c) Every change of beneficiary form issued by an insurance company
29 under any life or endowment insurance policy or annuity contract to an
30 insured or owner who is a resident of this state shall request the following
31 information:

32 (i) The name of each beneficiary, or if a class of beneficiaries is
33 named, the name of each current beneficiary in the class.

34 (ii) The address of each beneficiary.

35 (iii) The relationship of each beneficiary to the insured.

36 8. A life or endowment insurance policy or annuity contract not
37 matured by actual proof of the death of the insured or annuitant according to
38 the company's records is deemed matured and the proceeds are deemed due and
39 payable and are presumed abandoned after ~~two-years~~ ONE YEAR if all of the
40 following conditions apply:

41 (a) The insured has attained, or would have attained if the insured
42 were living, the limiting age under the mortality table on which the reserve
43 is based.

1 (b) The policy was in force at the time the insured attained or would
2 have attained the limiting age specified in subdivision (a) of this
3 paragraph.

4 (c) Neither the insured nor any other person who appears to have an
5 interest in the policy within the last ~~two~~ ~~years~~ YEAR according to the
6 company's records has assigned, readjusted or paid premiums on the policy or
7 subjected the policy to a loan, corresponded in writing with the company
8 concerning the policy or otherwise indicated an interest as evidenced by a
9 memorandum or any other record on file with and prepared by an employee of
10 the company.

11 9. Property that is distributable by a business association or
12 financial organization in a course of dissolution is presumed abandoned one
13 year after the property becomes distributable.

14 10. Property that is received by a court as proceeds of a class action
15 and that is not distributed pursuant to the judgment is presumed abandoned
16 one year after the distribution date.

17 11. Property that is held by a court, government or governmental
18 subdivision, agency or instrumentality, except for support as defined in
19 section 25-500 or for spousal maintenance, is presumed abandoned ~~three~~ TWO
20 years after the property becomes distributable. Monies held for the payment
21 of warrants by a state agency that remain unclaimed by the owner at the time
22 of the void date printed on the face of the warrant are presumed abandoned.
23 For the purposes of this paragraph, governmental subdivision does not include
24 a special taxing district as defined in section 48-241.

25 12. Wages or other compensation for personal services is presumed
26 abandoned one year after the compensation becomes payable.

27 13. Property in any individual retirement account, defined benefit plan
28 or other account or plan that qualifies for tax deferral under the income tax
29 laws of the United States is presumed abandoned ~~three~~ TWO years after any of
30 the following, whichever occurs first:

31 (a) The date of the distribution or attempted distribution of the
32 property.

33 (b) The date of the required distribution as stated in the plan or
34 trust agreement that governs the plan.

35 (c) If determinable by the holder, the date specified in the income
36 tax laws of the United States by which distribution of the property must
37 begin in order to avoid a tax penalty.

38 14. Any amount that is payable on a check, draft or similar instrument
39 on which a financial organization or business association is directly liable,
40 including a cashier's check and a certified check, and that has been
41 outstanding for more than ~~five~~ THREE years after the check, draft or similar
42 instrument was payable or after issuance if payable on demand is presumed
43 abandoned unless within ~~five~~ THREE years the owner has communicated in
44 writing with the financial organization or business association concerning
45 the check, draft or similar instrument or otherwise indicated an interest as

1 evidenced by a memorandum or any other record on file and prepared by an
2 employee of the financial organization or business association.

3 15. All other property is presumed abandoned ~~five~~ THREE years after the
4 owner's rights to demand the property or after the obligation to pay or
5 distribute the property arises, whichever occurs first.

6 16. Excess proceeds deposited with the county treasurer pursuant to
7 section 33-812 are presumed abandoned if the monies remain with the treasurer
8 for at least ~~three~~ TWO years from the date of deposit and there is no pending
9 application for distribution.

10 17. Any dividend, profit, distribution, interest, redemption, payment
11 on principal or other sum held or owing by a business association for or to
12 its shareholder, certificate holder, member, bondholder or other security
13 holder who has not claimed it, or corresponded in writing with the business
14 association concerning it, is presumed abandoned ~~three~~ TWO years after the
15 date prescribed for payment or delivery.

16 B. At the time that an interest is presumed abandoned under subsection
17 A of this section, any other property right accrued or accruing to the owner
18 as a result of the interest, and not previously presumed abandoned, is also
19 presumed abandoned.

20 C. Property is unclaimed if, for the applicable period prescribed in
21 subsection A of this section, the apparent owner has not communicated in
22 writing with the holder or communicated by other means reflected in a
23 contemporaneous record that is prepared by or on behalf of the holder and
24 that concerns the property or the account or accounts in which the property
25 is held and has not otherwise indicated an interest in the property and if
26 the holder has not communicated in writing with regard to the property that
27 would otherwise be unclaimed. A communication with an owner by a person
28 other than the holder or the holder's representative who has not identified
29 the property in writing to the owner is not an indication of interest in the
30 property by the owner.

31 D. An indication of an owner's interest in property includes:

32 1. The presentment of any check or other instrument of payment of any
33 dividend or other distribution that is made with respect to any account,
34 underlying stock or other interest in a business association or financial
35 organization. If the distribution is made by electronic or similar means an
36 indication of an owner's interest includes evidence that the distribution has
37 been received.

38 2. Activity directed by the owner in the account in which the property
39 is held, including a direction by the owner to increase, decrease or change
40 the amount or type of property held in the account.

41 3. The making of a deposit to or withdrawal from a bank account.

42 4. The payment of a premium with respect to a property interest in an
43 insurance policy. The application of an automatic premium loan provision or
44 any other nonforfeiture provision in an insurance policy does not prevent a
45 policy from maturing or terminating if the insured has died or if the insured

1 or the beneficiary of the policy has otherwise become entitled to the
2 proceeds before the depletion of the cash surrender value of a policy by the
3 application of those provisions.

4 E. Property is payable or distributable notwithstanding the owner's
5 failure to make demand or present an instrument or document otherwise
6 required to obtain payment.

7 Sec. 31. Section 44-313, Arizona Revised Statutes, is amended to read:
8 44-313. Deposit of monies

9 A. Except as otherwise provided in this section or section 44-314, the
10 department shall deposit, pursuant to sections 35-146 and 35-147, in the
11 state general fund all monies received pursuant to this chapter, including
12 the proceeds from the sale of abandoned property pursuant to section 44-312.
13 ~~, except that:~~

14 ~~1. Thirty-five per cent of the monies shall be deposited in the~~
15 ~~housing trust fund established by section 41-3955.~~

16 ~~2. Twenty per cent of the monies shall be deposited in the housing~~
17 ~~trust fund established by section 41-3955. These monies shall be used~~
18 ~~exclusively for the development of eligible and viable housing in rural areas~~
19 ~~and for the purposes authorized under the housing development fund~~
20 ~~established by section 41-3956.~~

21 ~~3. Twenty per cent of the monies shall be deposited in the funds in~~
22 ~~the amounts provided in section 5-113, subsection A.~~

23 B. The department shall deposit monies from unclaimed shares and
24 dividends of any corporation incorporated under the laws of this state in the
25 permanent state school fund pursuant to article XI, section 8, Constitution
26 of Arizona.

27 C. The department shall deposit monies from unclaimed victim
28 restitution payments in the victim compensation and assistance fund
29 established by section 41-2407 for the purpose of establishing, maintaining
30 and supporting programs that compensate and assist victims of crime.

31 D. The department shall retain in a separate trust fund at least one
32 hundred thousand dollars from which the department shall pay claims.

33 E. Before making the deposit, the department shall record the name and
34 last known address of each person who appears from the holders' reports to be
35 entitled to the property and the name and last known address of each insured
36 person or annuitant and beneficiary. The department shall also record the
37 policy or contract number of each policy or contract of an insurance company
38 that is listed in the report, the name of the company and the amount due.
39 The department shall make the record available for public inspection during
40 reasonable business hours.

41 ~~F. Before making any deposit to the credit of the state general fund,~~
42 ~~the department may deduct, subject to legislative appropriation,~~
43 ~~administrative expenses in the following order of priority:~~

44 ~~1. Any costs in connection with the sale of abandoned property.~~

1 ~~2. Costs of mailing and publication in connection with any abandoned~~
2 ~~property.~~

3 ~~3. Reasonable department service charges.~~

4 ~~4. Costs incurred in examining records of holders of property and in~~
5 ~~collecting the property from those holders.~~

6 ~~5. Lawful holder charges.~~

7 ~~6. For the purposes of this section, "rural area" means either:~~

8 ~~1. A county with a population of less than four hundred thousand~~
9 ~~persons.~~

10 ~~2. A census county division with less than fifty thousand persons in a~~
11 ~~county with a population of four hundred thousand or more persons.~~

12 Sec. 32. Section 48-4202, Arizona Revised Statutes, is amended to
13 read:

14 48-4202. Formation of district

15 A. The board of supervisors of each county having a population of more
16 than one million five hundred thousand persons according to the most recent
17 United States decennial census or any county in which a major league baseball
18 organization has established or seeks to establish a spring training
19 operation may organize a countywide district to include both the incorporated
20 and unincorporated areas of the county, if the board determines that the
21 public convenience, necessity or welfare will be promoted by establishing the
22 district.

23 B. Two or more municipalities in the same county may organize a
24 district for multipurpose facilities if the governing bodies of the
25 municipalities determine that the public convenience, necessity or welfare
26 will be promoted by establishing the district. The district shall be
27 comprised of the areas within the corporate boundaries of the municipalities.
28 After formation, the boundaries of the district shall not be altered. A
29 district may be established under this subsection in the same county in which
30 a district is established under subsection A of this section. A district
31 formed pursuant to this subsection shall be deemed a county stadium district
32 for purposes of this chapter. Notwithstanding any other law, a district may
33 not be organized under this subsection from and after October 31, 1999,
34 except that a district may be organized under this subsection after October
35 31, 1999 if before that date the governing body of two or more of the
36 municipalities identified the location of a multipurpose facility site and
37 has voted with the purpose of forming a district for multipurpose facilities
38 under this subsection.

39 C. The county board of supervisors shall be the board of directors of
40 a countywide district established under subsection A of this section.

41 D. The board of directors of a district established under subsection B
42 of this section shall consist of: ~~two members appointed for a definite term~~
43 ~~by the governing body of each municipality but may not include officers or~~
44 ~~employees of the municipality, and if the district enters into an~~
45 ~~intergovernmental agreement pursuant to section 48-4203 with an Indian tribe~~

1 ~~or community, the board of directors shall include two members appointed by~~
2 ~~the Indian tribe or community.~~

3 1. FIVE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR, AT LEAST THREE OF
4 WHOM MUST RESIDE IN THE MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED AND
5 EACH OF WHOM MUST HAVE EXPERIENCE IN COMMERCIAL REAL ESTATE, CONSTRUCTION,
6 REDEVELOPMENT, REAL ESTATE LAW, ARCHITECTURE, ECONOMIC DEVELOPMENT OR
7 COMMERCIAL OR PUBLIC FINANCE. THE GOVERNOR MAY RECEIVE NOMINATIONS FOR
8 APPOINTMENT FROM ANY INTERESTED ORGANIZATION OR PERSON. MEMBERS APPOINTED BY
9 THE GOVERNOR SERVE AT THE PLEASURE OF THE GOVERNOR.

10 2. TWO MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE, AT
11 LEAST ONE OF WHOM MUST RESIDE IN THE MUNICIPALITY IN WHICH THE DISTRICT IS
12 LOCATED. THE MEMBERS APPOINTED BY THE PRESIDENT SERVE AT THE PLEASURE OF THE
13 PRESIDENT.

14 3. TWO MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF
15 REPRESENTATIVES, AT LEAST ONE OF WHOM MUST RESIDE IN THE MUNICIPALITY IN
16 WHICH THE DISTRICT IS LOCATED. THE MEMBERS APPOINTED BY THE SPEAKER SERVE AT
17 THE PLEASURE OF THE SPEAKER.

18 E. The directors OF ANY DISTRICT are not eligible for compensation for
19 their services but are eligible for reimbursement for their necessary
20 expenses in attending to and traveling on district business.

21 ~~D.~~ F. The board of supervisors may pay the necessary costs incurred
22 in connection with establishing a countywide district from any county monies
23 available for that purpose. The municipalities may pay their proportionate
24 share of the necessary costs incurred in establishing a district formed by
25 two or more municipalities under subsection B of this section from any monies
26 available for that purpose.

27 ~~E.~~ G. Subject to limitations imposed by intergovernmental agreement
28 and the ordinance or resolution authorizing the formation of the district,
29 the district is a tax levying public improvement district and a political
30 taxing subdivision of this state and has all the powers, privileges and
31 immunities granted generally to municipal corporations for the purposes of
32 implementing this chapter, including eminent domain, as provided by section
33 48-4203, subsection A, paragraph 7, and immunity of its property, bonds and
34 interest on and transfer of its bonds from taxation.

35 Sec. 33. Section 48-4203, Arizona Revised Statutes, is amended to
36 read:

37 48-4203. Powers and duties of board of directors; conflict of
38 interest

39 A. The board of directors, on behalf of the district, may:

- 40 1. Adopt and use a corporate seal.
41 2. Sue and be sued.

42 3. Enter into contracts, including intergovernmental agreements under
43 title 11, chapter 7, article 3, as necessary to carry out the purposes and
44 requirements of this chapter. The district may contract with a county sports

1 authority established under title 11, chapter 5 to carry out any power of the
2 district.

3 4. Adopt administrative rules as necessary to administer and operate
4 the district and any property under its jurisdiction.

5 5. Adopt rules that allow weighted voting by board members and
6 establish conditions for terminating the district.

7 6. Employ an executive director and administrative and clerical
8 employees, or contract for other management personnel, and prescribe the
9 terms and conditions of their employment as necessary to carry out the
10 purposes of the district.

11 7. Acquire by any lawful means and operate, maintain, encumber and
12 dispose of real and personal property and interests in property. A district
13 established under section 48-4202, subsection A may acquire real property by
14 eminent domain. A district established under section 48-4202, subsection B
15 shall not acquire real property by eminent domain.

16 8. Administer trusts declared or established for the district, receive
17 and hold in trust or otherwise property located in or out of this state and,
18 if not otherwise provided, dispose of the property for the benefit of the
19 district.

20 9. Retain legal counsel and other consultants as necessary to carry
21 out the purposes of the district.

22 B. The board of directors, on behalf of a district established
23 pursuant to section 48-4202, subsection B, may:

24 1. Use revenues paid to the district pursuant to section 42-5031 and
25 other revenues the district may receive from other sources, for the purposes
26 set forth in section 48-4204, subsection B.

27 2. Enter into agreements with developers, contractors, tenants and
28 other users of all or part of a multipurpose facility as determined
29 appropriate.

30 3. Pledge all or part of the revenues described in section 42-5031,
31 subsection B, ~~to~~ to secure the district's bonds or other financial obligations
32 issued or incurred under this chapter for the construction of all or part of
33 a multipurpose facility.

34 C. THE BOARD OF DIRECTORS OF A DISTRICT ESTABLISHED PURSUANT TO
35 SECTION 48-4202, SUBSECTION B SHALL PROVIDE PUBLIC OUTREACH AND EDUCATION ON
36 THE PURPOSE AND ACTIVITIES OF THE DISTRICT, INCLUDING:

37 1. PRESENTATIONS TO THE GOVERNING BODIES OF THE MUNICIPALITIES IN THE
38 COUNTY IN WHICH THE DISTRICT IS LOCATED.

39 2. PRESENTATIONS TO COMMUNITY, CIVIC AND BUSINESS ORGANIZATIONS.

40 3. PRINTED OR ELECTRONIC MATERIALS THAT SUPPORT THE PURPOSES OF THIS
41 SUBSECTION.

42 ~~C.~~ D. The board of directors shall:

43 1. Appoint from among its members a chairman, a secretary and such
44 other officers as may be necessary to conduct its business. The board of
45 directors may appoint the chief financial officer of the county as the

1 district treasurer of a countywide district established under section
2 48-4202, subsection A. If the board does not appoint the chief financial
3 officer, the county treasurer is designated ex officio as the treasurer. The
4 board of directors of a district that is established pursuant to section
5 48-4202, subsection B shall designate ~~ex officio an officer of one of the~~
6 ~~municipalities~~ A MEMBER OF THE BOARD WITH FINANCIAL MANAGEMENT OR ACCOUNTING
7 EXPERIENCE OR A PERSON WITH WHOM THE BOARD HAS CONTRACTED FOR FINANCIAL
8 MANAGEMENT as treasurer of the district.

9 2. Keep and maintain a complete and accurate record of all its
10 proceedings. All proceedings and records of the board shall be open to the
11 public as required by title 38, chapter 3, article 3.1 and title 39,
12 chapter 1.

13 3. Provide for the use, maintenance and operation of the properties
14 and interests controlled by the district.

15 ~~D.~~ E. The board of directors of a district that is established
16 pursuant to section 48-4202, subsection B shall determine by agreement the
17 distribution of revenues from operating and using the multipurpose facilities
18 among the municipalities and any participating Indian tribe or community.

19 ~~E.~~ F. The directors, officers and employees of the district are
20 subject to title 38, chapter 3, article 8 relating to conflicts of interest.

21 ~~F.~~ G. This state and political subdivisions of this state other than
22 the district are not liable for any financial or other obligations of the
23 district and the financial or other obligations do not constitute a debt or
24 liability of this state or any political subdivision of this state, other
25 than the district.

26 Sec. 34. Section 48-4204, Arizona Revised Statutes, is amended to
27 read:

28 48-4204. Constructing and operating a stadium and other
29 structures; regulating alcoholic beverages

30 A. From the taxes and surcharges levied pursuant to article 2 of this
31 chapter for use with respect to major league baseball spring training, the
32 district may acquire land and construct, finance, furnish, maintain, improve,
33 operate, market and promote the use of existing or proposed major league
34 baseball spring training facilities or stadiums and other structures,
35 utilities, roads, parking areas or buildings necessary for full use of the
36 training facilities or stadiums for sports and other purposes and do all
37 things necessary or convenient to accomplish those purposes. The board shall
38 require that any project undertaken by the district include financial
39 participation from the county or municipality in which the project is
40 located, from a private party or from any combination of these entities which
41 equals or exceeds one-half of the amount to be expended or distributed by the
42 district. Capital improvement funds expended at any time after June 1, 1991
43 by a county, municipality or private party for a purpose authorized by this
44 section may be deemed financial participation with respect to any project the
45 district may undertake.

1 B. From the taxes and charges levied or identified pursuant to section
2 48-4237 for use with respect to multipurpose facilities and from other monies
3 lawfully available to the district, the district may acquire land and
4 construct, finance, furnish, maintain, improve, operate, market and promote
5 the use of multipurpose facilities and other structures, utilities, roads,
6 parking areas or buildings necessary for full use of the multipurpose
7 facilities and do all things necessary or convenient to accomplish those
8 purposes. Public funds identified in section 48-4237, including funds
9 distributed pursuant to section 42-5031, may only be used for the components
10 for a multipurpose facility which are owned by the district or which are
11 publicly owned, EXCEPT THAT MONIES PAID TO THE DISTRICT PURSUANT TO SECTION
12 42-5031 MAY ONLY BE USED FOR THE FOLLOWING PURPOSES UNTIL A NOTICE TO PROCEED
13 IS ISSUED FOR A HOTEL AND CONVENTION CENTER LOCATED ON THE MULTIPURPOSE
14 FACILITY SITE:

- 15 1. DEBT SERVICE FOR BONDS ISSUED BY THE DISTRICT BEFORE JANUARY 1,
16 2009.
- 17 2. CONTRACTUAL OBLIGATIONS INCURRED BY THE DISTRICT BEFORE JUNE 1,
18 2009.
- 19 3. FIDUCIARY, LEGAL AND ADMINISTRATIVE EXPENSES OF THE DISTRICT.
- 20 4. THE DESIGN AND CONSTRUCTION OF THE HOTEL AND CONVENTION CENTER
21 LOCATED ON THE MULTIPURPOSE FACILITY SITE.

22 C. A DISTRICT ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION B
23 MAY NOT USE MONIES DISTRIBUTED PURSUANT TO SECTION 42-5031 FOR THE SALARIES
24 OR COMPENSATION OF ANY EMPLOYEE OF THE MUNICIPALITY IN WHICH THE DISTRICT IS
25 LOCATED.

26 ~~C.~~ D. Title 34 applies to the district, except that regardless of the
27 funding source for design and construction of facilities and structures the
28 district may establish alternative systems and procedures, including the use
29 of the design-build method of construction or the use of qualifications-based
30 selection of contractors with experience in stadium design or construction,
31 to expedite the design and construction of any of its facilities or
32 structures or any facilities or structures leased to it or used by it
33 pursuant to an intergovernmental agreement. For the purposes of this
34 subsection:

35 1. "Design-build" means a process of entering into and managing a
36 contract between the district and another party in which the other party
37 agrees to both design and build a structure, a facility or other items
38 specified in the contract.

39 2. "Qualifications-based selection" means a process of entering into
40 and managing a contract between the district and another party in which the
41 other party is selected by the district on the basis of the party's
42 qualifications and experience in designing or constructing facilities,
43 structures or other items similar to those the district is authorized to
44 construct or lease. The other party may be selected by direct selection or
45 by public competition.

1 ~~D~~ E. For purposes of financing, designing, constructing or operating
2 facilities or structures, the district is not the agent of any municipality
3 participating in the funding of such facilities or structures.

4 ~~E~~ F. Subject to the requirements of title 4, the board of directors
5 may permit and regulate the sale, use and consumption of alcoholic beverages
6 at events held on property acquired, leased or subleased under this article.

7 Sec. 35. Section 48-4231, Arizona Revised Statutes, is amended to
8 read:

9 48-4231. County stadium district fund

10 A. The district treasurer shall maintain a county stadium district
11 fund consisting of all monies received by the district, including:

12 1. Payments received from leasing, subleasing or renting property
13 owned, leased or controlled by the district.

14 2. Revenues received by the district from admissions and concessions
15 and other proceeds from events held at a stadium owned or leased by the
16 district.

17 3. Monies received from issuing and selling bonds under article 3 of
18 this chapter.

19 4. Interest and other income received from investing monies in the
20 fund.

21 5. Gifts, grants and donations received for that purpose from any
22 public or private source.

23 B. Monies in the fund may be used for any lawful purpose of the
24 district.

25 C. The district treasurer may invest any unexpended monies in the fund
26 as provided in title 35, chapter 2. Notwithstanding section 35-323, the
27 district treasurer may invest and reinvest monies in the fund, other than
28 operating fund monies, in eligible investments with a maturity of greater
29 than five years. Interest and other income from investments shall be
30 credited to the fund. The district treasurer shall invest the monies so as
31 to mature at the times when the fund assets will be required for the purposes
32 of this article. If the liquid assets in the fund become insufficient to
33 meet the district's obligations, the board of directors shall direct the
34 district treasurer to liquidate sufficient securities to meet all of the
35 current obligations and immediately notify the auditor general of the
36 insufficiency, and the auditor general shall investigate and audit the
37 circumstances surrounding the depletion of the fund and report ~~his~~ **THE**
38 **AUDITOR GENERAL'S** findings to the board.

39 D. **EXCEPT AS PROVIDED BY SECTION 48-4231.01**, the board of directors
40 shall cause an annual audit to be conducted of the fund by an independent
41 certified public accountant within one hundred twenty days after the end of
42 the fiscal year. The board shall immediately file a certified copy of the
43 audit with the auditor general. The auditor general may make such further
44 audits and examinations as ~~he~~ **THE AUDITOR GENERAL** deems necessary, but if ~~he~~
45 **THE AUDITOR GENERAL** takes no official action within thirty days after the

1 audit is filed, the audit is deemed sufficient. The board of directors shall
2 pay all fees and costs of the certified public accountant and auditor general
3 under this subsection from the fund.

4 Sec. 36. Title 48, chapter 26, article 2, Arizona Revised Statutes, is
5 amended by adding sections 48-4231.01 and 48-4231.02, to read:

6 48-4231.01. Financial and performance audits of districts
7 owning multipurpose facilities; appearance before
8 joint committee on capital review

9 A. BEGINNING IN 2010 AND EVERY THREE YEARS THEREAFTER, THE AUDITOR
10 GENERAL SHALL CONTRACT WITH AN INDEPENDENT AUDITOR TO CONDUCT A PERFORMANCE
11 AUDIT AS DEFINED IN SECTION 41-1278, INCLUDING A FINANCIAL AUDIT, OF EACH
12 DISTRICT ORGANIZED UNDER SECTION 48-4202, SUBSECTION B. THE INDEPENDENT
13 AUDITOR MUST HAVE NATIONAL STATUS WITH EXPERTISE IN EVALUATING PUBLIC
14 CONSTRUCTION, OWNERSHIP AND MANAGEMENT OF CAPITAL IMPROVEMENTS THAT INCLUDE
15 HOSPITALITY, CONVENTION AND SPORTS VENUE FACILITIES. THE AUDIT MUST BE
16 COMPLETED WITHIN ONE HUNDRED TWENTY DAYS AFTER THE END OF THE FISCAL YEAR.

17 B. THE AUDIT SHALL INCLUDE CONSIDERATION OF:

18 1. CAPITAL COSTS, INCLUDING DEBT SERVICE, OF THE MULTIPURPOSE FACILITY
19 AND OTHER ASSETS OF THE DISTRICT.

20 2. THE LEVEL OF THE DISTRICT'S INDEBTEDNESS, THE AMOUNT OF PRINCIPAL,
21 INTEREST AND OTHER DEBT SERVICE EXPENSES PAID IN THE PRECEDING FISCAL YEAR
22 AND THE REMAINING TERM TO MATURITY WITH RESPECT TO EACH OUTSTANDING BOND
23 ISSUE.

24 3. OPERATION AND MAINTENANCE COSTS OF THE MULTIPURPOSE FACILITY AND
25 OTHER ASSETS OF THE DISTRICT.

26 4. THE DISTRICT'S OVERALL EXPENDITURES IN THE PRECEDING FISCAL YEAR,
27 INCLUDING:

28 (a) THE LEVEL OF EXPENSES FOR ADMINISTRATION, PLANNING, TRAVEL AND
29 ENTERTAINMENT.

30 (b) THE SUCCESS OF THOSE EXPENDITURES IN SUPPORTING AND ACHIEVING THE
31 DISTRICT'S PURPOSES.

32 5. A DESCRIPTION OF AND THE AMOUNT OF MUNICIPAL PAYMENTS PURSUANT TO
33 SECTION 42-5031, SUBSECTION D DURING THE PRECEDING FISCAL YEAR AND THE
34 CUMULATIVE AMOUNT OF THOSE PAYMENTS THROUGH THE END OF THE PRECEDING FISCAL
35 YEAR.

36 6. THE PUBLIC USE OF EACH COMPONENT OF THE MULTIPURPOSE FACILITY.

37 7. REVENUES DERIVED FROM EACH COMPONENT OF THE MULTIPURPOSE FACILITY
38 AND OTHER REVENUES OF THE DISTRICT BY SOURCE.

39 8. DISTRICT PROJECTS THAT ARE CURRENTLY UNDER CONSTRUCTION AND THAT
40 ARE INCLUDED IN THE DISTRICT'S PLANS FOR CAPITAL IMPROVEMENTS AND INVESTMENT.

41 C. THE AUDIT SHALL MAKE FINDINGS AND RECOMMENDATIONS REGARDING THE
42 CONSTRUCTION, FINANCING, OPERATION AND MAINTENANCE OF EACH COMPONENT OF THE
43 MULTIPURPOSE FACILITY, INCLUDING WHETHER THE FACILITY EXCEEDS, MEETS OR FAILS
44 TO MEET NATIONALLY RECOGNIZED DESIGN AND PERFORMANCE STANDARDS.

1 D. THE DISTRICT AND THE BOARD OF DIRECTORS SHALL COOPERATE WITH AND
2 SUBMIT TO THE AUDITOR GENERAL AND THE AUDITOR CONTRACTED TO CONDUCT THE AUDIT
3 INFORMATION NECESSARY TO CONDUCT AND COMPLETE THE AUDIT IN A TIMELY MANNER.

4 E. WITHIN FORTY-FIVE DAYS AFTER THE AUDIT IS RELEASED, THE BOARD OF
5 DIRECTORS SHALL:

6 1. HOLD A PUBLIC HEARING ON THE AUDIT'S FINDINGS AND RECOMMENDATIONS
7 AND ALLOW ANY PERSON TO MAKE OR SUBMIT ORAL OR WRITTEN COMMENTS ON THE AUDIT.

8 2. BY MAJORITY VOTE ADOPT A PUBLIC RESPONSE AGREEING, AGREEING WITH
9 RESERVATIONS OR DISAGREEING WITH EACH FINDING AND RECOMMENDATION IN THE
10 AUDIT.

11 F. THE AUDITOR GENERAL SHALL DISTRIBUTE COPIES OF THE AUDIT AND THE
12 BOARD OF DIRECTOR'S RESPONSE TO:

13 1. THE MAYOR AND GOVERNING BODY OF THE MUNICIPALITY IN WHICH THE
14 DISTRICT IS LOCATED.

15 2. THE GOVERNOR.

16 3. THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
17 REPRESENTATIVES.

18 4. THE DEPARTMENT OF REVENUE AND THE STATE TREASURER.

19 5. THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

20 6. ANY OTHER PERSON WHO REQUESTS A COPY OF THE AUDIT.

21 G. THE COST INCURRED BY THE AUDITOR GENERAL IN CONTRACTING WITH
22 INDEPENDENT AUDITORS UNDER THIS SECTION IS AN OPERATING EXPENSE OF THE
23 DISTRICT AND SHALL BE PAID FROM REVENUES PAYABLE TO THE DISTRICT PURSUANT TO
24 SECTION 42-5031. THE AUDITOR GENERAL SHALL DEPOSIT THE PAYMENTS IN THE AUDIT
25 SERVICES REVOLVING FUND ESTABLISHED BY SECTION 41-1279.06.

26 H. AT THE REQUEST OF THE CHAIRPERSON OF THE JOINT COMMITTEE ON CAPITAL
27 REVIEW, THE EXECUTIVE DIRECTOR OR A REPRESENTATIVE OF THE BOARD OF DIRECTORS
28 SHALL APPEAR BEFORE THE JOINT COMMITTEE ON CAPITAL REVIEW TO REPORT ON ANY
29 ASPECT OF THE DISTRICT'S OPERATION, INCLUDING THE ACTIVITIES AND FINANCIAL
30 PERFORMANCE OF THE DISTRICT DURING THE PREVIOUS FISCAL YEAR, THE DISTRICT'S
31 PLANS FOR CAPITAL IMPROVEMENTS AND INVESTMENT AND THE DISTRICT'S RESPONSE TO
32 THE AUDIT CONDUCTED UNDER THIS SECTION.

33 48-4231.02. Financial reports; database of expenditures

34 A. EACH DISTRICT ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION B
35 SHALL MAINTAIN ON ITS OFFICIAL WEBSITE A DATABASE OF EXPENDITURES MADE BY THE
36 DISTRICT. THE DATABASE SHALL ALLOW USERS TO:

37 1. SEARCH AND AGGREGATE PAYMENTS BY PAYEE.

38 2. SEARCH AND AGGREGATE PAYMENTS BY PROJECT.

39 3. SEARCH AND AGGREGATE PAYMENTS BY YEAR.

40 4. SEARCH AND AGGREGATE ALL PAYMENTS MADE BY THE DISTRICT.

41 5. DOWNLOAD INFORMATION YIELDED BY A USER QUERY.

42 B. EACH EXPENDITURE LISTING CONTAINED IN THE DATABASE SHALL INCLUDE:

43 1. THE DATE AND AMOUNT OF EACH PAYMENT.

44 2. THE NAME OF THE PAYEE.

45 3. THE PROJECT FOR WHICH THE PAYMENT WAS MADE.

1 C. It is the intent of the legislature that the additional revenue
2 generated by the fee increases shall not exceed the following amounts:

3 1. Citrus, fruit and vegetable advisory council and agricultural
4 advisory council: \$389,000

5 2. Arizona department of agriculture: \$172,000

6 D. Monies received from fees pursuant to this section are appropriated
7 to the Arizona department of agriculture.

8 E. The Arizona department of agriculture is exempt from the rule
9 making requirements of title 41, chapter 6, Arizona Revised Statutes, for the
10 purpose of establishing fees under this section for one year after the
11 effective date of this act.

12 F. This section is repealed from and after June 30, 2010.

13 Sec. 41. Registrar of contractors; residential contractors'
14 recovery fund; contracted services, equipment and
15 operational costs; fiscal year 2009-2010

16 Notwithstanding section 32-1134, subsection A, paragraph 5, Arizona
17 Revised Statutes, the registrar of contractors shall employ or contract with
18 individuals and procure equipment and operational support, to be paid from or
19 purchased with monies in the residential contractors' recovery fund, but not
20 to exceed in fiscal year 2009-2010 fourteen per cent of the total amount
21 deposited in the fund in fiscal year 2008-2009, as may be necessary to
22 monitor, process or oppose claims filed by injured persons that may result in
23 collection from the fund.

24 Sec. 42. Web portal fees; deposit

25 Notwithstanding section 41-3506, Arizona Revised Statutes, as amended
26 by this act, in fiscal year 2009-2010 the amount of web portal fees not
27 deposited in the web portal fund for the contractor's price of maintaining
28 and operating the web portal shall not exceed \$3,000,000."

29 Sec. 43. Transfer and appropriation

30 Notwithstanding any other law, in fiscal year 2009-2010:

31 1. The sum of \$662,800 is reduced from appropriations made to the
32 department of revenue from the tobacco tax and health care fund pursuant to
33 section 36-771, subsection F, Arizona Revised Statutes, and is appropriated
34 to the Arizona health care cost containment system.

35 2. The sum of \$662,800 is reduced from appropriations made to the
36 Arizona health care cost containment system from the state general fund and
37 is appropriated to the department of revenue.

38 Sec. 44. Vehicle license taxes; fiscal year 2009-2010;
39 distributions by counties, cities and towns to
40 school districts

41 A. In fiscal year 2009-2010, counties that receive vehicle license tax
42 monies pursuant to section 28-5808, subsection A, paragraph 2, subdivision
43 (a) and subsection B, paragraph 2, subdivision (a), Arizona Revised Statutes,
44 and cities and towns that receive vehicle license tax monies pursuant to
45 section 28-5808, subsection A, paragraph 2, subdivision (c) and subsection B,

1 paragraph 2, subdivision (c), Arizona Revised Statutes, shall distribute a
2 portion of those monies as computed by the county treasurer to local school
3 districts. The total amount of monies to be distributed pursuant to this
4 section by all counties in fiscal year 2009-2010 shall be \$53,000,000. The
5 total amount of monies to be distributed pursuant to this section by all
6 cities and towns in fiscal year 2009-2010 shall be \$42,000,000.

7 B. The department of education shall notify each county treasurer on a
8 monthly basis regarding the amount of monies to be distributed pursuant to
9 subsection A of this section in each county to each school district. The
10 county treasurer shall apportion the monies to the school districts in the
11 county in accordance with section 15-971, subsection C, Arizona Revised
12 Statutes.

13 C. Notwithstanding any other law, a county may meet the funding
14 requirements of this section using any source of revenue selected by the
15 board of supervisors, including monies of any countywide special taxing
16 district in which the board of supervisors serves as the district board of
17 directors.

18 D. Contributions made pursuant to this section are excluded from the
19 county expenditure limitations.

20 Sec. 45. County transfers; fiscal year 2009-2010; county
21 expenditure limitations

22 A. Notwithstanding any other law, in fiscal year 2009-2010, each
23 county with a population of two million or more persons shall transfer
24 \$24,168,400 and each county with a population of more than eight hundred
25 thousand persons but less than two million persons shall transfer \$3,794,400
26 to the state treasurer for deposit in the state general fund.

27 B. Notwithstanding any other law, a county may meet any statutory
28 funding requirements of this section from any source of county revenue
29 designated by the county, including funds of any countywide special taxing
30 district in which the board of supervisors serves as the board of directors.

31 C. Contributions made pursuant to this section are excluded from the
32 county expenditure limitations.

33 Sec. 46. Development fees; use; fiscal year 2009-2010

34 Notwithstanding section 9-463.05, Arizona Revised Statutes, for fiscal
35 year 2009-2010, a municipality may use general government, libraries, open
36 space or park development fee revenues for general municipal operating
37 expenses. The amount of development fee revenues used for general municipal
38 operating expenses shall not exceed the amount of vehicle license tax monies
39 distributed by the municipality to school districts pursuant to section 44 of
40 this act, as computed by the county treasurer. The city or town shall not
41 make any subsequent adjustment in the computation of its development fees to
42 account for, compensate for or recover development fee revenues used for
43 general municipal operating expenses pursuant to this section.

1 Sec. 47. Incumbent members of board of directors
2 Notwithstanding section 48-4202, subsection D, Arizona Revised
3 Statutes, as amended by this act, incumbent members of a board of directors
4 of a county stadium district organized pursuant to section 48-4202,
5 subsection B, Arizona Revised Statutes, may continue to serve on the board
6 for the remainder of their appointive terms, together with the new members
7 appointed by the governor, president of the senate and speaker of the house
8 of representatives as provided by this act.

9 Sec. 48. Conforming changes
10 The Arizona legislative council staff shall prepare proposed
11 legislation conforming the Arizona Revised Statutes to the provisions of this
12 act for consideration in the forty-ninth legislature, second regular session.

13 Sec. 49. Effective date; retroactivity
14 A. Section 41-3506, Arizona Revised Statutes, as amended by this act,
15 is effective from and after June 30, 2010.

16 B. Sections 48-4203 and 48-4204, Arizona Revised Statutes, as amended
17 by this act, apply retroactively to from and after June 30, 2009.