

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SB 1115

Introduced by  
Senator Biggs

## AN ACT

AMENDING SECTIONS 5-507, 5-509, 5-557, 5-559, 12-284.03, 13-2314.01 AND 13-2314.03, ARIZONA REVISED STATUTES; AMENDING SECTION 15-393, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 285, SECTION 1 AND CHAPTER 306, SECTION 3; REPEALING SECTION 15-393, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 318, SECTION 5; AMENDING SECTIONS 15-1821.01, 15-1853, 15-2002, 15-2041, 21-222, 23-773, 27-935, 27-1234, 28-2404, 28-7009, 31-239, 31-285, 31-467, 35-142, 35-193, 36-2903.03, 36-2912, 37-106.01, 37-623.02, 38-658, 41-129, 41-178, 41-191.05, 41-545, 41-621, 41-712, 41-763.02, 41-792.01, 41-821, 41-986, 41-1509, 41-2401, 41-2402, 41-2826, 41-3542, 46-803 AND 49-545, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO REPORTING REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-507, Arizona Revised Statutes, is amended to  
3 read:

4 5-507. Monthly reports; annual reports

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

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

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

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

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

19 ~~C.~~ B. The commission shall make an annual report to the governor, the  
20 speaker of the house of representatives and the president of the senate. The  
21 annual report shall include a full and complete statement of lottery  
22 revenues, prize disbursements and other expenses for the preceding years, and  
23 recommendations for amendments to this chapter as the commission deems  
24 necessary or desirable.

25 Sec. 2. Section 5-509, Arizona Revised Statutes, is amended to read:

26 5-509. Contracts; limitation; restrictions

27 A. Notwithstanding any other statute, the director may:

28 1. Directly solicit bids and contract for the design and operation of  
29 the lottery or the purchase of lottery equipment, tickets and related  
30 materials.

31 2. Contract to effectuate the purposes of this chapter and the rules  
32 promulgated pursuant to this chapter.

33 3. ~~Subject to joint legislative budget committee approval~~ Acquire  
34 administrative office facilities and related facilities and equipment for the  
35 use of the commission by lease, purchase or lease-purchase.

36 B. Procurement pursuant to this section shall be performed as  
37 prescribed in section 41-2501, subsection F. Bids received under this  
38 section may be deemed confidential in whole or in part by the director if  
39 required on account of the sensitive and responsible nature of the  
40 commission's functions and the paramount considerations of security and  
41 integrity.

42 C. Any award made by the director pursuant to this section becomes  
43 effective and binding on the commission unless it is rejected by the  
44 commission at a meeting held within fourteen calendar days after the award is  
45 communicated to the members of the commission.

1 D. A contract awarded or entered into by the director pursuant to this  
2 section shall not be assigned by the holder except by specific approval of  
3 the director. In all awards of contracts pursuant to this section, the  
4 director shall take particular account of the sensitive and responsible  
5 nature of the commission's functions and the paramount considerations of  
6 security and integrity.

7 Sec. 3. Section 5-557, Arizona Revised Statutes, is amended to read:  
8 5-557. Monthly reports; annual reports

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

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

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

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

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

23 ~~C.~~ B. The commission shall make an annual report to the governor, the  
24 speaker of the house of representatives and the president of the senate. The  
25 annual report shall include a full and complete statement of lottery  
26 revenues, prize disbursements and other expenses for the preceding years, and  
27 recommendations for amendments to this chapter as the commission deems  
28 necessary or desirable.

29 Sec. 4. Section 5-559, Arizona Revised Statutes, is amended to read:  
30 5-559. Contracts; limitation; restrictions

31 A. Notwithstanding any other statute, the director may:

32 1. Directly solicit bids and contract for the design and operation of  
33 the lottery or the purchase of lottery equipment, tickets and related  
34 materials.

35 2. Contract to effectuate the purposes of this chapter and the rules  
36 promulgated pursuant to this chapter.

37 3. ~~Subject to joint legislative budget committee approval~~ Acquire  
38 administrative office facilities and related facilities and equipment for the  
39 use of the commission by lease, purchase or lease-purchase.

40 B. Procurement pursuant to this section shall be performed as  
41 prescribed in section 41-2501, subsection F. Bids received under this  
42 section may be deemed confidential in whole or in part by the director if  
43 required on account of the sensitive and responsible nature of the  
44 commission's functions and the paramount considerations of security and  
45 integrity.

1 C. Any award made by the director pursuant to this section becomes  
2 effective and binding on the commission unless it is rejected by the  
3 commission at a meeting held within fourteen calendar days after the award is  
4 communicated to the members of the commission.

5 D. A contract awarded or entered into by the director pursuant to this  
6 section shall not be assigned by the holder except by specific approval of  
7 the director. In all awards of contracts pursuant to this section, the  
8 director shall take particular account of the sensitive and responsible  
9 nature of the commission's functions and the paramount considerations of  
10 security and integrity.

11 Sec. 5. Section 12-284.03, Arizona Revised Statutes, is amended to  
12 read:

13 12-284.03. Distribution of fees

14 A. Excluding the monies that are kept by the court pursuant to  
15 subsection B of this section, the county treasurer shall transmit, distribute  
16 or deposit all monies received from the clerk of the superior court pursuant  
17 to section 12-284, subsection K as follows:

18 1. 1.31 per cent to the state treasurer for deposit in the drug and  
19 gang enforcement account established by section 41-2402 for the purposes of  
20 section 41-2402, subsection ~~H~~ G.

21 2. 8.87 per cent to the state treasurer for deposit in the domestic  
22 violence shelter fund established by section 36-3002.

23 3. 1.93 per cent to the state treasurer for deposit in the child abuse  
24 prevention fund established by section 8-550.01.

25 4. In the county law library fund established by section 12-305,  
26 either:

27 (a) 7.62 per cent if the county treasurer is serving in a county with  
28 a population of more than five hundred thousand persons according to the most  
29 recent United States decennial census.

30 (b) 15.30 per cent if the county treasurer is serving in a county with  
31 a population of five hundred thousand persons or less according to the most  
32 recent United States decennial census.

33 5. 0.35 per cent to the state treasurer for deposit in the alternative  
34 dispute resolution fund established by section 12-135.

35 6. To the elected officials' retirement plan fund established by  
36 section 38-802, either of the following percentages, which shall be  
37 distributed to the fund pursuant to section 38-810:

38 (a) 23.79 per cent if the county treasurer is serving in a county with  
39 a population of more than five hundred thousand persons according to the most  
40 recent United States decennial census.

41 (b) 15.30 per cent if the county treasurer is serving in a county with  
42 a population of five hundred thousand persons or less according to the most  
43 recent United States decennial census.

44 7. 17.07 per cent to the state treasurer for deposit in the judicial  
45 collection enhancement fund established by section 12-113.

1 8. 0.26 per cent to the state treasurer for deposit in the  
2 confidential intermediary and fiduciary fund established by section 8-135.

3 9. In the county general fund, the following percentages:

4 (a) 31.29 per cent if the county treasurer is serving in a county with  
5 a population of more than five hundred thousand persons according to the most  
6 recent United States decennial census.

7 (b) 32.10 per cent if the county treasurer is serving in a county with  
8 a population of five hundred thousand persons or less according to the most  
9 recent United States decennial census.

10 B. 7.51 per cent of the monies transmitted, distributed or deposited  
11 pursuant to subsection A of this section shall be kept and used by the court  
12 collecting the fees in the same manner as the seven dollars of the time  
13 payment fee prescribed by section 12-116, subsection B.

14 Sec. 6. Section 13-2314.01, Arizona Revised Statutes, is amended to  
15 read:

16 13-2314.01. Anti-racketeering revolving fund; use of fund;  
17 reports

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

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

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

35 D. Any monies obtained as a result of a forfeiture by any department  
36 or agency of this state under this title or under federal law shall be  
37 deposited in the fund established by this section. Any monies or other  
38 property obtained as a result of a forfeiture by any political subdivision of  
39 this state or the federal government may be deposited in the fund established  
40 by this section. Monies deposited in the fund pursuant to this section or  
41 section 13-4315 shall accrue interest and shall be held for the benefit of  
42 the agency or agencies responsible for the seizure or forfeiture to the  
43 extent of their contribution. Except as provided in subsections F and G of  
44 this section the monies and interest shall be distributed within thirty days  
45 of application to the agency or agencies responsible for the seizure or

1 forfeiture. Monies in the fund used by the attorney general for capital  
2 projects in excess of one million dollars are subject to review by the joint  
3 committee on capital review.

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

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

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

12 3. The payment of the relocation expenses of any law enforcement  
13 officer and the officer's immediate family if the law enforcement officer is  
14 the victim of a bona fide threat that occurred because of the law enforcement  
15 officer's duties.

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

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

1 report with the county attorney pursuant to section 13-2314.03 within  
2 forty-five days after the report is due and there is no good cause as  
3 determined by the Arizona criminal justice commission, the attorney general  
4 shall make no expenditures from the fund for the benefit of the political  
5 subdivision until the report is filed.

6 H. On or before ~~January 30, April 30, July 30 and October 30~~ **SEPTEMBER**  
7 **30** of each year, the Arizona criminal justice commission shall compile the  
8 attorney general report and the reports of all departments and agencies of  
9 this state into a single comprehensive report and shall submit a copy of the  
10 report to the governor, with copies to the director of the department of  
11 administration, the president of the senate, the speaker of the house of  
12 representatives and the director of the joint legislative budget committee.

13 Sec. 7. Section 13-2314.03, Arizona Revised Statutes, is amended to  
14 read:

15 **13-2314.03. County anti-racketeering revolving fund; use of**  
16 **fund; reports**

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

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

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

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

44 E. Monies in the fund may be used for the funding of gang prevention  
45 programs, substance abuse prevention programs, substance abuse education

1 programs, and witness protection pursuant to section 11-536 or for any  
2 purpose permitted by federal law relating to the disposition of any property  
3 that is transferred to a law enforcement agency. ~~Monies in the fund may be~~  
4 ~~transmitted by the county attorney on behalf of any political subdivision of~~  
5 ~~this state to the Arizona drug and gang policy council for the funding of~~  
6 ~~gang prevention programs, substance abuse prevention programs and substance~~  
7 ~~abuse education programs.~~ Monies in the fund may be used for the  
8 investigation and prosecution of any offense included in the definition of  
9 racketeering in section 13-2301, subsection D, paragraph 4 or section  
10 13-2312, including civil enforcement.

11 F. On or before January 25, April 25, July 25 and October 25 of each  
12 year, the county attorney shall cause to be filed with the Arizona criminal  
13 justice commission a report for the previous calendar quarter. The report  
14 shall be in a form that is prescribed by the Arizona criminal justice  
15 commission and approved by the director of the joint legislative budget  
16 committee. The report shall set forth the sources of all monies and all  
17 expenditures. The report shall not include any identifying information about  
18 specific investigations. If the county attorney fails to file a report  
19 within sixty days after it is due and there is no good cause as determined by  
20 the Arizona criminal justice commission, the county attorney shall make no  
21 expenditures from the fund for the benefit of the county attorney until the  
22 report is filed.

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

42 H. On or before ~~January 30, April 30, July 30 and October 30~~ **SEPTEMBER**  
43 **30** of each year, the Arizona criminal justice commission shall compile all  
44 county attorney reports into a single comprehensive report and all political  
45 subdivision reports into a single comprehensive report and submit a copy of

1 each comprehensive report to the governor, the president of the senate, the  
2 speaker of the house of representatives and the director of the joint  
3 legislative budget committee.

4 Sec. 8. Section 15-393, Arizona Revised Statutes, as amended by Laws  
5 2010, chapter 285, section 1 and chapter 306, section 3, is amended to read:  
6 15-393. Joint technical education district governing board:  
7 report; definition

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

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

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

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

1 nomination or election to the governing board of any other school district or  
2 joint technical education district, unless the member of the governing board  
3 is serving in the last year of a term of office.

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

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

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

- 15 1. Chapter 1, articles 1 through 6.
- 16 2. Sections 15-208, 15-210, 15-213 and 15-234.
- 17 3. Articles 2, 3 and 5 of this chapter.
- 18 4. Section 15-361.
- 19 5. Chapter 4, articles 1, 2 and 5.
- 20 6. Chapter 5, articles 1, 2 and 3.
- 21 7. Sections 15-701.01, 15-722, 15-723, 15-724, 15-727, 15-728, 15-729  
22 and 15-730.
- 23 8. Chapter 7, article 5.
- 24 9. Chapter 8, articles 1, 3 and 4.
- 25 10. Sections 15-828 and 15-829.
- 26 11. Chapter 9, article 1, article 6, except for section 15-995, and  
27 article 7.
- 28 12. Sections 15-941, 15-943.01, 15-948, 15-952, 15-953 and 15-973.
- 29 13. Sections 15-1101 and 15-1104.
- 30 14. Chapter 10, articles 2, 3, 4 and 8.

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

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

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

42 3. If a career and technical education and vocational education course  
43 or program provided pursuant to this article is provided in a facility owned  
44 or operated by a school district in which a pupil is enrolled, including  
45 satellite courses, the sum of the daily attendance, as provided in section

1 15-901, subsection A, paragraph ~~6~~ 5, for that pupil in both the school  
2 district and joint technical education district shall not exceed 1.25 and the  
3 sum of the fractional student enrollment, as provided in section 15-901,  
4 subsection A, paragraph ~~2~~ 1, subdivision (a), shall not exceed 1.25 for the  
5 courses taken in the school district and the facility, including satellite  
6 courses. The school district and the joint district shall determine the  
7 apportionment of the daily attendance and fractional student enrollment for  
8 that pupil between the school district and the joint district. Pupils in an  
9 approved joint technical education district satellite program may generate an  
10 average daily attendance for attendance hours during any hour of the day,  
11 during any day of the week and at any time beginning July 1 through June 30  
12 of each fiscal year.

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

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

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

29 (c) After the first one hundred days or two hundred days in session,  
30 as applicable, for the first year of operation, the joint district shall  
31 revise the student count to the actual student count for students attending  
32 classes in the joint district. A joint district shall revise its student  
33 count, the base support level as provided in section 15-943.02, the revenue  
34 control limit as provided in section 15-944.01, the capital outlay revenue  
35 limit and the soft capital allocation as provided in section 15-962.01 prior  
36 to May 15. A joint district that overestimated its student count shall  
37 revise its budget prior to May 15. A joint district that underestimated its  
38 student count may revise its budget prior to May 15.

39 (d) After the first one hundred days or two hundred days in session,  
40 as applicable, for the first year of operation, the district of residence  
41 shall adjust its student count by reducing it to reflect the courses actually  
42 taken at the joint district. The district of residence shall revise its  
43 student count, the base support level as provided in section 15-943, the  
44 revenue control limit as provided in section 15-944, the capital outlay  
45 revenue limit as provided in section 15-961 and the soft capital allocation

1 as provided in section 15-962 prior to May 15. A district that  
2 underestimated the student count for students attending the joint district  
3 shall revise its budget prior to May 15. A district that overestimated the  
4 student count for students attending the joint district may revise its budget  
5 prior to May 15.

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

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

10 (g) Pupils in an approved joint technical education district  
11 centralized program may generate an average daily attendance of 1.0 for  
12 attendance hours during any hour of the day, during any day of the week and  
13 at any time between July 1 and June 30 of each fiscal year.

14 For the purposes of this paragraph, "district of residence" means the  
15 district that included the pupil in its average daily membership for the year  
16 before the first year of operation of the joint district and that would have  
17 included the pupil in its student count for the purposes of computing its  
18 base support level for the fiscal year of the first year of operation of the  
19 joint district if the pupil had not enrolled in the joint district.

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

23 (a) A student in a kindergarten program or in grades one through eight  
24 who enrolls in courses offered by the joint technical education district  
25 shall not be included in the joint district's ~~average daily attendance or~~  
26 average daily membership.

27 (b) A student in a kindergarten program or in grades one through eight  
28 who is enrolled in vocational education courses shall not be funded in whole  
29 or in part with monies provided by a joint technical education district.

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

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

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

38 7. A joint district may use the excess utility costs provisions of  
39 section 15-910 in the same manner as a school district for fiscal years  
40 1999-2000 and 2000-2001, except that the base year shall be the first full  
41 fiscal year of operations.

42 8. A joint district may use the carryforward provisions of section  
43 15-943.01 retroactively to July 1, 1993.

44 9. A school district that is part of a joint district shall use any  
45 monies received pursuant to this article to supplement and not supplant base

1 year career and technical education and vocational education courses, and  
2 directly related equipment and facilities, except that a school district that  
3 is part of a joint technical education district and that has used monies  
4 received pursuant to this article to supplant career and technological  
5 education and vocational education courses that were offered before the first  
6 year that the school district participated in the joint district or the first  
7 year that the school district used monies received pursuant to this article  
8 or that used the monies for purposes other than for career and technological  
9 education and vocational education courses shall use one hundred per cent of  
10 the monies received pursuant to this article to supplement and not supplant  
11 base year career and technical education and vocational education courses.

12 10. A joint technical education district shall use any monies received  
13 pursuant to this article to enhance and not supplant career and technical  
14 education and vocational education courses and directly related equipment and  
15 facilities.

16 11. A joint technical education district or a school district that is  
17 part of a joint district shall only include pupils in grades nine through  
18 twelve in the calculation of average daily membership ~~or average daily~~  
19 ~~attendance~~ if the pupils are enrolled in courses that are approved jointly by  
20 the governing board of the joint technical education district and each  
21 participating school district for satellite courses taught within the  
22 participating school district, or approved solely by the joint technical  
23 education district for centrally located courses. Average daily membership  
24 ~~and average daily attendance~~ from courses that are not part of an approved  
25 program for career and technical education shall not be included in average  
26 daily membership ~~and average daily attendance~~ of a joint technical education  
27 district. A student in grade nine who enrolls in a career exploration course  
28 shall not be included in the joint district's ~~average daily attendance or~~  
29 average daily membership.

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

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

39 G. The schools in the joint district are available to all persons who  
40 reside in the joint district subject to the rules for admission prescribed by  
41 the joint board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 ~~10. That any initial intergovernmental agreement or other written~~  
43 ~~contract and any addendums between the governing board of a joint technical~~  
44 ~~education district and another joint technical education district, a school~~  
45 ~~district, a charter school or a community college district be submitted by~~

~~1 the joint technical education district to the joint legislative budget  
2 committee for review.~~

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

- 13 1. The average daily membership of the joint district.
- 14 2. The program listings and program descriptions of programs offered  
15 by the joint district, including the course sequences for each program.
- 16 3. The costs associated with each program offered by the joint  
17 district.
- 18 4. The completion rate for each program offered by the joint district.  
19 For the purposes of this paragraph, "completion rate" means the completion  
20 rate for students who are designated as concentrators in that program by the  
21 department of education under the career and technology approved plan.
- 22 5. The graduation rate from the school district of residence of  
23 students who have completed a program in the joint district.
- 24 6. A detailed description of the career opportunities available to  
25 students after completion of the program offered by the joint district.
- 26 7. A detailed description of the career placement of students who have  
27 completed the program offered by the joint district.
- 28 8. Any other data deemed necessary by the department of education to  
29 carry out its duties under this subsection.

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

35 O. Notwithstanding any other law, the average daily membership of a  
36 pupil who is enrolled in a course that meets for at least one hundred fifty  
37 minutes per class period at a centralized campus owned and operated by a  
38 joint technical education district shall be 0.75. The sum of daily  
39 attendance, as provided in section 15-901, subsection A, paragraph 6 and the  
40 sum of the fractional student enrollment, as provided in section 15-901,  
41 subsection A, paragraph 2, subdivision (a), for that pupil in both the member  
42 school district and joint technical education district courses provided at a  
43 community college pursuant to subsection K of this section or at a facility  
44 owned and operated by a joint technical education district that is not  
45 located on a site of a member district shall not exceed 1.75. The member

1 school district and the joint district shall determine the apportionment of  
2 the daily attendance and student enrollment for that pupil between the member  
3 school district and the joint district, except the amount apportioned shall  
4 not exceed 1.0 for either entity.

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

8 Sec. 9. Repeal

9 Section 15-393, Arizona Revised Statutes, as amended by Laws 2010,  
10 chapter 318, section 5, is repealed.

11 Sec. 10. Section 15-1821.01, Arizona Revised Statutes, is amended to  
12 read:

13 15-1821.01. Dual enrollment information

14 On a determination by a community college district governing board that  
15 it is in the best interest of the citizens of a district, the district  
16 governing board may authorize district community colleges to offer college  
17 courses that may be counted toward both high school and college graduation  
18 requirements at the high school during the school day subject to the  
19 following:

20 1. The community college district governing board and the governing  
21 board of the school district or organization of which the high school is a  
22 part shall enter into an agreement or contract. These intergovernmental  
23 agreements or contracts shall be based on a uniform format that has been  
24 cooperatively developed by the community college districts in this state. ~~On~~  
25 ~~or before August 1 of each year, the joint legislative budget committee shall~~  
26 ~~notify each community college district to report on or before October 1 of~~  
27 ~~each year a specified percentage of its initial intergovernmental agreements~~  
28 ~~or contracts executed with school district governing boards or charter~~  
29 ~~schools.~~ Each of these agreements or contracts shall clearly specify the  
30 following:

31 (a) The financial provisions of the agreement or contract and the  
32 format for the billing of all services under the agreement or contract,  
33 including the amount that the community college received in full-time student  
34 equivalent funding pursuant to section 15-1466.01, the portion of the funding  
35 that is distributed to the school district governing board or charter school  
36 and any amount that is subsequently returned to the community college  
37 district by the school district governing board or charter school.

38 (b) Student tuition and financial aid policies, including if  
39 scholarships or grants are awarded to students in dual enrollment courses  
40 from the community college.

41 (c) The accountability provisions for each party to the agreement or  
42 contract.

43 (d) The responsibilities and services required of each party to the  
44 agreement or contract.

1 (e) The type of instruction that will be provided under the agreement  
2 or contract, including the titles of the courses to be offered.

3 (f) The quality of the instruction that will be provided under the  
4 agreement or contract.

5 2. Students shall be admitted to the community college under the  
6 policies adopted by each district, subject to the following:

7 (a) All students enrolled for college credit shall be high school  
8 juniors or seniors. All students in the course, including those not electing  
9 to enroll for college credit, shall satisfy the prerequisites for the course  
10 as published in the college catalog and shall comply with college policies  
11 regarding student placement in courses.

12 (b) A community college may waive the class status requirements  
13 specified in subdivision (a) of this paragraph for up to twenty-five per cent  
14 of the students enrolled by a college in courses provided that the community  
15 college has an established written criteria for waiving the requirements for  
16 each course. These criteria shall include a demonstration, by an examination  
17 of the specific purposes and requirements of the course, that freshman and  
18 sophomore students who meet course prerequisites are prepared to benefit from  
19 the college level course. All exceptions and the justification for the  
20 exceptions shall be reported annually to the joint legislative budget  
21 committee on or before October 1.

22 3. The courses shall be previously evaluated and approved through the  
23 curriculum approval process of the district, shall be at a higher level than  
24 taught by the high school and shall be transferable to a university under the  
25 jurisdiction of the Arizona board of regents or be applicable to an  
26 established community college occupational degree or certificate program.  
27 Physical education courses shall not be available for dual enrollment  
28 purposes.

29 4. College approved textbooks, syllabuses, course outlines and grading  
30 standards that are applicable to the courses if taught at the community  
31 college shall apply to these courses and to all students in the courses  
32 offered pursuant to this section. The chief executive officer of each  
33 community college shall establish an advisory committee of full-time faculty  
34 who teach in the disciplines offered at the community college to assist in  
35 course selection and implementation in the high schools and to review and  
36 report at least annually to the chief executive officer whether the course  
37 goals and standards are understood, the course guidelines are followed and  
38 the same standards of expectation and assessment are applied to these courses  
39 as though they were being offered at the community college. The advisory  
40 committee of full-time faculty shall meet at least three times each academic  
41 year.

42 5. Each faculty member shall meet the requirements established by the  
43 governing board pursuant to section 15-1444. The chief executive officer of  
44 each community college district shall establish an advisory committee of  
45 full-time faculty who teach in the disciplines offered at the community

1 college district to assist in the selection, orientation, ongoing  
2 professional development and evaluation of faculty teaching college courses  
3 in conjunction with the high schools. The advisory committee of full-time  
4 faculty shall meet at least two times each academic year.

5 6. Each community college district shall conduct tracking studies of  
6 subsequent academic or occupational achievement of students enrolled in  
7 courses offered pursuant to this section. The reports of the results of the  
8 tracking studies shall be submitted to the joint legislative budget committee  
9 on or before October 1 of each odd-numbered year, subject to the following:

10 (a) The tracking studies prescribed in this paragraph may involve  
11 statistically valid sampling techniques and shall include, at a minimum, the  
12 high school graduation rate, the number of students continuing their studies  
13 after graduation at a community college in this state or a university under  
14 the jurisdiction of the Arizona board of regents, the performance of the  
15 students in subsequent college courses in the same discipline or occupational  
16 field and the student's grade point average after one year at an Arizona  
17 community college or university as compared to the student's college grade  
18 point average for courses completed while still in high school.

19 (b) On receipt of the report of the tracking studies prescribed in  
20 this paragraph, the joint legislative budget committee may convene an ad hoc  
21 committee that includes community college academic officers, faculty and  
22 other experts in the field to review the manner in which these courses are  
23 provided. This committee may make recommendations to the joint legislative  
24 budget committee regarding desirable changes in this section or in the manner  
25 in which this section is being implemented. A copy of this report shall be  
26 provided to each district governing board.

27 7. A school district shall ensure that a pupil is a full-time student  
28 as defined in section 15-901 and is enrolled in and attending a full-time  
29 instructional program at a school in the school district before that pupil is  
30 allowed to enroll in a college course pursuant to this section, except that  
31 high school seniors who satisfy high school graduation requirements with less  
32 than a full-time instructional program shall be exempt from this paragraph.

33 Sec. 11. Section 15-1853, Arizona Revised Statutes, is amended to  
34 read:

35 15-1853. Funding; federal monies; postsecondary education fund

36 A. The postsecondary education fund is established consisting of:

37 1. Monies appropriated by the legislature.

38 2. Monies received from state agencies and political subdivisions of  
39 this state.

40 3. Monies received from the United States government, including monies  
41 received from the United States department of education pursuant to  
42 subsection B of this section.

43 4. Gifts, grants and donations received from any private source to  
44 carry out the duties and responsibilities of the commission.

1 B. The commission may receive monies distributed by the United States  
2 department of education for the reimbursement of the costs of performing  
3 review requirements. The costs may include expenses for the supplementation  
4 of existing review functions, work performed by subcontractors or consultants  
5 in connection with the review functions of the commission and any other  
6 administrative expenses necessary for compliance with title IV, part H,  
7 subpart one of the higher education amendments of 1992. No more than  
8 thirteen per cent of amounts received by the commission from the United  
9 States department of education may be utilized for administrative purposes by  
10 the commission.

11 C. The commission shall administer the fund in compliance with the  
12 requirements of this article. The commission shall separately account for  
13 monies received from each source listed in subsection A of this section and  
14 may establish accounts and subaccounts of the fund as necessary to carry out  
15 the requirements of this subsection.

16 D. Monies obtained pursuant to subsection A, paragraphs 1 through 3 of  
17 this section are subject to legislative appropriation. The commission shall  
18 not use these monies for purposes other than those designated by special line  
19 items for which the monies are received.

20 E. Monies obtained pursuant to subsection A, paragraph 4 of this  
21 section are continuously appropriated. These monies shall be used in  
22 accordance with the requests of the donor. If no request is specified, the  
23 monies may be used for additional responsibilities of the commission  
24 prescribed in section 15-1851, subsection B and section 15-1852, subsection  
25 B, paragraphs 8 and 9.

26 ~~F. The commission shall report quarterly to the joint legislative~~  
27 ~~budget committee on fund deposits and expenditures.~~

28 Sec. 12. Section 15-2002, Arizona Revised Statutes, is amended to  
29 read:

30 15-2002. Powers and duties; executive director; staffing;  
31 report

32 A. The school facilities board shall:

33 1. Make assessments of school facilities and equipment deficiencies  
34 and approve the distribution of grants as appropriate.

35 2. Develop a database for administering the building renewal formula  
36 prescribed in section 15-2031 and administer the distribution of monies to  
37 school districts for building renewal.

38 3. Inspect school buildings at least once every five years to ensure  
39 compliance with the building adequacy standards prescribed in section 15-2011  
40 and routine preventative maintenance guidelines as prescribed in this section  
41 with respect to construction of new buildings and maintenance of existing  
42 buildings. The school facilities board shall randomly select twenty school  
43 districts every thirty months and inspect them pursuant to this paragraph.

44 4. Review and approve student population projections submitted by  
45 school districts to determine to what extent school districts are entitled to

1 monies to construct new facilities pursuant to section 15-2041. The board  
2 shall make a final determination within six months of the receipt of an  
3 application by a school district for monies from the new school facilities  
4 fund.

5 5. Certify that plans for new school facilities meet the building  
6 adequacy standards prescribed in section 15-2011.

7 6. Develop prototypical elementary and high school designs. The board  
8 shall review the design differences between the schools with the highest  
9 academic productivity scores and the schools with the lowest academic  
10 productivity scores. The board shall also review the results of a valid and  
11 reliable survey of parent quality rating in the highest performing schools  
12 and the lowest performing schools in this state. The survey of parent  
13 quality rating shall be administered by the department of education. The  
14 board shall consider the design elements of the schools with the highest  
15 academic productivity scores and parent quality ratings in the development of  
16 elementary and high school designs. The board shall develop separate school  
17 designs for elementary, middle and high schools with varying pupil  
18 capacities.

19 7. Develop application forms, reporting forms and procedures to carry  
20 out the requirements of this article.

21 8. Review and approve or reject requests submitted by school districts  
22 to take actions pursuant to section 15-341, subsection G.

23 9. Submit electronically an annual report by December 15 to the  
24 speaker of the house of representatives, the president of the senate, the  
25 superintendent of public instruction, the director of the Arizona state  
26 library, archives and public records and the governor that includes the  
27 following information:

28 (a) A detailed description of the amount of monies distributed by the  
29 school facilities board in the previous fiscal year.

30 (b) A list of each capital project that received monies from the  
31 school facilities board during the previous fiscal year, a brief description  
32 of each project that was funded and a summary of the board's reasons for the  
33 distribution of monies for the project.

34 (c) A summary of the findings and conclusions of the building  
35 maintenance inspections conducted pursuant to this article during the  
36 previous fiscal year.

37 (d) A summary of the findings of common design elements and  
38 characteristics of the highest performing schools and the lowest performing  
39 schools based on academic productivity, including the results of the parent  
40 quality rating survey. For the purposes of this subdivision, "academic  
41 productivity" means academic year advancement per calendar year as measured  
42 with student-level data using the statewide nationally standardized  
43 norm-referenced achievement test.

44 10. By December 1 of each year, report electronically to the joint  
45 committee on capital review the amounts necessary to fulfill the requirements

1 of sections 15-2022, 15-2031 and 15-2041 for the following fiscal year and  
 2 the estimated amounts necessary to fulfill the requirements of sections  
 3 15-2022, 15-2031 and 15-2041 for the fiscal year following the next fiscal  
 4 year. The board shall provide copies of the report to the president of the  
 5 senate, the speaker of the house of representatives and the governor.

6 11. Adopt minimum school facility adequacy guidelines to provide the  
 7 minimum quality and quantity of school buildings and the facilities and  
 8 equipment necessary and appropriate to enable pupils to achieve the  
 9 educational goals of the Arizona state schools for the deaf and the blind.  
 10 The school facilities board shall establish minimum school facility adequacy  
 11 guidelines applicable to the Arizona state schools for the deaf and the  
 12 blind.

13 12. In each even-numbered year, report electronically to the joint  
 14 committee on capital review the amounts necessary to fulfill the requirements  
 15 of sections 15-2031 and 15-2041 for the Arizona state schools for the deaf  
 16 and the blind for the following two fiscal years. The Arizona state schools  
 17 for the deaf and the blind shall incorporate the findings of the report in  
 18 any request for building renewal monies and new school facilities monies.  
 19 Any monies provided to the Arizona state schools for the deaf and the blind  
 20 for building renewal and for new school facilities are subject to legislative  
 21 appropriation.

22 13. ~~By June 15~~ ON OR BEFORE DECEMBER 1 of each year, submit  
 23 electronically detailed information regarding demographic assumptions, a  
 24 proposed construction schedule and new school construction cost estimates for  
 25 individual projects approved in the current fiscal year and expected project  
 26 approvals for the upcoming fiscal year to the joint committee on capital  
 27 review for its review. A copy of the report shall also be submitted  
 28 electronically to the governor's office of strategic planning and budgeting.  
 29 The joint legislative budget committee staff, the governor's office of  
 30 strategic planning and budgeting staff and the school facilities board staff  
 31 shall agree on the format of the report.

32 14. Every two years, provide school districts with information on  
 33 improving and maintaining the indoor environmental quality in school  
 34 buildings.

35 B. The school facilities board may contract for the following services  
 36 in compliance with the procurement practices prescribed in title 41,  
 37 chapter 23:

- 38 1. Private services.
- 39 2. Construction project management services.
- 40 3. Assessments for school buildings to determine if the buildings have  
 41 outlived their useful life pursuant to section 15-2041, subsection G.
- 42 4. Services related to land acquisition and development of a school  
 43 site.

44 C. The governor shall appoint an executive director of the school  
 45 facilities board pursuant to section 38-211. The executive director is

1 eligible to receive compensation as determined pursuant to section 38-611 and  
2 may hire and fire necessary staff as approved by the legislature in the  
3 budget. The executive director shall have demonstrated competency in school  
4 finance, facilities design or facilities management, either in private  
5 business or government service. The executive director serves at the  
6 pleasure of the governor. The staff of the school facilities board is exempt  
7 from title 41, chapter 4, articles 5 and 6. The executive director:

8 1. Shall analyze applications for monies submitted to the board by  
9 school districts.

10 2. Shall assist the board in developing forms and procedures for the  
11 distribution and review of applications and the distribution of monies to  
12 school districts.

13 3. May review or audit, or both, the expenditure of monies by a school  
14 district for deficiencies corrections, building renewal and new school  
15 facilities.

16 4. Shall assist the board in the preparation of the board's annual  
17 report.

18 5. Shall research and provide reports on issues of general interest to  
19 the board.

20 6. May aid school districts in the development of reasonable and  
21 cost-effective school designs in order to avoid statewide duplicated efforts  
22 and unwarranted expenditures in the area of school design.

23 7. May assist school districts in facilitating the development of  
24 multijurisdictional facilities.

25 8. Shall assist the board in any other appropriate matter or method as  
26 directed by the members of the board.

27 9. Shall establish procedures to ensure compliance with the notice and  
28 hearing requirements prescribed in section 15-905. The notice and hearing  
29 procedures adopted by the board shall include the requirement, with respect  
30 to the board's consideration of any application filed after July 1, 2001 or  
31 after December 31 of the year in which the property becomes territory in the  
32 vicinity of a military airport or ancillary military facility as defined in  
33 section 28-8461 for monies to fund the construction of new school facilities  
34 proposed to be located in territory in the vicinity of a military airport or  
35 ancillary military facility, that the military airport receive notification  
36 of the application by first class mail at least thirty days before any  
37 hearing concerning the application.

38 10. May expedite any request for monies in which the local match was  
39 not obtained for a project that received preliminary approval by the state  
40 board for school capital facilities.

41 11. Shall expedite any request for monies in which the school district  
42 governing board submits an application that shows an immediate need for a new  
43 school facility.

1           12. Shall make a determination as to administrative completion within  
2 one month after the receipt of an application by a school district for monies  
3 from the new school facilities fund.

4           13. Shall provide technical support to school districts as requested by  
5 school districts in connection with the construction of new school facilities  
6 and the maintenance of existing school facilities and may contract directly  
7 with construction project managers pursuant to subsection B of this section.  
8 This paragraph does not restrict a school district from contracting with a  
9 construction project manager using district or state resources.

10           D. When appropriate, the school facilities board shall review and use  
11 the statewide school facilities inventory and needs assessment conducted by  
12 the joint committee on capital review and issued in July, 1995.

13           E. The school facilities board shall contract with one or more private  
14 building inspectors to complete an initial assessment of school facilities  
15 and equipment and shall inspect each school building in this state at least  
16 once every five years to ensure compliance with section 15-2011. A copy of  
17 the inspection report, together with any recommendations for building  
18 maintenance, shall be provided to the school facilities board and the  
19 governing board of the school district.

20           F. The school facilities board may consider appropriate combinations  
21 of facilities or uses in making assessments of and curing deficiencies  
22 pursuant to subsection A, paragraph 1 of this section and in certifying plans  
23 for new school facilities pursuant to subsection A, paragraph 5 of this  
24 section.

25           G. The board shall not award any monies to fund new facilities that  
26 are financed by class A bonds that are issued by the school district.

27           H. The board shall not distribute monies to a school district for  
28 replacement or repair of facilities if the costs associated with the  
29 replacement or repair are covered by insurance or a performance or payment  
30 bond.

31           I. The board may contract for construction services and materials that  
32 are necessary to correct existing deficiencies in school district facilities.  
33 The board may procure the construction services necessary pursuant to this  
34 subsection by any method, including construction-manager-at-risk,  
35 design-build, design-bid-build or job-order-contracting as provided by title  
36 41, chapter 23. The construction planning and services performed pursuant to  
37 this subsection are exempt from section 41-791.01.

38           J. The school facilities board may enter into agreements with school  
39 districts to allow school facilities board staff and contractors access to  
40 school property for the purposes of performing the construction services  
41 necessary pursuant to subsection I of this section.

42           K. Each school district shall develop routine preventative maintenance  
43 guidelines for its facilities. The guidelines shall include plumbing  
44 systems, electrical systems, heating, ventilation and air conditioning  
45 systems, special equipment and other systems and for roofing systems shall

1 recommend visual inspections performed by district staff for signs of  
2 structural stress and weakness. The guidelines shall be submitted to the  
3 school facilities board for review and approval. If on inspection by the  
4 school facilities board it is determined that a school district facility was  
5 inadequately maintained pursuant to the school district's routine  
6 preventative maintenance guidelines, the school district shall use building  
7 renewal monies pursuant to section 15-2031, subsection L to return the  
8 building to compliance with the school district's routine preventative  
9 maintenance guidelines. Once the district is in compliance, it no longer is  
10 required to use building renewal monies for preventative maintenance.

11 L. The school facilities board may temporarily transfer monies between  
12 the capital reserve fund established by section 15-2003, the emergency  
13 deficiencies correction fund established by section 15-2022, the building  
14 renewal fund established by section 15-2031 and the new school facilities  
15 fund established by section 15-2041 if all of the following conditions are  
16 met:

17 1. The transfer is necessary to avoid a temporary shortfall in the  
18 fund into which the monies are transferred.

19 2. The transferred monies are restored to the fund where the monies  
20 originated as soon as practicable after the temporary shortfall in the other  
21 fund has been addressed.

22 3. The school facilities board reports to the joint committee on  
23 capital review the amount of and the reason for any monies transferred.

24 M. After notifying each school district, and if a written objection  
25 from the school district is not received by the school facilities board  
26 within thirty days of the notification, the school facilities board may  
27 access public utility company records of power, water, natural gas, telephone  
28 and broadband usage to assemble consistent and accurate data on utility  
29 consumption at school facilities to determine the effectiveness of facility  
30 design, operation and maintenance measures intended to reduce energy and  
31 water consumption and costs. Any public utility that provides service to a  
32 school district in this state shall provide the data requested by the school  
33 facilities board pursuant to this subsection.

34 N. The school facilities board shall not require a common school  
35 district that provides instruction to pupils in grade nine to obtain approval  
36 from the school facilities board to reconfigure its school facilities. A  
37 common school district that provides instruction to pupils in grade nine is  
38 not entitled to additional monies from the school facilities board for  
39 facilities to educate pupils in grade nine.

40 Sec. 13. Section 15-2041, Arizona Revised Statutes, is amended to  
41 read:

42 15-2041. New school facilities fund; capital plan; report

43 A. A new school facilities fund is established consisting of monies  
44 appropriated by the legislature and monies credited to the fund pursuant to  
45 section 37-221. The school facilities board shall administer the fund and

1 distribute monies, as a continuing appropriation, to school districts for the  
2 purpose of constructing new school facilities and for contracted expenses  
3 pursuant to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30  
4 of each fiscal year, any unobligated contract monies in the new school  
5 facilities fund shall be transferred to the capital reserve fund established  
6 by section 15-2003.

7 B. The school facilities board shall prescribe a uniform format for  
8 use by the school district governing board in developing and annually  
9 updating a capital plan that consists of each of the following:

10 1. Enrollment projections for the next five years for elementary  
11 schools and eight years for middle and high schools, including a description  
12 of the methods used to make the projections.

13 2. A description of new schools or additions to existing schools  
14 needed to meet the building adequacy standards prescribed in section 15-2011.  
15 The description shall include:

16 (a) The grade levels and the total number of pupils that the school or  
17 addition is intended to serve.

18 (b) The year in which it is necessary for the school or addition to  
19 begin operations.

20 (c) A timeline that shows the planning and construction process for  
21 the school or addition.

22 3. Long-term projections of the need for land for new schools.

23 4. Any other necessary information required by the school facilities  
24 board to evaluate a school district's capital plan.

25 5. If a school district pays tuition for all or a portion of the  
26 school district's high school pupils to another school district, the capital  
27 plan shall indicate the number of pupils for which the district pays tuition  
28 to another district. If a school district accepts pupils from another school  
29 district pursuant to section 15-824, subsection A, the school district shall  
30 indicate the projections for this population separately. This paragraph does  
31 not apply to a small isolated school district as defined in section 15-901.

32 C. If the capital plan indicates a need for a new school or an  
33 addition to an existing school within the next four years or a need for land  
34 within the next ten years, the school district shall submit its plan to the  
35 school facilities board by September 1 and shall request monies from the new  
36 school facilities fund for the new construction or land. The school  
37 facilities board may require a school district to sell land that was  
38 previously purchased entirely with monies provided by the school facilities  
39 board if the school facilities board determines that the property is no  
40 longer needed within the ten year period specified in this subsection for a  
41 new school or no longer needed within that ten year period for an addition to  
42 an existing school. Monies provided for land shall be in addition to any  
43 monies provided pursuant to subsection D of this section.

44 D. The school facilities board shall distribute monies from the new  
45 school facilities fund as follows:

1           1. The school facilities board shall review and evaluate the  
2 enrollment projections and either approve the projections as submitted or  
3 revise the projections. In determining new construction requirements, the  
4 school facilities board shall determine the net new growth of pupils that  
5 will require additional square footage that exceeds the building adequacy  
6 standards prescribed in section 15-2011. If the projected growth and the  
7 existing number of pupils exceed three hundred fifty pupils who are served in  
8 a school district other than the pupil's resident school district, the school  
9 facilities board, the receiving school district and the resident school  
10 district shall develop a capital facilities plan on how to best serve those  
11 pupils. A small isolated school district as defined in section 15-901 is not  
12 required to develop a capital facilities plan pursuant to this paragraph.

13           2. If the approved projections indicate that additional space will not  
14 be needed within the next two years for elementary schools or three years for  
15 middle or high schools in order to meet the building adequacy standards  
16 prescribed in section 15-2011, the request shall be held for consideration by  
17 the school facilities board for possible future funding and the school  
18 district shall annually submit an updated plan until the additional space is  
19 needed.

20           3. If the approved projections indicate that additional space will be  
21 needed within the next two years for elementary schools or three years for  
22 middle or high schools in order to meet the building adequacy standards  
23 prescribed in section 15-2011, the school facilities board shall provide an  
24 amount as follows:

25           (a) Determine the number of pupils requiring additional square footage  
26 to meet building adequacy standards. This amount for elementary schools  
27 shall not be less than the number of new pupils for whom space will be needed  
28 in the next year and shall not exceed the number of new pupils for whom space  
29 will be needed in the next five years. This amount for middle and high  
30 schools shall not be less than the number of new pupils for whom space will  
31 be needed in the next four years and shall not exceed the number of new  
32 pupils for whom space will be needed in the next eight years.

33           (b) Multiply the number of pupils determined in subdivision (a) of  
34 this paragraph by the square footage per pupil. The square footage per pupil  
35 is ninety square feet per pupil for preschool children with disabilities,  
36 kindergarten programs and grades one through six, one hundred square feet for  
37 grades seven and eight, one hundred thirty-four square feet for a school  
38 district that provides instruction in grades nine through twelve for fewer  
39 than one thousand eight hundred pupils and one hundred twenty-five square  
40 feet for a school district that provides instruction in grades nine through  
41 twelve for at least one thousand eight hundred pupils. The total number of  
42 pupils in grades nine through twelve in the district shall determine the  
43 square footage factor to use for net new pupils. The school facilities board  
44 may modify the square footage requirements prescribed in this subdivision for  
45 particular schools based on any of the following factors:

1 (i) The number of pupils served or projected to be served by the  
2 school district.

3 (ii) Geographic factors.

4 (iii) Grade configurations other than those prescribed in this  
5 subdivision.

6 (iv) Compliance with minimum school facility adequacy requirements  
7 established pursuant to section 15-2011.

8 (c) Multiply the product obtained in subdivision (b) of this paragraph  
9 by the cost per square foot. The cost per square foot is ninety dollars for  
10 preschool children with disabilities, kindergarten programs and grades one  
11 through six, ninety-five dollars for grades seven and eight and one hundred  
12 ten dollars for grades nine through twelve. The cost per square foot shall  
13 be adjusted annually for construction market considerations based on an index  
14 identified or developed by the joint legislative budget committee as  
15 necessary but not less than once each year. The school facilities board  
16 shall multiply the cost per square foot by 1.05 for any school district  
17 located in a rural area. The school facilities board may only modify the  
18 base cost per square foot prescribed in this subdivision for particular  
19 schools based on geographic conditions or site conditions. For the purposes  
20 of this subdivision, "rural area" means an area outside a thirty-five mile  
21 radius of a boundary of a municipality with a population of more than fifty  
22 thousand persons.

23 (d) Once the school district governing board obtains approval from the  
24 school facilities board for new facility construction funds, additional  
25 portable or modular square footage created for the express purpose of  
26 providing temporary space for pupils until the completion of the new facility  
27 shall not be included by the school facilities board for the purpose of new  
28 construction funding calculations. On completion of the new facility  
29 construction project, if the portable or modular facilities continue in use,  
30 the portable or modular facilities shall be included as prescribed by this  
31 chapter, unless the school facilities board approves their continued use for  
32 the purpose of providing temporary space for pupils until the completion of  
33 the next new facility that has been approved for funding from the new school  
34 facilities fund.

35 4. For projects approved after December 31, 2001, and notwithstanding  
36 paragraph 3 of this subsection, a unified school district that does not have  
37 a high school is not eligible to receive high school space as prescribed by  
38 section 15-2011 and this section unless the unified district qualifies for  
39 geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of  
40 this subsection.

41 5. If a joint technical education district leases a building from a  
42 school district, that building shall be included in the school district's  
43 square footage calculation for the purposes of new construction pursuant to  
44 this section.

1 E. Monies for architectural and engineering fees, project management  
2 services and preconstruction services shall be distributed on the completion  
3 of the analysis by the school facilities board of the school district's  
4 request. After receiving monies pursuant to this subsection, the school  
5 district shall submit a design development plan for the school or addition to  
6 the school facilities board before any monies for construction are  
7 distributed. If the school district's request meets the building adequacy  
8 standards, the school facilities board may review and comment on the  
9 district's plan with respect to the efficiency and effectiveness of the plan  
10 in meeting state square footage and facility standards before distributing  
11 the remainder of the monies. If the school facilities board modifies the  
12 cost per square foot as prescribed in subsection D, paragraph 3, subdivision  
13 (c) of this section, the school facilities board may deduct the cost of  
14 project management services and preconstruction services from the required  
15 cost per square foot. The school facilities board may decline to fund the  
16 project if the square footage is no longer required due to revised enrollment  
17 projections.

18 F. The school facilities board shall distribute the monies needed for  
19 land for new schools so that land may be purchased at a price that is less  
20 than or equal to fair market value and in advance of the construction of the  
21 new school. If necessary, the school facilities board may distribute monies  
22 for land to be leased for new schools if the duration of the lease exceeds  
23 the life expectancy of the school facility by at least fifty per cent. A  
24 school district shall not use land purchased or partially purchased with  
25 monies provided by the school facilities board for a purpose other than a  
26 site for a school facility without obtaining prior written approval from the  
27 school facilities board. A school district shall not lease, sell or take any  
28 action that would diminish the value of land purchased or partially purchased  
29 with monies provided by the school facilities board without obtaining prior  
30 written approval from the school facilities board. The proceeds derived  
31 through the sale of any land purchased or partially purchased with monies  
32 provided by the school facilities board shall be returned to the state fund  
33 from which it was appropriated and to any other participating entity on a  
34 proportional basis. Except as provided in section 15-342, paragraph 33, if a  
35 school district acquires real property by donation at an appropriate school  
36 site approved by the school facilities board, the school facilities board  
37 shall distribute an amount equal to twenty per cent of the fair market value  
38 of the donated real property that can be used for academic purposes. The  
39 school district shall place the monies in the unrestricted capital outlay  
40 fund and increase the unrestricted capital budget limit by the amount of  
41 monies placed in the fund. Monies distributed under this subsection shall be  
42 distributed from the new school facilities fund. A school district that  
43 receives monies from the new school facilities fund for a donation of land  
44 pursuant to section 15-342, paragraph 33 shall not receive monies from the  
45 school facilities board for the donation of real property pursuant to this

1 subsection. A school district shall not pay a consultant a percentage of the  
2 value of any of the following:

3 1. Donations of real property, services or cash from any of the  
4 following:

5 (a) Entities that have offered to provide construction services to the  
6 school district.

7 (b) Entities that have been contracted to provide construction  
8 services to the school district.

9 (c) Entities that build residential units in that school district.

10 (d) Entities that develop land for residential use in that school  
11 district.

12 2. Monies received from the school facilities board on behalf of the  
13 school district.

14 3. Monies paid by the school facilities board on behalf of the school  
15 district.

16 G. In addition to distributions to school districts based on pupil  
17 growth projections, a school district may submit an application to the school  
18 facilities board for monies from the new school facilities fund if one or  
19 more school buildings have outlived their useful life. If the school  
20 facilities board determines that the school district needs to build a new  
21 school building for these reasons, the school facilities board shall remove  
22 the square footage computations that represent the building from the  
23 computation of the school district's total square footage for purposes of  
24 this section. If the square footage recomputation reflects that the school  
25 district no longer meets building adequacy standards, the school district  
26 qualifies for a distribution of monies from the new school construction  
27 formula in an amount determined pursuant to subsection D of this section.  
28 Buildings removed from a school district's total square footage pursuant to  
29 this subsection shall not be included in the computation of monies from the  
30 building renewal fund established by section 15-2031. The school facilities  
31 board may only modify the base cost per square foot prescribed in this  
32 subsection under extraordinary circumstances for geographic factors or site  
33 conditions.

34 H. School districts that receive monies from the new school facilities  
35 fund shall establish a district new school facilities fund and shall use the  
36 monies in the district new school facilities fund only for the purposes  
37 prescribed in this section. By October 15 of each year, each school district  
38 shall report to the school facilities board the projects funded at each  
39 school in the previous fiscal year with monies from the district new school  
40 facilities fund and shall provide an accounting of the monies remaining in  
41 the new school facilities fund at the end of the previous fiscal year.

42 I. If a school district has surplus monies received from the new  
43 school facilities fund, the school district may use the surplus monies only  
44 for capital purposes for the project for up to one year after completion of  
45 the project. If the school district possesses surplus monies from the new

1 school construction project that have not been expended within one year of  
 2 the completion of the project, the school district shall return the surplus  
 3 monies to the school facilities board for deposit in the new school  
 4 facilities fund.

5 J. The board's consideration of any application filed after December  
 6 31 of the year in which the property becomes territory in the vicinity of a  
 7 military airport or ancillary military facility as defined in section 28-8461  
 8 for monies to fund the construction of new school facilities proposed to be  
 9 located in territory in the vicinity of a military airport or ancillary  
 10 military facility shall include, if after notice is transmitted to the  
 11 military airport pursuant to section 15-2002 and before the public hearing  
 12 the military airport provides comments and an analysis concerning  
 13 compatibility of the proposed school facilities with the high noise or  
 14 accident potential generated by military airport or ancillary military  
 15 facility operations that may have an adverse effect on public health and  
 16 safety, consideration and analysis of the comments and analysis provided by  
 17 the military airport before making a final determination.

18 K. If a school district uses its own project manager for new school  
 19 construction, the members of the school district governing board and the  
 20 project manager shall sign an affidavit stating that the members and the  
 21 project manager understand and will follow the minimum adequacy requirements  
 22 prescribed in section 15-2011.

23 L. The school facilities board shall establish a separate account in  
 24 the new school facilities fund designated as the litigation account to pay  
 25 attorney fees, expert witness fees and other costs associated with litigation  
 26 in which the school facilities board pursues the recovery of damages for  
 27 deficiencies correction that resulted from alleged construction defects or  
 28 design defects that the school facilities board believes caused or  
 29 contributed to a failure of the school building to conform to the building  
 30 adequacy requirements prescribed in section 15-2011. Attorney fees paid  
 31 pursuant to this subsection shall not exceed the market rate for similar  
 32 types of litigation. ~~The joint committee on capital review shall conduct an~~  
 33 ~~annual review of the litigation account, including the costs associated with~~  
 34 ~~current and potential litigation.~~ ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE  
 35 SCHOOL FACILITIES BOARD SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW  
 36 THE COSTS ASSOCIATED WITH CURRENT AND POTENTIAL LITIGATION THAT MAY BE PAID  
 37 FROM THE LITIGATION ACCOUNT.

38 M. Until the state board of education and the auditor general adopt  
 39 rules pursuant to section 15-213, subsection I, the school facilities board  
 40 may allow school districts to contract for construction services and  
 41 materials through the qualified select bidders list method of project  
 42 delivery for new school facilities pursuant to this section.

43 N. The school facilities board shall submit electronically a report on  
 44 project management services and preconstruction services to the governor, the  
 45 president of the senate and the speaker of the house of representatives by

1 December 31 of each year. The report shall compare projects that use project  
2 management and preconstruction services with those that do not. The report  
3 shall address cost, schedule and other measurable components of a  
4 construction project. School districts, construction manager at risk firms  
5 and project management firms that participate in a school facilities board  
6 funded project shall provide the information required by the school  
7 facilities board in relation to this report.

8 0. If a school district constructs new square footage according to  
9 section 15-342, paragraph 33, the school facilities board shall review the  
10 design plans and location of any new school facility submitted by school  
11 districts and another party to determine whether the design plans comply with  
12 the adequacy standards prescribed in section 15-2011 and the square footage  
13 per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b)  
14 of this section. When the school district qualifies for a distribution of  
15 monies from the new school facilities fund according to this section, the  
16 school facilities board shall distribute monies to the school district from  
17 the new school facilities fund for the square footage constructed under  
18 section 15-342, paragraph 33 at the same cost per square foot established by  
19 this section that was in effect at the time of the beginning of the  
20 construction of the school facility. Before the school facilities board  
21 distributes any monies pursuant to this subsection, the school district shall  
22 demonstrate to the school facilities board that the facilities to be funded  
23 pursuant to this section meet the minimum adequacy standards prescribed in  
24 section 15-2011. The agreement entered into pursuant to section 15-342,  
25 paragraph 33 shall set forth the procedures for the allocation of these funds  
26 to the parties that participated in the agreement.

27 Sec. 14. Section 21-222, Arizona Revised Statutes, is amended to read:  
28 21-222. Arizona lengthy trial fund

29 A. The Arizona lengthy trial fund is established consisting of monies  
30 received from the additional fees paid on all filings, appearances, responses  
31 and answers pursuant to section 12-115. The monies in the fund shall not be  
32 used for any purpose other than as prescribed in this section.

33 B. The supreme court shall administer the fund and shall adopt rules  
34 for the administration of the fund. Not more than three per cent of the  
35 monies in the fund shall be used for the reasonable and necessary costs of  
36 administering the fund. On or before the fifteenth day of each month, on  
37 receipt of a request for reimbursement the supreme court shall transmit  
38 monies from the fund to a jury commissioner for monies paid to a juror under  
39 this section, together with a fee of not less than the amount prescribed in  
40 section 12-284, subsection A, class E for each application for payment of  
41 replacement or supplemental earnings by a juror.

42 C. Subject to the availability of monies, monies in the fund shall be  
43 used to pay full or partial earnings replacement or supplementation to jurors  
44 who serve as petit jurors for more than five days and who receive less than  
45 full compensation. The amount of replacement or supplemental earnings shall

1 be at least forty dollars but not more than three hundred dollars per day per  
2 juror beginning on the fourth day of jury service.

3 D. A juror whose jury service lasts more than five days may submit a  
4 request for payment from the fund. The amount a juror receives from the fund  
5 is limited to the difference between the jury fee prescribed in section  
6 21-221 and the actual amount of earnings a juror earns, not less than forty  
7 dollars, up to the maximum level payable under subsection C of this section,  
8 minus any amount the juror actually received from the juror's employer during  
9 the same time period. A juror who requests payment from the fund:

10 1. Shall disclose on the form the juror's regular earnings, the amount  
11 the juror's employer will pay during the term of jury service starting on the  
12 fourth day and thereafter, the amount of replacement or supplemental earnings  
13 being requested and any other information that the jury commissioner deems  
14 necessary.

15 2. Before receiving payment from the fund, shall submit verification  
16 from the juror's employer, if any, regarding the earnings information that is  
17 provided under paragraph 1. This verification may include the employee's  
18 most recent earnings statement or a similar document.

19 3. In order to verify the weekly income if the juror is self-employed  
20 or receives compensation other than wages, shall provide a sworn affidavit  
21 attesting to the juror's approximate gross weekly income, together with any  
22 other information that the supreme court requires.

23 E. Jurors who are unemployed and are not eligible for payment pursuant  
24 to subsections C and D of this section are eligible to be paid forty dollars  
25 per day, even if they receive income in the form of spousal maintenance,  
26 pensions, retirement, unemployment compensation, disability benefits or other  
27 similar income. Commissioners shall not deduct these other forms of income  
28 in calculating the amount these jurors are to be paid from the fund.

29 ~~F. The supreme court shall annually report to the joint legislative  
30 budget committee on the amount of monies collected and disbursed from the  
31 fund and the number of jurors who received monies from the fund. Beginning  
32 July 1, 2011, the report shall be submitted electronically.~~

33 Sec. 15. Section 23-773, Arizona Revised Statutes, is amended to read:

34 23-773. Examination and determination of claims

35 A. A representative designated by the department as a deputy shall  
36 promptly examine any claim for benefits and, on the basis of the facts found  
37 by the deputy, shall determine whether or not the claim is valid. If the  
38 claim is valid, the deputy shall also determine the week with respect to  
39 which the benefit year shall commence, the weekly benefit amount payable and  
40 the maximum duration of the benefit.

41 B. The deputy shall promptly notify the claimant and any other  
42 interested parties of the determination and the reasons for the  
43 determination. Except as provided in subsection D of this section, unless  
44 the claimant or an interested party, within seven calendar days after the  
45 delivery of notification, or within fifteen calendar days after notification

1 was mailed to the claimant's or interested party's last known address, files  
2 an appeal from the determination, it shall become final, and benefits shall  
3 be paid or denied in accordance with the determination. The department shall  
4 adopt rules to allow an appeal to be filed in writing, electronically or by  
5 telephone. If an appeal tribunal affirms a determination of the deputy  
6 allowing benefits, or the appeals board affirms a determination or decision  
7 allowing benefits, the benefits shall be paid regardless of any appeal that  
8 may thereafter be taken, but if that decision is finally reversed, no  
9 employer's account shall be charged with benefits so paid.

10 C. On receipt of a request from an interested party for information  
11 about a deputy's determination made pursuant to this section or section  
12 23-673, the department shall make available by memorandum or other written  
13 document within five days after receipt of the request the following  
14 information:

15 1. The facts considered and the facts relied on in making the  
16 determination.

17 2. The specific statutes, regulations or other authority relied on in  
18 making the determination.

19 3. The reasoning applied in making the determination.

20 D. Before the time for appeal as prescribed in subsection B of this  
21 section has expired, an interested party may request a reconsidered  
22 determination. The department shall examine the request and, within seven  
23 calendar days, deny the request or issue a reconsidered determination. ~~If  
24 the department denies the request based on an alleged failure of the  
25 interested party to make a timely response but the interested party  
26 subsequently proves that the response was timely filed and received by the  
27 department, the department shall report that result to the joint legislative  
28 budget committee.~~ The interested party may prove that a response was timely  
29 filed by using evidence of fax records that documents the date and time when  
30 a faxed response was transmitted and received by the department. A request  
31 for reconsideration that is denied shall be treated as an appeal, and the  
32 same procedure shall be followed as provided for in case of appeal from the  
33 original determination. If a reconsidered determination is issued, the time  
34 for appeal shall run from the date of issuance of the reconsidered  
35 determination. The employer and the claimant shall each be permitted no more  
36 than one request for reconsideration on each case.

37 E. Before the actual filing of an appeal under subsection B of this  
38 section, but not later than the time permitted to appeal, the department on  
39 its own motion may issue a reconsidered determination. After the time for  
40 appeal has expired, but within one year after the issuance of the original  
41 determination, the department with authorization of the unemployment  
42 insurance program administrator may issue a reconsidered determination, on  
43 the basis of newly discovered evidence that by due diligence could not have  
44 been previously discovered, if no administrative or judicial review has  
45 occurred or is pending on the original determination. If a redetermination

1 is based on fraud, the one year limitation on the issuance of  
2 redeterminations does not apply.

3 F. Prompt notice in writing of any reconsidered determination under  
4 subsection E of this section and the reasons for reconsideration shall be  
5 given to all interested parties. An interested party may appeal within the  
6 time prescribed under subsection B of this section, and the same procedure  
7 shall be followed as provided for in case of an appeal from the original  
8 determination.

9 Sec. 16. Section 27-935, Arizona Revised Statutes, is amended to read:

10 27-935. Plan review and evaluation by private consultants

11 A. Subject to section 38-503 and other applicable statutes and rules,  
12 the state mine inspector may contract with a private consultant for the  
13 purpose of assisting the inspector in reviewing reclamation plans that are  
14 submitted under this chapter to determine whether the plans meet the criteria  
15 and requirements of this chapter and the rules adopted by the inspector.

16 B. The inspector shall pay the consultant for the services rendered  
17 from the inspector's appropriation under section 27-934. ~~The inspector shall~~  
18 ~~report to the staff director of the joint legislative budget committee:~~

19 ~~1. Expenditures of money for purposes of this section.~~

20 ~~2. The name and address of each consultant.~~

21 ~~3. The plan submittals that cause the expenditure of the monies.~~

22 Sec. 17. Section 27-1234, Arizona Revised Statutes, is amended to  
23 read:

24 27-1234. Plan review and evaluation by private consultants

25 A. Subject to section 38-503 and other applicable statutes and rules,  
26 the state mine inspector may contract with a private consultant for the  
27 purpose of assisting the inspector in reviewing reclamation plans that are  
28 submitted under this chapter to determine whether the plans meet the criteria  
29 and requirements of this chapter and the rules adopted by the inspector.

30 B. The inspector shall pay the consultant for the services rendered  
31 from the inspector's appropriation under section 27-1233. ~~The inspector~~  
32 ~~shall report to the staff director of the joint legislative budget committee:~~

33 ~~1. Expenditures of money for purposes of this section.~~

34 ~~2. The name and address of each consultant.~~

35 ~~3. The plan submittals that cause the expenditure of the monies.~~

36 Sec. 18. Section 28-2404, Arizona Revised Statutes, is amended to  
37 read:

38 28-2404. Special organization license plates

39 A. Special organization license plates authorized before ~~the effective~~  
40 ~~date of this section~~ **SEPTEMBER 30, 2009** remain valid license plates issued by  
41 this state unless the legislature enacts legislation specifically terminating  
42 those license plates.

43 B. The department shall issue special organization license plates  
44 authorized before ~~the effective date of this section~~ **SEPTEMBER 30, 2009** to

1 initial applicants or applicants requesting a duplicate, replacement or new  
2 license plate.

3 C. The director shall allow a request for a special organization  
4 license plate authorized before ~~the effective date of this section~~ **SEPTEMBER**  
5 **30, 2009** to be combined with a request for personalized special plates if the  
6 organization makes the request and pays the department the monies necessary  
7 as determined by the department to cover the department's costs to implement  
8 the combination. The request shall be in a form prescribed by the director  
9 and is subject to the fees for the personalized special plates in addition to  
10 the fees required for the organization special license plate. ~~After~~  
11 ~~receiving a request from an organization to allow for a combination of the~~  
12 ~~special organization license plate with personalized special plates, the~~  
13 ~~department shall provide to the joint legislative budget committee a detailed~~  
14 ~~written statement of the implementation costs of the combination.~~

15 D. An organization that receives authorization for a special  
16 organization license plate before ~~the effective date of this section~~  
17 **SEPTEMBER 30, 2009** may redesign the special organization license plate if the  
18 new design is approved by the department and the organization pays thirty-two  
19 thousand dollars to the department to issue the redesigned special  
20 organization license plate.

21 E. Of the twenty-five dollar fee required by section 28-2402 for the  
22 original special plates and for renewal of special plates, eight dollars is a  
23 special plate administration fee and seventeen dollars is an annual donation.

24 F. The department shall deposit, pursuant to sections 35-146 and  
25 35-147, all special plate administration fees in the state highway fund  
26 established by section 28-6991 and shall distribute all donations collected  
27 pursuant to this section as authorized in a written resolution of the entity  
28 that provides the thirty-two thousand dollars to the department pursuant to  
29 subsection D of this section. The entity must use the donations for the same  
30 purpose as originally approved.

31 G. The department shall issue special organization license plates  
32 authorized before ~~the effective date of this section~~ **SEPTEMBER 30, 2009** to  
33 applicants who are otherwise qualified by law for the license plates and who  
34 are not members of the organization if the department receives a written  
35 resolution from the organization requesting issuance to nonmembers.

36 Sec. 19. Section 28-7009, Arizona Revised Statutes, is amended to  
37 read:

38 **28-7009.** Statewide transportation acceleration needs account;  
39 establishment; definition

40 A. The statewide transportation acceleration needs account is  
41 established as a separate account in the state highway fund. The account  
42 consists of all of the following, except that the source of monies in the  
43 fund shall not be a consent agreement or any type of negotiated settlement by  
44 any state or local agency or any donation made in place of a consent  
45 agreement or any type of settlement:

- 1           1. Monies appropriated by the legislature.
- 2           2. Monies designated for deposit in the account by the transportation
- 3 board, a state agency or a political subdivision.
- 4           3. Monies received from the United States government for the purpose
- 5 of accelerating transportation projects.
- 6           4. Monies received from political subdivisions, Indian tribes or this
- 7 state or its agencies for the purpose of accelerating transportation
- 8 projects.
- 9           5. Interest and other income received from investing monies in the
- 10 account.
- 11           6. Gifts, grants, donations or other amounts received from any public
- 12 or private source for deposit in the account for the purpose of accelerating
- 13 transportation projects.
- 14           B. On notice from the transportation board, the state treasurer shall
- 15 invest and divest monies in the statewide transportation acceleration needs
- 16 account as provided by section 35-313, and monies earned from investment
- 17 shall be credited to the account.
- 18           C. The transportation board may establish any subaccount in the
- 19 statewide transportation acceleration needs account that the board determines
- 20 is necessary or appropriate to carry out the purposes of this section.
- 21           D. If a governmental entity or a private person deposits monies in the
- 22 statewide transportation acceleration needs account for acceleration of a
- 23 specific project and the appropriate regional planning agency or council of
- 24 governments in cooperation with the transportation board approves the
- 25 project, the board shall designate the monies deposited by the governmental
- 26 entity or private person solely for the project for which the monies are
- 27 deposited.
- 28           E. Notwithstanding section 28-6993, and any other agreements entered
- 29 into by the department of transportation for the distribution and expenditure
- 30 of monies from the state highway fund, the transportation board shall not
- 31 approve any expenditures from the statewide transportation acceleration needs
- 32 account unless the expenditure is made in accordance with this section and is
- 33 for the construction or reconstruction of freeways, state highways, bridges
- 34 and interchanges that are contained in the regional transportation plan of a
- 35 county or the department's long-range statewide transportation plan pursuant
- 36 to section 28-506. For the purposes of this subsection, a regional
- 37 transportation plan is a twenty year comprehensive, performance based,
- 38 multimodal and coordinated regional transportation plan that is approved for
- 39 the county as provided by law and as amended or otherwise modified.
- 40           F. Monies in the statewide transportation acceleration needs account
- 41 shall be used only to pay for the following costs of a transportation project
- 42 approved pursuant to this section:
- 43           1. Except as provided in sections 28-7010 and 28-7011:
- 44           (a) Materials and labor.
- 45           (b) Acquisition of rights-of-way for highway needs.

1 (c) Design and other engineering services that are within the scope of  
2 engineering practice as provided in title 32, chapter 1.

3 (d) Other directly related costs approved by the transportation board.

4 2. Beginning in fiscal year 2006-2007, interest costs resulting from  
5 bonds, loans, notes or other obligations issued or incurred or advances made  
6 by or on behalf of a city, town or county.

7 G. Monies in the statewide transportation acceleration needs account  
8 that are appropriated by the legislature and any interest earnings shall be  
9 allocated as follows:

10 1. For a county with a population of at least one million two hundred  
11 thousand persons for the area included in the regional planning agency's  
12 transportation improvement plan, sixty per cent.

13 2. For a county with a population of more than five hundred thousand  
14 persons but less than one million two hundred thousand persons for the area  
15 included in the regional planning agency's transportation improvement plan,  
16 sixteen per cent.

17 3. For all other counties, twenty-four per cent.

18 H. The regional planning agency in a county designated as a  
19 transportation management area shall establish a process for the review and  
20 approval of transportation projects eligible to receive monies from the  
21 statewide transportation acceleration needs account. As part of its request  
22 to the transportation board for monies, the regional planning agency shall  
23 ensure and submit evidence satisfactory to the board that any project costs  
24 not eligible for monies from the statewide transportation acceleration needs  
25 account are available and dedicated to the project. In all other counties,  
26 the department, in cooperation with the metropolitan planning organization or  
27 the council of governments that has the authority to approve transportation  
28 projects for the county, shall develop requests for expenditure of monies  
29 from the statewide transportation acceleration needs account. As part of the  
30 request to the transportation board for monies, the metropolitan planning  
31 organization or the council of governments for the department shall submit  
32 evidence satisfactory to the board that any project costs not eligible for  
33 monies from the statewide transportation acceleration needs account are  
34 available and dedicated to the project.

35 I. On receipt of a request for monies from the statewide  
36 transportation acceleration needs account, the transportation board shall  
37 place the request on the agenda for the next regular business meeting of the  
38 board. The board shall review the request and, in cooperation with the  
39 regional planning agency, the metropolitan planning organization or the  
40 council of governments, approve the request or further modify the request  
41 before approval.

42 J. The transportation board shall not approve the release of any  
43 monies from the statewide transportation acceleration needs account for a  
44 transportation project unless the board verifies that all costs related to  
45 construction of the project are covered.

1 K. A city, town or county may use monies that are in the statewide  
2 transportation acceleration needs account or any subaccount of the statewide  
3 transportation acceleration needs account, including monies that were  
4 previously approved by the board for a project and that were not specifically  
5 designated for interest costs for that project, for interest costs only if  
6 all of the following occur:

7 1. The regional planning agency in a county designated as a  
8 transportation management area recommends that the monies be spent for  
9 interest costs.

10 2. The board approves the regional planning agency's recommendation  
11 described in paragraph 1 of this subsection.

12 3. The city, town or county complies with this section.

13 L. Monies in the statewide transportation acceleration needs account  
14 shall be used to supplement, not supplant, funding that would otherwise be  
15 made available for projects.

16 ~~M. On or before July 1 of each year, the transportation board shall~~  
17 ~~submit a report of its activities pursuant to this section to the governor,~~  
18 ~~the president of the senate and the speaker of the house of representatives~~  
19 ~~and shall provide a copy of this report to the secretary of state, the~~  
20 ~~director of the joint legislative budget committee and the director of the~~  
21 ~~Arizona state library, archives and public records.~~

22 ~~N.~~ M. A regional planning agency that receives monies from the  
23 statewide transportation acceleration needs account shall report on or before  
24 December 15 of each year to the senate and house of representatives  
25 transportation committees on approved projects and amounts expended for those  
26 projects.

27 ~~O.~~ N. For the purposes of this section, "project" means the  
28 construction or reconstruction of a specific portion of a freeway or state  
29 highway or a bridge or interchange or a portion of a bridge or interchange  
30 that is constructed at a single location.

31 Sec. 20. Section 31-239, Arizona Revised Statutes, is amended to read:

32 31-239. Utility fees

33 A. The director shall establish by rule a reasonable utility fee for  
34 electrical utilities that are consumed by prisoners who are confined in a  
35 correctional facility. The fee shall not exceed two dollars per month. The  
36 director shall charge each prisoner who possesses at least one major  
37 electrical appliance a utility fee. The director shall deduct the utility  
38 fee monthly from the prisoner's spendable account.

39 B. The director shall use the monies collected pursuant to this  
40 section to offset the cost of the department's utility expenses. ~~The~~  
41 ~~director shall report by September 1 of each year to the director of the~~  
42 ~~joint legislative budget committee and the director of the governor's office~~  
43 ~~of strategic planning and budgeting on the monies that are collected and~~  
44 ~~spent pursuant to this section.~~

1 C. The director shall exempt the following prisoners from payment of  
2 the utility fee:

- 3 1. Prisoners at reception centers.  
4 2. Prisoners in the behavioral treatment unit at the special  
5 management unit.  
6 3. Developmentally disabled prisoners who are housed in a special  
7 programs unit.  
8 4. Prisoners who are housed in unit 8 at the Florence prison facility.  
9 5. Prisoners who are inpatients at the Alhambra prison facility  
10 special programs psychiatric hospital.  
11 6. Prisoners who are inpatients at the Flamenco prison facility mental  
12 health treatment unit.

13 D. The director shall deduct monies credited to an indigent inmate's  
14 spendable account for the payment of the utility fee.

15 Sec. 21. Section 31-285, Arizona Revised Statutes, is amended to read:  
16 31-285. Transition program release; report

17 A. An inmate who enters a transition program pursuant to this article  
18 shall be released from confinement three months earlier than the inmate's  
19 earliest release date based on the inmate's risk and need and rules adopted  
20 pursuant to section 31-281. An inmate who the director determines has  
21 participated in the program but who is not low risk shall not be released  
22 from confinement earlier than the inmate's earliest release date.

23 B. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, the department shall  
24 prepare a ~~quarterly~~ report that details the cost reductions to the department  
25 that are directed to the transition program pursuant to this article and the  
26 number of participants who did not receive an early release under the  
27 transition program. The reduction rate shall equal at least seventeen  
28 dollars per inmate per day. The department shall submit a copy of its report  
29 to the governor, the president of the senate and the speaker of the house of  
30 representatives and shall provide a copy of this report to the director of  
31 the joint legislative budget committee, ~~AND the secretary of state and the~~  
32 ~~director of the Arizona state library, archives and public records.~~

33 C. The state treasurer shall deposit any cost reductions that are  
34 identified pursuant to subsection B of this section in the transition  
35 services fund established by section 31-286 for the purpose of providing  
36 transitional services.

37 Sec. 22. Section 31-467, Arizona Revised Statutes, is amended to read:  
38 31-467. Adoption of interstate compact for the supervision of  
39 adult offenders

40 The governor is authorized and directed to enter into a compact on  
41 behalf of the state of Arizona with any of the United States lawfully joined  
42 in the compact in a form substantially as follows:

ARTICLE I

PURPOSE

1  
2  
3 A. Arizona and the compacting states to this interstate compact  
4 recognize that each state is responsible for the supervision of adult  
5 offenders in the community who are authorized pursuant to the bylaws and  
6 rules of this compact to travel across state lines both to and from each  
7 compacting state in such a manner as to track the location of offenders,  
8 transfer supervision authority in an orderly and efficient manner and when  
9 necessary return offenders to the originating jurisdictions. The compacting  
10 states also recognize that Congress, by enacting the crime control act, 4  
11 United States Code section 112 (1965), has authorized and encouraged compacts  
12 for cooperative efforts and mutual assistance in the prevention of crime.

13 B. It is the purpose of this compact and the interstate commission  
14 created under this compact, through means of joint and cooperative action  
15 among the compacting states, to do all of the following:

16 1. Provide the framework for the promotion of public safety and  
17 protect the rights of victims through the control and regulation of the  
18 interstate movement of offenders in the community.

19 2. Provide for the effective tracking, supervision and rehabilitation  
20 of these offenders by the sending and receiving states.

21 3. Equitably distribute the costs, benefits and obligations of the  
22 compact among the compacting states.

23 C. In addition, this compact will do all of the following:

24 1. Create an interstate commission that will establish uniform  
25 procedures to manage the movement between states of adults placed under  
26 community supervision and released to the community under the jurisdiction of  
27 courts, paroling authorities, corrections or other criminal justice agencies  
28 that will promulgate rules to achieve the purpose of this compact.

29 2. Ensure an opportunity for input and timely notice to victims and to  
30 jurisdictions where defined offenders are authorized to travel or to relocate  
31 across state lines.

32 3. Establish a system of uniform data collection, access to  
33 information on active cases by authorized criminal justice officials and  
34 regular reporting of compact activities to heads of state councils, state  
35 executive, judicial and legislative branches and criminal justice  
36 administrators.

37 4. Monitor compliance with rules governing interstate movement of  
38 offenders and initiate interventions to address and correct noncompliance.

39 5. Coordinate training and education regarding regulations of  
40 interstate movement of offenders for officials involved in such activity.

41 D. The compacting states recognize that there is no right of any  
42 offender to live in another state and that duly accredited officers of a  
43 sending state may at all times enter a receiving state and apprehend and  
44 retake any offender under supervision subject to the provisions of this  
45 compact and bylaws and rules promulgated under this compact.

1 E. Compacting states recognize no offender may live in another state  
2 when acceptance criteria that has been established or adopted by the  
3 compacting state has not been met. It is the policy of the compacting states  
4 that the activities conducted by the interstate commission created in this  
5 compact are the formation of public policies and are therefore public  
6 business.

7 ARTICLE II  
8 DEFINITIONS

9 As used in this compact, unless the context otherwise requires:

10 1. "Adult" means both individuals legally classified as adults and  
11 juveniles treated as adults by court order, statute or operation of law.

12 2. "Bylaws" means those bylaws established by the interstate  
13 commission for its governance, or for directing or controlling the interstate  
14 commission's actions or conduct.

15 3. "Commissioner" means the voting representative of each compacting  
16 state appointed pursuant to article IV of this compact.

17 4. "Compact administrator" means the director of the Arizona  
18 department of corrections, who is responsible for the administration and  
19 management of Arizona's supervision and transfer of offenders subject to the  
20 terms of this compact, the rules adopted by the interstate commission and  
21 policies adopted by the state council under this compact.

22 5. "Compacting state" means any state that has enacted the enabling  
23 legislation for this compact.

24 6. "Interstate commission" means the interstate commission for adult  
25 offender supervision established by this compact.

26 7. "Member" means the commissioner of a compacting state or the  
27 commissioner's designee, who shall be a person officially connected with the  
28 commissioner.

29 8. "Noncompacting state" means any state that has not enacted the  
30 enabling legislation for this compact.

31 9. "Offender" means an adult placed under, or subject to, supervision  
32 as the result of the commission of a criminal offense and released to the  
33 community under the jurisdiction of courts, paroling authorities, corrections  
34 or other criminal justice agencies.

35 10. "Person" means any individual, corporation, business enterprise, or  
36 other legal entity, either public or private.

37 11. "Rules" means acts of the interstate commission, duly promulgated  
38 pursuant to article VIII of this compact, substantially affecting interested  
39 parties in addition to the interstate commission, which shall have the force  
40 and effect of law in the compacting states.

41 12. "State" means a state of the United States, the District of  
42 Columbia and any other territorial possessions of the United States.

43 13. "State council" means the resident members of the state council for  
44 interstate adult offender supervision created by each state under article IV  
45 of this compact.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39

ARTICLE III  
THE COMPACT COMMISSION

A. This compact creates the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth in the compact, including the power to sue and be sued, and additional powers conferred on it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations. The noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the interstate commission shall be ex officio, nonvoting members. The interstate commission may provide in its bylaws for any additional, ex officio, nonvoting members it deems necessary.

B. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, on the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

C. The interstate commission shall establish an executive committee that includes commission officers, members and others that are determined by the bylaws. The executive committee may act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rule making or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and as directed by the interstate commission and performs other duties as directed by the commission or set forth in the bylaws.

40  
41  
42  
43

ARTICLE IV  
THE STATE COUNCIL

A. Arizona shall create a state council for interstate adult offender supervision that is responsible for the appointment of the commissioner who shall serve on the interstate commission from Arizona. The commissioner shall be the compact administrator or designee.





1           B. The interstate commission shall, by a majority vote of the members,  
2 elect from among its members a chairperson and a vice-chairperson, each of  
3 whom shall have the powers and duties specified in the bylaws. The  
4 chairperson or, in the chairperson's absence or disability, the  
5 vice-chairperson, shall preside at all meetings of the interstate commission.  
6 The officers elected shall serve without compensation or remuneration from  
7 the interstate commission. Subject to the availability of budgeted funds,  
8 the officers shall be reimbursed for any actual and necessary costs and  
9 expenses incurred by them in the performance of their duties and  
10 responsibilities as officers of the interstate commission. The interstate  
11 commission, through its executive committee, shall appoint or retain an  
12 executive director for such period, on terms and conditions and for  
13 compensation the interstate commission deems appropriate. The executive  
14 director shall serve as secretary to the interstate commission, and hire and  
15 supervise other staff authorized by the interstate commission, but shall not  
16 be a member.

17           C. The interstate commission shall maintain its corporate books and  
18 records in accordance with the bylaws.

19           D. The members, officers, executive director and employees of the  
20 interstate commission shall be immune from suit and liability, either  
21 personally or in their official capacity, for any claim for damage to or loss  
22 of property or personal injury or other civil liability caused by or arising  
23 out of any actual or alleged act, error or omission that occurred within the  
24 scope of interstate commission employment, duties or responsibilities. This  
25 subsection shall not be construed to protect any person from suit or  
26 liability for any damage, loss, injury or liability caused by the intentional  
27 or willful and wanton misconduct of any person. The interstate commission  
28 shall defend the commissioner of a compacting state, or his or her  
29 representatives or employees, or the interstate commission's representatives  
30 or employees, in any civil action seeking to impose liability, arising out of  
31 any actual or alleged act, error or omission that occurred within the scope  
32 of interstate commission employment, duties or responsibilities, or that the  
33 defendant had a reasonable basis for believing occurred within the scope of  
34 interstate commission employment, duties or responsibilities, if the actual  
35 or alleged act, error or omission did not result from intentional wrongdoing  
36 on the part of the person. The interstate commission shall indemnify and  
37 hold the commissioner of a compacting state, the appointed designee or  
38 employees, or the interstate commission's representatives or employees,  
39 harmless in the amount of any settlement or judgment obtained against such  
40 persons arising out of any actual or alleged act, error or omission that  
41 occurred within the scope of interstate commission employment, duties or  
42 responsibilities, or that such persons had a reasonable basis for believing  
43 occurred within the scope of interstate commission employment, duties or  
44 responsibilities, provided that the actual or alleged act, error or omission

1 did not result from gross negligence or intentional wrongdoing on the part of  
2 the person.

3 ARTICLE VII

4 ACTIVITIES OF THE INTERSTATE COMMISSION

5 A. The interstate commission shall meet and take actions consistent  
6 with the provisions of this compact.

7 B. Except as otherwise provided in this compact and unless a greater  
8 percentage is required by the bylaws, in order to constitute an act of the  
9 interstate commission, the act must be taken at a meeting of the interstate  
10 commission and must receive an affirmative vote of a majority of the members  
11 present.

12 C. Each member of the interstate commission has the right and power to  
13 cast a vote to which that compacting state is entitled and to participate in  
14 the business and affairs of the interstate commission. A member shall vote  
15 in person on behalf of the state and shall not delegate a vote to another  
16 member state. However, a state council shall appoint another authorized  
17 representative, in the absence of the commissioner from that state, to cast a  
18 vote on behalf of the member state at a specified meeting. The bylaws may  
19 provide for members' participation in meetings by telephone or other means of  
20 telecommunication or electronic communication. Any voting conducted by  
21 telephone, or other means of telecommunication or electronic communication,  
22 is subject to the same quorum requirements of meetings at which members are  
23 present in person.

24 D. The interstate commission shall meet at least once during each  
25 calendar year. The chairperson of the interstate commission may call  
26 additional meetings at any time and, on the request of a majority of the  
27 members, shall call additional meetings.

28 E. The interstate commission's bylaws shall establish conditions and  
29 procedures under which the interstate commission shall make its information  
30 and official records available to the public for inspection or copying. The  
31 interstate commission may exempt from disclosure any information or official  
32 records to the extent they would adversely affect personal privacy rights or  
33 proprietary interests. In promulgating the rules, the interstate commission  
34 may make available to law enforcement agencies records and information  
35 otherwise exempt from disclosure, and may enter into agreements with law  
36 enforcement agencies to receive or exchange information or records subject to  
37 nondisclosure and confidentiality provisions.

38 F. Public notice shall be given of all meetings and all meetings shall  
39 be open to the public, except as set forth in the rules or as otherwise  
40 provided in the compact. The interstate commission shall promulgate rules  
41 consistent with the principles contained in the government in the sunshine  
42 act (5 United States Code section 552b). The interstate commission and any  
43 of its committees may close a meeting to the public if it determines by  
44 two-thirds vote that an open meeting would be likely to:



1 section 1 et seq., as may be amended. All rules and amendments are binding  
2 on the date specified in each rule or amendment.

3 B. If a majority of the legislatures of the compacting states rejects  
4 a rule, by enactment of a statute or resolution in the same manner used to  
5 adopt the compact, then the rule has no further force and effect in any  
6 compacting state.

7 C. When promulgating a rule, the interstate commission shall:

8 1. Publish the proposed rule stating with particularity the text of  
9 the rule that is proposed and the reason for the proposed rule.

10 2. Allow persons to submit written data, facts, opinions and  
11 arguments, which shall be publicly available.

12 3. Provide an opportunity for an informal hearing.

13 4. Promulgate a final rule and its effective date, if appropriate,  
14 based on the rule making record.

15 D. Not later than sixty days after a rule is promulgated, any  
16 interested person may file a petition in the United States district court for  
17 the District of Columbia or in the federal district court where the  
18 interstate commission's principal office is located for judicial review of  
19 the rule. If the court finds that the interstate commission's action is not  
20 supported by substantial evidence as defined in the federal administrative  
21 procedure act, in the rule making record, the court shall hold the rule  
22 unlawful and set it aside. Subjects to be addressed within twelve months  
23 after the first meeting must at a minimum include:

24 1. Notice to victims and opportunity to be heard.

25 2. Offender registration and compliance.

26 3. Violations and returns.

27 4. Transfer procedures and forms.

28 5. Eligibility for transfer.

29 6. Collection of restitution and fees from offenders.

30 7. Data collection and reporting.

31 8. The level of supervision to be provided by the receiving state.

32 9. Transition rules governing the operation of the compact and the  
33 interstate commission during all or part of the period between the effective  
34 date of the compact and the date on which the last eligible state adopts the  
35 compact.

36 10. Mediation, arbitration and dispute resolution.

37 E. The existing rules governing the operation of the previous compact  
38 superseded by this act shall be null and void twelve months after the first  
39 meeting of the interstate commission created under this compact.

40 F. On determination by the interstate commission that an emergency  
41 exists, it may promulgate an emergency rule that is effective immediately on  
42 adoption, provided that the usual rule making procedures provided hereunder  
43 shall be retroactively applied to said rule as soon as reasonably possible,  
44 in no event later than ninety days after the effective date of the rule.

ARTICLE IX  
OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION  
BY THE INTERSTATE COMMISSION

1  
2  
3  
4 A. The interstate commission shall oversee the interstate movement of  
5 adult offenders in the compacting states and shall monitor such activities  
6 being administered in noncompacting states that significantly affect  
7 compacting states. The courts and executive agencies in each compacting  
8 state shall enforce this compact and shall take all actions necessary and  
9 appropriate to effectuate the compact's purposes and intent. In any judicial  
10 or administrative proceeding in a compacting state pertaining to the subject  
11 matter of this compact that may affect the powers, responsibilities or  
12 actions of the interstate commission, the interstate commission is entitled  
13 to receive all service of process in any such proceeding, and shall have  
14 standing to intervene in the proceeding for all purposes.

15 B. The compacting states shall report to the interstate commission on  
16 issues or activities of concern to them and cooperate with and support the  
17 interstate commission in the discharge of its duties and responsibilities.  
18 The interstate commission shall attempt to resolve any disputes or other  
19 issues that are subject to the compact and that may arise among compacting  
20 states and noncompacting states. The interstate commission shall enact  
21 bylaws or promulgate a rule providing for both mediation and binding dispute  
22 resolution for disputes among the compacting states.

23 C. The interstate commission, in the reasonable exercise of its  
24 discretion, shall enforce the provisions of this compact using any or all  
25 means set forth in article XII, subsection B of this compact.

26 ARTICLE X  
27 FINANCE

28 A. The interstate commission shall pay or provide for the payment of  
29 the reasonable expenses of its establishment, organization and ongoing  
30 activities.

31 B. The interstate commission shall levy on and collect an annual  
32 assessment from each compacting state to cover the cost of the internal  
33 operations and activities of the interstate commission and its staff that  
34 must be in a total amount sufficient to cover the interstate commission's  
35 annual budget as approved each year. The aggregate annual assessment amount  
36 shall be allocated based on a formula to be determined by the interstate  
37 commission, taking into consideration the population of the state and the  
38 volume of interstate movement of offenders in each compacting state and shall  
39 promulgate a rule binding on all compacting states that governs the  
40 assessment. Any increase in Arizona's assessment shall be approved by the  
41 state council. ~~The state council shall notify the joint legislative budget~~  
42 ~~committee of any increase in the assessment.~~

43 C. The interstate commission shall not incur any obligations of any  
44 kind before securing the funds adequate to meet the obligations and shall not

1 pledge the credit of any of the compacting states, except by and with the  
 2 authority of the compacting state.

3 D. The interstate commission shall keep accurate accounts of all  
 4 receipts and disbursements. The receipts and disbursements of the interstate  
 5 commission are subject to the audit and accounting procedures established  
 6 under its bylaws. However, all receipts and disbursements of funds handled  
 7 by the interstate commission shall be audited yearly by a certified or  
 8 licensed public accountant and the report of the audit shall be included in  
 9 and become part of the annual report of the interstate commission.

10 ARTICLE XI

11 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENTS

12 A. Any state, as defined in article II of this compact, is eligible to  
 13 become a compacting state. The compact shall become effective and binding on  
 14 legislative enactment of the compact into law by no less than thirty-five  
 15 states. The initial effective date shall be the later of July 1, 2001, or on  
 16 enactment into law by the thirty-fifth state. Thereafter it is effective and  
 17 binding, as to any other compacting state, on enactment of the compact into  
 18 law by that state. The governors of nonmember states or their designees  
 19 shall be invited to participate in interstate commission activities on a  
 20 nonvoting basis before adoption of the compact by all states and territories  
 21 of the United States.

22 B. Amendments to the compact may be proposed by the interstate  
 23 commission for enactment by the compacting states. No amendment is effective  
 24 and binding on the interstate commission and the compacting states unless and  
 25 until it is enacted into law by unanimous consent of the compacting states.

26 ARTICLE XII

27 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

28 A. Once effective, the compact shall continue in force and remain  
 29 binding on each compacting state. A compacting state may withdraw from the  
 30 compact by enacting a statute specifically repealing the statute that enacted  
 31 the compact. The effective date of withdrawal is the effective date of the  
 32 repeal. The withdrawing state shall immediately notify the chairperson of  
 33 the interstate commission in writing on the introduction of legislation  
 34 repealing this compact in the withdrawing state. The interstate commission  
 35 shall notify the other compacting states of the withdrawing state's intent to  
 36 withdraw within sixty days of its receipt thereof. The withdrawing state is  
 37 responsible for all assessments, obligations and liabilities incurred through  
 38 the effective date of withdrawal, including any obligations, the performance  
 39 of which extend beyond the effective date of withdrawal. Reinstatement  
 40 following withdrawal of any compacting state shall occur on the withdrawing  
 41 state reenacting the compact or on such later date determined by the  
 42 interstate commission.

43 B. If the interstate commission determines that any compacting state  
 44 has at any time defaulted in the performance of any of its obligations or

1 responsibilities under this compact, the bylaws or any duly promulgated rules  
2 the interstate commission may impose any or all of the following penalties:

3 1. Fines, fees and costs in amounts deemed to be reasonable as fixed  
4 by the interstate commission.

5 2. Remedial training and technical assistance as directed by the  
6 interstate commission.

7 3. Suspension and termination of membership in the compact.  
8 Suspension shall be imposed only after all other reasonable means of securing  
9 compliance under the bylaws and rules have been exhausted. Immediate notice  
10 of suspension shall be given by the interstate commission to the governor,  
11 the chief justice or chief judicial officer of the state, the majority and  
12 minority leaders of the defaulting state's legislature and the state council.  
13 The grounds for default include failure of a compacting state to perform  
14 obligations or responsibilities imposed on it by this compact, interstate  
15 commission bylaws or duly promulgated rules. The interstate commission shall  
16 immediately notify the defaulting state in writing of the penalty imposed by  
17 the interstate commission on the defaulting state pending a cure of the  
18 default. The interstate commission shall stipulate the conditions and the  
19 time period within which the defaulting state must cure its default. If the  
20 defaulting state fails to cure the default within the time period specified  
21 by the interstate commission, in addition to any other penalties imposed in  
22 this subsection, the defaulting state may be terminated from the compact on  
23 an affirmative vote of a majority of the compacting states and all rights,  
24 privileges and benefits conferred by this compact shall be terminated from  
25 the effective date of suspension. Within sixty days of the effective date of  
26 termination of a defaulting state, the interstate commission shall notify the  
27 governor, the chief justice or chief judicial officer and the majority and  
28 minority leaders of the defaulting state's legislature and the state council  
29 of the termination. The defaulting state is responsible for all assessments,  
30 obligations and liabilities incurred through the effective date of  
31 termination including any obligations, the performance of which extends  
32 beyond the effective date of termination. The interstate commission shall  
33 not bear any costs relating to the defaulting state unless otherwise mutually  
34 agreed on between the interstate commission and the defaulting state.  
35 Reinstatement following termination of any compacting state requires both a  
36 reenactment of the compact by the defaulting state and the approval of the  
37 interstate commission pursuant to the rules.

38 C. The interstate commission, by majority vote of the members, may  
39 initiate legal action in the United States district court for the District of  
40 Columbia or, at the discretion of the interstate commission, in the federal  
41 district where the interstate commission has its offices to enforce  
42 compliance with the provisions of the compact or its duly promulgated rules  
43 and bylaws, against any compacting state in default. If judicial enforcement  
44 is necessary, the prevailing party shall be awarded all costs of the  
45 litigation including reasonable attorney fees.

1 D. The compact dissolves effective on the date of the withdrawal or  
2 default of the compacting state that reduces membership in the compact to one  
3 compacting state. On the dissolution of this compact, the compact becomes  
4 null and void and shall be of no further force or effect and the business and  
5 affairs of the interstate commission shall be wound up and any surplus funds  
6 shall be distributed in accordance with the bylaws.

7 ARTICLE XIII

8 SEVERABILITY AND CONSTRUCTION

9 A. The provisions of this compact shall be severable, and if any  
10 phrase, clause, sentence or provision is deemed unenforceable, the remaining  
11 provisions of the compact shall be enforceable.

12 B. The provisions of this compact shall be liberally constructed to  
13 effectuate its purposes.

14 ARTICLE XIV

15 EFFECT OF COMPACT

16 A. This compact does not diminish the constitutional authority of the  
17 Arizona legislature.

18 B. This compact is not contrary to any law of the state of Arizona.  
19 Notwithstanding any other law of the state of Arizona, this compact shall  
20 govern the interstate supervision of adult offenders.

21 C. The interstate commission shall promulgate rules and take action  
22 consistent with this compact that are binding on the state of Arizona as to  
23 the interstate supervision of adult offenders unless and to the extent the  
24 rules or action conflict with Arizona statutes.

25 D. Nothing in this section prevents the enforcement of any other  
26 Arizona law that is not inconsistent with this compact.

27 E. All agreements between the interstate commission and the compacting  
28 states are binding in accordance with the terms of the agreement. On the  
29 request of a party to a conflict over meaning or interpretation of interstate  
30 commission actions, and on a majority vote of the compacting states, the  
31 interstate commission may issue advisory opinions regarding such meaning or  
32 interpretation.

33 F. If any provision of this compact exceeds the constitutional limits  
34 imposed on the legislature of any compacting state, the obligations, duties,  
35 powers or jurisdiction sought to be conferred by the provision on the  
36 interstate commission is ineffective and the obligations, duties, powers or  
37 jurisdiction shall remain in the compacting state and shall be exercised by  
38 the agency to which the obligations, duties, powers or jurisdiction are  
39 delegated by law in effect at the time this compact becomes effective.

40 Sec. 23. Section 35-142, Arizona Revised Statutes, is amended to read:

41 35-142. Monies kept in funds separate from state general fund;  
42 receipt and withdrawal

43 A. All monies received for and belonging to the state shall be  
44 deposited in the state treasury and credited to the state general fund except  
45 the following, which shall be placed and retained in separate funds:

1           1. The unexpendable principal of monies received from federal land  
2 grants shall be placed in separate funds and the account of each such  
3 separate fund shall bear a title indicating the source and the institution or  
4 purpose to which such fund belongs.

5           2. The interest, rentals and other expendable money received as income  
6 from federal land grants shall be placed in separate accounts, each account  
7 bearing a title indicating the source and the institution or purpose to which  
8 the fund belongs. Such expendable monies shall be expended only as  
9 authorized, regulated and controlled by the general appropriation act or  
10 other act of the legislature.

11           3. All private or quasi-private monies authorized by law to be paid to  
12 or held by the state treasurer shall be placed in separate accounts, each  
13 account bearing a title indicating the source and purpose of such fund.

14           4. All monies legally pledged to retirement of building indebtedness  
15 or bonds issued by those institutions authorized to incur such indebtedness  
16 or to issue such bonds shall be placed in separate accounts.

17           5. Monies of a multi-county water conservation district authorized by  
18 law to be paid to or held by the state treasurer shall be placed in separate  
19 accounts, each account bearing a title indicating the source and purpose of  
20 such fund.

21           6. All monies collected by the Arizona game and fish department shall  
22 be deposited in a special fund known as the state game and fish protection  
23 fund for the use of the Arizona game and fish commission in carrying out the  
24 provisions of title 17.

25           7. All federal monies that are received by the department of economic  
26 security for family assistance benefits and medical eligibility as a result  
27 of efficiencies developed by the department of economic security and that  
28 would otherwise revert to the state general fund pursuant to section 35-190  
29 shall be retained for use by the department of economic security in  
30 accordance with the terms and conditions imposed by the federal funding  
31 source in an account or accounts established or authorized by the state  
32 treasurer.

33           8. Monies designated by law as special state funds shall not be  
34 considered a part of the general fund. Unless otherwise prescribed by law,  
35 the state treasurer shall be the custodian of all such funds.

36           9. All monies received and any accounts established and maintained by  
37 the director of the Arizona state retirement system or the administrator of  
38 the public safety personnel retirement system, the corrections officer  
39 retirement plan and the elected officials' retirement plan.

40           B. No money shall be received or held by the state treasurer except as  
41 authorized by law, and in every instance the treasurer shall issue a receipt  
42 for money received and shall record the transaction in the statewide  
43 accounting system. No money shall be withdrawn from the treasury except on  
44 the warrant or electronic funds transfer voucher of the department of  
45 administration.

1 C. All federal monies granted and paid to the state by the federal  
2 government shall be accounted for in the accounts or funds of the state in  
3 the necessary detail to meet federal and state accounting, budgetary and  
4 auditing requirements, and all appropriations for matching such federal  
5 monies shall be transferred from the general fund to such separate funds as  
6 needed, except as otherwise required by the federal government.

7 D. Nothing in this section requires the establishment of separate  
8 accounts or funds for such federal monies unless otherwise required by  
9 federal or state law. The department of administration has the authority to  
10 use the most efficient system of accounts and records, consistent with legal  
11 requirements and standard and necessary fiscal safeguards.

12 E. Nothing in this section precludes the creation by the department of  
13 administration of a clearing account or other acceptable accounting method to  
14 effect prompt payment of claims from an approved budget or appropriation.  
15 The department of administration shall report each account or fund  
16 established or cancelled to the directors of the joint legislative budget  
17 committee and the governor's office of strategic planning and budgeting.

18 F. Nothing in this section or any other section precludes the use of  
19 monies kept in funds separate from the general fund, the interest from which  
20 accrues to the general fund, for payment of claims against the general fund,  
21 provided sufficient monies remain available for payment of claims against  
22 such funds.

23 G. The department of administration may issue warrants for qualified  
24 expenditures of federal program monies before they are deposited in the state  
25 treasury. The receipt of federal monies shall be timed to coincide, as  
26 closely as administratively feasible, with the redemption of warrants by the  
27 state treasurer. The department of administration shall limit expenditures  
28 to the amount that has been made available for the use under the grant award  
29 by the federal government. The state agency initiating the expenditures is  
30 responsible for ensuring that expenditures qualify for coverage under the  
31 guidelines of the federal grant award.

32 H. The department of administration shall establish the policies and  
33 procedures for all state agencies for drawing federal monies. When the  
34 established method results in federal monies being held by this state, the  
35 department of administration may use the interest earned on the monies to pay  
36 the federal government for any related interest liability. If an interest  
37 liability is incurred due to a state agency varying from the established  
38 policies and procedures, the department of administration shall charge the  
39 appropriate agency account or fund. ~~Interest payment charges to agencies  
40 shall be reported by the department of administration to the joint  
41 legislative budget committee on or before March 1.~~ Any federal interest  
42 liability owed to this state as a result of the delayed federal disbursements  
43 shall be used to offset this state's interest liability to the federal  
44 government. Any remaining interest earnings shall be deposited in the state  
45 general fund.

1 I. Any state agency or authorized agent of a state agency may accept  
2 credit cards pursuant to an agreement entered into by the state treasurer  
3 pursuant to section 35-315 for the payment of any amount due to that agency  
4 or agent or this state.

5 J. Except for the department of revenue for tax payments, agencies or  
6 authorized agents on behalf of state agencies that accept credit cards shall  
7 deduct any applicable discount fee and processing fee associated with the  
8 transaction amount before depositing the net amount in the appropriate state  
9 fund. No other reduction is permitted against the transaction amount. The  
10 net amount deposited in the appropriate state fund shall be considered as the  
11 full deposit required by law of monies received by the agency or the  
12 authorized agent. Payment of any applicable discount fee and processing fee  
13 shall be accounted for in the annual report submitted to the governor's  
14 office of strategic planning and budgeting in accordance with section  
15 41-1273. The transaction amount of any credit card transaction shall not be  
16 reduced by any discount fee or processing fee in an amount in excess of the  
17 merchant card settlement fees reflected in the state banking contract with  
18 the state treasurer's office.

19 K. Any state agency that contracts with an authorized agent for the  
20 electronic processing of transactions pursuant to title 41, chapter 23 may  
21 include a provision in the contract to allow the authorized agent to impose a  
22 convenience fee. If allowed, the convenience fee shall be charged to the  
23 cardholder in addition to the transaction amount, except for the following:

24 1. Except as provided in subsection R of this section, any permits,  
25 licenses or other authorizations needed to pursue a trade or occupation in  
26 this state.

27 2. Except as provided in subsection R of this section, any permits,  
28 licenses or other authorizations needed to establish, expand or operate a  
29 business in this state.

30 3. Except as provided in subsection R of this section, any permits,  
31 licenses or other authorizations needed to register a vehicle or license a  
32 driver in this state.

33 L. Each state agency or its authorized agent shall:

34 1. Deduct the amount of the convenience fee before depositing the  
35 transaction amount or the transaction amount reduced by the discount fee or  
36 the processing fee, or both, into the appropriate state fund.

37 2. Not deduct any part of the convenience fee from the transaction  
38 amount before depositing the net amount into the appropriate state fund.

39 3. Deduct the amount of the discount fee or the processing fee, or  
40 both, from the transaction amount before depositing the net amount into the  
41 appropriate state fund.

42 M. The net amount deposited in the appropriate state fund pursuant to  
43 subsection K or L of this section shall be considered as the full deposit of  
44 monies that is required by law and that is received by the agency.

1 N. Notwithstanding section 35-142.01, convenience fees received by a  
2 state agency or its authorized agent are limited to, and may be used to  
3 offset, the costs imposed by the authorized agent in processing the  
4 transactions.

5 O. When the percentage of electronic transactions first exceeds at  
6 least thirty per cent of a state agency's total transactions, the state  
7 agency shall perform a cost benefit report, including costs of convenience  
8 fees, the amount of revenue generated and any realized cost savings. ~~The  
9 state agency shall submit the cost benefit report to the joint legislative  
10 budget committee within six months after reaching the thirty per cent  
11 threshold.~~

12 P. State agencies shall report the number of transactions, the number  
13 of electronic transactions, the total dollar amount of transactions  
14 processed, the total dollar amount of any discount fee, the total dollar  
15 amount of any processing fee and the total dollar amount of any convenience  
16 fee charged, deducted or paid pursuant to subsections J and K of this section  
17 annually by October 1 to the governor, the government information technology  
18 agency and the joint legislative budget committee.

19 Q. Nothing in this section or any other provision of law authorizes  
20 any state agency, authorized agent of any state agency or budget unit to  
21 establish a bank account for any government monies. All monies received by  
22 or on behalf of this state shall be deposited with and in the custody of the  
23 state treasurer or in an account that is authorized by the state treasurer  
24 pursuant to this section. This subsection does not apply to monies received  
25 and any accounts established and maintained by the director of the Arizona  
26 state retirement system or the administrator of the public safety personnel  
27 retirement system, the corrections officer retirement plan and the elected  
28 officials' retirement plan.

29 R. If a state agency provides an alternative method of payment, the  
30 convenience fee may be charged to the cardholder in addition to the  
31 transaction amount.

32 Sec. 24. Section 35-193, Arizona Revised Statutes, is amended to read:

33 35-193. Revolving funds

34 A. The supervisory official of a budget unit may apply to the  
35 department of administration to provide a revolving fund in an amount which  
36 will allow the budget unit to pay operating expense items under procedures  
37 prescribed by the department of administration.

38 B. The application for a revolving fund shall state the purposes for  
39 which required, the amount deemed necessary, the particular person who shall  
40 have custody of and be charged with the handling and accounting of the fund  
41 and the appropriation or other fund to which the revolving fund is to be  
42 charged.

43 C. The department of administration shall review the application as to  
44 purpose and reasonableness of amount requested and if acceptable may draw a  
45 warrant to the order of the officer applying therefor, and charge the amount

1 thereof against the appropriation or other fund of that budget unit as  
2 requested. ~~The department shall not approve an amount of more than fifty~~  
3 ~~thousand dollars for a budget unit without approval of the joint legislative~~  
4 ~~budget committee.~~

5 D. The manner of accounting for a revolving fund shall be as  
6 prescribed by the director of the department of administration. A revolving  
7 fund established under this section does not revert to the state general fund  
8 at the end of the fiscal year.

9 E. At the request of the director of the department of administration,  
10 the applicant shall return to the state treasurer the full amount of the  
11 revolving fund or amount requested and no claims for services of the officer  
12 applying therefor or the head of the budget unit shall be paid until such  
13 request has been complied with.

14 Sec. 25. Section 36-2903.03, Arizona Revised Statutes, is amended to  
15 read:

16 36-2903.03. United States citizenship and qualified alien  
17 requirements for eligibility; report; definition

18 A. A person who is applying for eligibility under this chapter shall  
19 provide verification of United States citizenship or documented verification  
20 of qualified alien status. Beginning July 1, 2006, an applicant who is  
21 applying for services pursuant to this chapter shall provide satisfactory  
22 documentary evidence of citizenship or qualified alien status as required by  
23 the federal deficit reduction act of 2005 (P.L. 109-171; 120 STAT. 4; 42  
24 United States Code section 1396b) or any other applicable federal law or  
25 regulation.

26 B. A qualified alien may apply for eligibility pursuant to section  
27 36-2901, paragraph 6, subdivision (a) and, if otherwise eligible for title  
28 XIX, may receive all services pursuant to section 36-2907 if the qualified  
29 alien meets at least one of the following requirements:

- 30 1. Is designated as one of the exception groups under 8 United States  
31 Code section 1613(b).
- 32 2. Has been a qualified alien for at least five years.
- 33 3. Has been continuously present in the United States since August 21,  
34 1996.

35 C. Notwithstanding any other law, persons who were residing in the  
36 United States under color of law on or before August 21, 1996, and who were  
37 receiving services under this article based on eligibility criteria  
38 established under the supplemental security income program, may apply for  
39 state funded services and, if otherwise eligible for supplemental security  
40 income-medical assistance only coverage except for United States citizenship  
41 or qualified alien requirements, may be enrolled with the system and receive  
42 all services pursuant to section 36-2907.

43 D. A person who is a qualified alien who does not meet the  
44 requirements of subsection B of this section or who is a noncitizen who does  
45 not claim and provide verification of qualified alien status may apply for

1 title XIX eligibility under section 36-2901, paragraph 6, subdivision (a)  
2 and, if otherwise eligible for title XIX, may receive only emergency services  
3 pursuant to section 1903(v) of the social security act.

4 E. In determining the eligibility for all qualified aliens pursuant to  
5 this chapter, the income and resources of any person who executed an  
6 affidavit of support pursuant to section 213A of the immigration and  
7 nationality act on behalf of the qualified alien and the income and resources  
8 of the spouse, if any, of the sponsoring individual shall be counted at the  
9 time of application and for the redetermination of eligibility for the  
10 duration of the attribution period as specified in federal law.

11 F. A person who is a qualified alien or a noncitizen and who is not  
12 eligible for title XIX may receive only emergency services.

13 G. ~~Beginning October 1, 2007,~~ **ON OR BEFORE SEPTEMBER 30 OF EACH YEAR,**  
14 the administration shall submit a ~~quarterly~~ report to the governor, the  
15 president of the senate, the speaker of the house of representatives and the  
16 staff director of the joint legislative budget committee that includes the  
17 following information:

18 1. The number of individuals for whom the administration verified  
19 immigration status using the systematic alien verification for entitlements  
20 program administered by the United States citizenship and immigration  
21 services.

22 2. The number of documents that were discovered to be fraudulent by  
23 using the systematic alien verification for entitlements program.

24 3. A list of the types of fraudulent documents discovered.

25 4. The number of citizens of the United States who were referred by  
26 the administration for prosecution pursuant to violations of state or federal  
27 law and the number of individuals referred by the administration for  
28 prosecution who were not citizens.

29 H. The administration shall provide copies of the report to the  
30 secretary of state and the director of the Arizona state library, archives  
31 and public records.

32 I. For purposes of this section, "qualified alien" means an individual  
33 who is one of the following:

34 1. Defined as a qualified alien under 8 United States Code section  
35 1641.

36 2. Defined as a qualified alien by the attorney general of the United  
37 States under the authority of Public Law 104-208, section 501.

38 3. An Indian described in 8 United States Code section 1612(b)(2)(E).  
39 Sec. 26. Section 36-2912, Arizona Revised Statutes, is amended to  
40 read:

41 36-2912. Healthcare group coverage; program requirements for  
42 small businesses and public employers; related  
43 requirements; definitions

44 A. The administration shall administer a healthcare group program to  
45 allow willing contractors to deliver health care services to persons defined

1 as eligible pursuant to section 36-2901, paragraph 6, subdivisions (b), (c),  
2 (d) and (e). In counties with a population of less than five hundred  
3 thousand persons, the administration may contract directly with any health  
4 care provider or entity. The administration may enter into a contract with  
5 another entity to provide administrative functions for the healthcare group  
6 program.

7 B. Employers with two eligible employees or up to an average of fifty  
8 eligible employees under section 36-2901, paragraph 6, subdivision (d):

9 1. May contract with the administration to be the exclusive health  
10 benefit plan if the employer has five or fewer eligible employees and enrolls  
11 one hundred per cent of these employees into the health benefit plan.

12 2. May contract with the administration for coverage available  
13 pursuant to this section if the employer has six or more eligible employees  
14 and enrolls eighty per cent of these employees into the healthcare group  
15 program.

16 3. Shall have a minimum of two and a maximum of fifty eligible  
17 employees at the effective date of their first contract with the  
18 administration.

19 C. The administration shall not enroll an employer group in healthcare  
20 group sooner than ninety days after the date that the employer's health  
21 insurance coverage under an accountable health plan is discontinued.  
22 Enrollment in healthcare group is effective on the first day of the month  
23 after the ninety day period. This subsection does not apply to an employer  
24 group if the employer's accountable health plan discontinues offering the  
25 health plan of which the employer is a member.

26 D. Employees with proof of other existing health care coverage who  
27 elect not to participate in the healthcare group program shall not be  
28 considered when determining the percentage of enrollment requirements under  
29 subsection B of this section if either:

30 1. Group health coverage is provided through a spouse, parent or legal  
31 guardian, or insured through individual insurance or another employer.

32 2. Medical assistance is provided by a government subsidized health  
33 care program.

34 3. Medical assistance is provided pursuant to section 36-2982,  
35 subsection I.

36 E. An employer shall not offer coverage made available pursuant to  
37 this section to persons defined as eligible pursuant to section 36-2901,  
38 paragraph 6, subdivision (b), (c), (d) or (e) as a substitute for a federally  
39 designated plan.

40 F. An employee or dependent defined as eligible pursuant to section  
41 36-2901, paragraph 6, subdivision (b), (c), (d) or (e) may participate in  
42 healthcare group on a voluntary basis only.

43 G. Notwithstanding subsection B, paragraph 2 of this section, the  
44 administration shall adopt rules to allow a business that offers healthcare

1 group coverage pursuant to this section to continue coverage if it expands  
2 its employment to include more than fifty employees.

3 H. The administration shall provide eligible employees with disclosure  
4 information about the health benefit plan.

5 I. The director shall:

6 1. Require that any contractor that provides covered services to  
7 persons defined as eligible pursuant to section 36-2901, paragraph 6,  
8 subdivision (a) provide separate audited reports on the assets, liabilities  
9 and financial status of any corporate activity involving providing coverage  
10 pursuant to this section to persons defined as eligible pursuant to section  
11 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

12 2. Prohibit the administration and program contractors from  
13 reimbursing a noncontracting hospital for services provided to a member at a  
14 noncontracting hospital except for services for an emergency medical  
15 condition.

16 3. Require that a contractor, the administration or an accountable  
17 health plan negotiate reimbursement rates. The reimbursement rate for an  
18 emergency medical condition for a noncontracting hospital is:

19 (a) In counties with a population of more than five hundred thousand  
20 persons, one hundred fourteen per cent of the reimbursement rates established  
21 pursuant to section 36-2903.01, subsection H. The hospital shall notify the  
22 contractor when a member is stabilized.

23 (b) In counties with a population of less than five hundred thousand  
24 persons, one hundred twenty-five per cent of the reimbursement rates  
25 established pursuant to section 36-2903.01, subsection H. The hospital shall  
26 notify the contractor when a member is stabilized.

27 4. Use monies from the healthcare group fund established by section  
28 36-2912.01 for the administration's costs of operating the healthcare group  
29 program.

30 5. Ensure that the contractors are required to meet contract terms as  
31 are necessary in the judgment of the director to ensure adequate performance  
32 by the contractor. Contract provisions shall include, at a minimum, the  
33 maintenance of deposits, performance bonds, financial reserves or other  
34 financial security. The director may waive requirements for the posting of  
35 bonds or security for contractors that have posted other security, equal to  
36 or greater than that required for the healthcare group program, with the  
37 administration or the department of insurance for the performance of health  
38 service contracts if funds would be available to the administration from the  
39 other security on the contractor's default. In waiving, or approving waivers  
40 of, any requirements established pursuant to this section, the director shall  
41 ensure that the administration has taken into account all the obligations to  
42 which a contractor's security is associated. The director may also adopt  
43 rules that provide for the withholding or forfeiture of payments to be made  
44 to a contractor for the failure of the contractor to comply with provisions  
45 of its contract or with provisions of adopted rules.

1           6. Adopt rules.

2           7. Provide reinsurance to the contractors for clean claims based on  
3 thresholds established by the administration. For the purposes of this  
4 paragraph, "clean claims" has the same meaning prescribed in section 36-2904.

5           J. With respect to services provided by contractors to persons defined  
6 as eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c),  
7 (d) or (e), a contractor is the payor of last resort and has the same lien or  
8 subrogation rights as those held by health care services organizations  
9 licensed pursuant to title 20, chapter 4, article 9.

10          K. The administration shall offer a health benefit plan on a  
11 guaranteed issuance basis to small employers as required by this section.  
12 All small employers qualify for this guaranteed offer of coverage. The  
13 administration shall offer to all small employers the available health  
14 benefit plan and shall accept any small employer that applies and meets the  
15 eligibility requirements. In addition to the requirements prescribed in this  
16 section, for any offering of any health benefit plan to a small employer, as  
17 part of the administration's solicitation and sales materials, the  
18 administration shall make a reasonable disclosure to the employer of the  
19 availability of the information described in this subsection and, on request  
20 of the employer, shall provide that information to the employer. The  
21 administration shall provide information concerning the following:

22           1. Provisions of coverage relating to the following, if applicable:  
23           (a) The administration's right to establish premiums and to change  
24 premium rates and the factors that may affect changes in premium rates.

25           (b) Renewability of coverage.

26           (c) Any preexisting condition exclusion.

27           (d) The geographic areas served by the contractor.

28           2. The benefits and premiums available under all health benefit plans  
29 for which the employer is qualified.

30          L. The administration shall describe the information required by  
31 subsection K of this section in language that is understandable by the  
32 average small employer and with a level of detail that is sufficient to  
33 reasonably inform a small employer of the employer's rights and obligations  
34 under the health benefit plan. This requirement is satisfied if the  
35 administration provides the following information:

36           1. An outline of coverage that describes the benefits in summary form.

37           2. The rate or rating schedule that applies to the product,  
38 preexisting condition exclusion or affiliation period.

39           3. The minimum employer contribution and group participation rules  
40 that apply to any particular type of coverage.

41           4. In the case of a network plan, a map or listing of the areas  
42 served.

43          M. A contractor is not required to disclose any information that is  
44 proprietary and protected trade secret information under applicable law.

1 N. At least sixty days before the date of expiration of a health  
2 benefit plan, the administration shall provide a written notice to the  
3 employer of the terms for renewal of the plan.

4 O. The administration shall increase or decrease premiums based on  
5 actuarial reviews by an independent actuary of the projected and actual costs  
6 of providing health care benefits to eligible members. Before changing  
7 premiums, the administration must give sixty days' written notice to the  
8 employer. For each contract period the administration shall set premiums  
9 that in the aggregate cover projected medical and administrative costs for  
10 that contract period and that are determined pursuant to generally accepted  
11 actuarial principles and practices by an independent actuary.

12 P. The administration shall consider age, sex, health status-related  
13 factors, group size, geographic area and community rating when it establishes  
14 premiums for the healthcare group program.

15 Q. Except as provided in subsection R of this section, a health  
16 benefit plan may not deny, limit or condition the coverage or benefits based  
17 on a person's health status-related factors or a lack of evidence of  
18 insurability. A health benefit plan shall not provide or offer any service,  
19 benefit or coverage that is not part of the health benefit plan contract.

20 R. A health benefit plan shall not exclude coverage for preexisting  
21 conditions, except that:

22 1. A health benefit plan may exclude coverage for preexisting  
23 conditions for a period of not more than twelve months or, in the case of a  
24 late enrollee, eighteen months. The exclusion of coverage does not apply to  
25 services that are furnished to newborns who were otherwise covered from the  
26 time of their birth or to persons who satisfy the portability requirements  
27 under this section.

28 2. The contractor shall reduce the period of any applicable  
29 preexisting condition exclusion by the aggregate of the periods of creditable  
30 coverage that apply to the individual.

31 S. The contractor shall calculate creditable coverage according to the  
32 following:

33 1. The contractor shall give an individual credit for each portion of  
34 each month the individual was covered by creditable coverage.

35 2. The contractor shall not count a period of creditable coverage for  
36 an individual enrolled in a health benefit plan if after the period of  
37 coverage and before the enrollment date there were sixty-three consecutive  
38 days during which the individual was not covered under any creditable  
39 coverage.

40 3. The contractor shall give credit in the calculation of creditable  
41 coverage for any period that an individual is in a waiting period for any  
42 health coverage.

43 T. The contractor shall not count a period of creditable coverage with  
44 respect to enrollment of an individual if, after the most recent period of  
45 creditable coverage and before the enrollment date, sixty-three consecutive

1 days lapse during all of which the individual was not covered under any  
2 creditable coverage. The contractor shall not include in the determination  
3 of the period of continuous coverage described in this section any period  
4 that an individual is in a waiting period for health insurance coverage  
5 offered by a health care insurer or is in a waiting period for benefits under  
6 a health benefit plan offered by a contractor. In determining the extent to  
7 which an individual has satisfied any portion of any applicable preexisting  
8 condition period the contractor shall count a period of creditable coverage  
9 without regard to the specific benefits covered during that period. A  
10 contractor shall not impose any preexisting condition exclusion in the case  
11 of an individual who is covered under creditable coverage thirty-one days  
12 after the individual's date of birth. A contractor shall not impose any  
13 preexisting condition exclusion in the case of a child who is adopted or  
14 placed for adoption before age eighteen and who is covered under creditable  
15 coverage thirty-one days after the adoption or placement for adoption.

16 U. The written certification provided by the administration must  
17 include:

18 1. The period of creditable coverage of the individual under the  
19 contractor and any applicable coverage under a COBRA continuation provision.

20 2. Any applicable waiting period or affiliation period imposed on an  
21 individual for any coverage under the health plan.

22 V. The administration shall issue and accept a written certification  
23 of the period of creditable coverage of the individual that contains at least  
24 the following information:

25 1. The date that the certificate is issued.

26 2. The name of the individual or dependent for whom the certificate  
27 applies and any other information that is necessary to allow the issuer  
28 providing the coverage specified in the certificate to identify the  
29 individual, including the individual's identification number under the policy  
30 and the name of the policyholder if the certificate is for or includes a  
31 dependent.

32 3. The name, address and telephone number of the issuer providing the  
33 certificate.

34 4. The telephone number to call for further information regarding the  
35 certificate.

36 5. One of the following:

37 (a) A statement that the individual has at least eighteen months of  
38 creditable coverage. For the purposes of this subdivision, "eighteen months"  
39 means five hundred forty-six days.

40 (b) Both the date that the individual first sought coverage, as  
41 evidenced by a substantially complete application, and the date that  
42 creditable coverage began.

43 6. The date creditable coverage ended, unless the certificate  
44 indicates that creditable coverage is continuing from the date of the  
45 certificate.

1 W. The administration shall provide any certification pursuant to this  
2 section within thirty days after the event that triggered the issuance of the  
3 certification. Periods of creditable coverage for an individual are  
4 established by presentation of the certifications in this section.

5 X. The healthcare group program shall comply with all applicable  
6 federal requirements.

7 Y. Healthcare group may pay a commission to an insurance producer. To  
8 receive a commission, the producer must certify that to the best of the  
9 producer's knowledge the employer group has not had insurance in the ninety  
10 days before applying to healthcare group. For the purposes of this  
11 subsection, "commission" means a one time payment on the initial enrollment  
12 of an employer.

13 Z. On or before ~~June 15 and November 15~~ **SEPTEMBER 30** of each year, the  
14 director shall submit a report to the joint legislative budget committee  
15 regarding the number and type of businesses participating in healthcare group  
16 and that includes updated information on healthcare group marketing  
17 activities. The director, within thirty days of implementation, shall notify  
18 the joint legislative budget committee of any changes in healthcare group  
19 benefits or cost sharing arrangements.

20 AA. The administration shall submit the following to the joint  
21 legislative budget committee:

22 1. ~~Quarterly reports~~ **ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, A REPORT**  
23 regarding the financial condition of the healthcare group program. The  
24 ~~reports~~ **REPORT** shall include the number of persons and employer groups  
25 enrolled in the program and medical loss information and projections.

26 2. An annual financial audit.

27 3. The analysis that is used to determine premiums pursuant to  
28 subsection 0 of this section.

29 BB. Beginning July 1, 2009, and each fiscal year thereafter,  
30 healthcare group shall limit employer group enrollment to not more than five  
31 per cent more than the number of employer groups enrolled in the program at  
32 the end of the preceding fiscal year. Healthcare group shall give enrollment  
33 priority to uninsured groups.

34 CC. For the purposes of this section:

35 1. "Accountable health plan" has the same meaning prescribed in  
36 section 20-2301.

37 2. "COBRA continuation provision" means:

38 (a) Section 4980B, except subsection (f)(1) as it relates to pediatric  
39 vaccines, of the internal revenue code of 1986.

40 (b) Title I, subtitle B, part 6, except section 609, of the employee  
41 retirement income security act of 1974.

42 (c) Title XXII of the public health service act.

43 (d) Any similar provision of the law of this state or any other state.

44 3. "Creditable coverage" means coverage solely for an individual,  
45 other than limited benefits coverage, under any of the following:

- 1 (a) An employee welfare benefit plan that provides medical care to  
2 employees or the employees' dependents directly or through insurance,  
3 reimbursement or otherwise pursuant to the employee retirement income  
4 security act of 1974.
- 5 (b) A church plan as defined in the employee retirement income  
6 security act of 1974.
- 7 (c) A health benefits plan, as defined in section 20-2301, issued by a  
8 health plan.
- 9 (d) Part A or part B of title XVIII of the social security act.
- 10 (e) Title XIX of the social security act, other than coverage  
11 consisting solely of benefits under section 1928.
- 12 (f) Title 10, chapter 55 of the United States Code.
- 13 (g) A medical care program of the Indian health service or of a tribal  
14 organization.
- 15 (h) A health benefits risk pool operated by any state of the United  
16 States.
- 17 (i) A health plan offered pursuant to title 5, chapter 89 of the  
18 United States Code.
- 19 (j) A public health plan as defined by federal law.
- 20 (k) A health benefit plan pursuant to section 5(e) of the peace corps  
21 act (22 United States Code section 2504(e)).
- 22 (l) A policy or contract, including short-term limited duration  
23 insurance, issued on an individual basis by an insurer, a health care  
24 services organization, a hospital service corporation, a medical service  
25 corporation or a hospital, medical, dental and optometric service corporation  
26 or made available to persons defined as eligible under section 36-2901,  
27 paragraph 6, subdivisions (b), (c), (d) and (e).
- 28 (m) A policy or contract issued by a health care insurer or the  
29 administration to a member of a bona fide association.
- 30 4. "Eligible employee" means a person who is one of the following:
- 31 (a) Eligible pursuant to section 36-2901, paragraph 6, subdivisions  
32 (b), (c), (d) and (e).
- 33 (b) A person who works for an employer for a minimum of twenty hours  
34 per week or who is self-employed for at least twenty hours per week.
- 35 (c) An employee who elects coverage pursuant to section 36-2982,  
36 subsection I. The restriction prohibiting employees employed by public  
37 agencies prescribed in section 36-2982, subsection I does not apply to this  
38 subdivision.
- 39 (d) A person who meets all of the eligibility requirements, who is  
40 eligible for a federal health coverage tax credit pursuant to section 35 of  
41 the internal revenue code of 1986 and who applies for health care coverage  
42 through the healthcare group program. The requirement that a person be  
43 employed with a small business that elects healthcare group coverage does not  
44 apply to this eligibility group.

1           5. "Emergency medical condition" has the same meaning prescribed in  
2 the emergency medical treatment and active labor act (P.L. 99-272; 100 Stat.  
3 164; 42 United States Code section 1395dd(e)).

4           6. "Genetic information" means information about genes, gene products  
5 and inherited characteristics that may derive from the individual or a family  
6 member, including information regarding carrier status and information  
7 derived from laboratory tests that identify mutations in specific genes or  
8 chromosomes, physical medical examinations, family histories and direct  
9 analyses of genes or chromosomes.

10          7. "Health benefit plan" means coverage offered by the administration  
11 for the healthcare group program pursuant to this section.

12          8. "Health status-related factor" means any factor in relation to the  
13 health of the individual or a dependent of the individual enrolled or to be  
14 enrolled in a health plan including:

15           (a) Health status.

16           (b) Medical condition, including physical and mental illness.

17           (c) Claims experience.

18           (d) Receipt of health care.

19           (e) Medical history.

20           (f) Genetic information.

21           (g) Evidence of insurability, including conditions arising out of acts  
22 of domestic violence as defined in section 20-448.

23           (h) The existence of a physical or mental disability.

24          9. "Hospital" means a health care institution licensed as a hospital  
25 pursuant to chapter 4, article 2 of this title.

26          10. "Late enrollee" means an employee or dependent who requests  
27 enrollment in a health benefit plan after the initial enrollment period that  
28 is provided under the terms of the health benefit plan if the initial  
29 enrollment period is at least thirty-one days. Coverage for a late enrollee  
30 begins on the date the person becomes a dependent if a request for enrollment  
31 is received within thirty-one days after the person becomes a dependent. An  
32 employee or dependent shall not be considered a late enrollee if:

33           (a) The person:

34           (i) At the time of the initial enrollment period was covered under a  
35 public or private health insurance policy or any other health benefit plan.

36           (ii) Lost coverage under a public or private health insurance policy  
37 or any other health benefit plan due to the employee's termination of  
38 employment or eligibility, the reduction in the number of hours of  
39 employment, the termination of the other plan's coverage, the death of the  
40 spouse, legal separation or divorce or the termination of employer  
41 contributions toward the coverage.

42           (iii) Requests enrollment within thirty-one days after the termination  
43 of creditable coverage that is provided under a COBRA continuation provision.

44           (iv) Requests enrollment within thirty-one days after the date of  
45 marriage.

1 (b) The person is employed by an employer that offers multiple health  
2 benefit plans and the person elects a different plan during an open  
3 enrollment period.

4 (c) The person becomes a dependent of an eligible person through  
5 marriage, birth, adoption or placement for adoption and requests enrollment  
6 no later than thirty-one days after becoming a dependent.

7 11. "Preexisting condition" means a condition, regardless of the cause  
8 of the condition, for which medical advice, diagnosis, care or treatment was  
9 recommended or received within not more than six months before the date of  
10 the enrollment of the individual under a health benefit plan issued by a  
11 contractor. Preexisting condition does not include a genetic condition in  
12 the absence of a diagnosis of the condition related to the genetic  
13 information.

14 12. "Preexisting condition limitation" or "preexisting condition  
15 exclusion" means a limitation or exclusion of benefits for a preexisting  
16 condition under a health benefit plan offered by a contractor.

17 13. "Small employer" means an employer who employs at least one but not  
18 more than fifty eligible employees on a typical business day during any one  
19 calendar year.

20 14. "Waiting period" means the period that must pass before a potential  
21 participant or eligible employee in a health benefit plan offered by a health  
22 plan is eligible to be covered for benefits as determined by the individual's  
23 employer.

24 Sec. 27. Section 37-106.01, Arizona Revised Statutes, is amended to  
25 read:

26 37-106.01. Power to contract for central Arizona project water  
27 for use on state lands; payment of costs; selling  
28 unallocated water; disposition of revenue from  
29 sale of central Arizona project water and water  
30 rights

31 A. The state land department, with the approval of the governor ~~and~~  
32 ~~the joint legislative budget committee~~, may make contracts for and on behalf  
33 of the state with the United States or a multi-county water conservation  
34 district, organized under title 48, chapter 22, or both, for the purchase and  
35 delivery of water from the central Arizona project for use for municipal and  
36 industrial purposes on state lands within such district and to agree to pay  
37 therefor an amount equal to that paid by other municipal and industrial users  
38 under the project for comparable quantities.

39 B. The quantity of water for which the department is authorized to  
40 contract shall not exceed one hundred thousand acre-feet per annum diverted  
41 from the aqueduct system between the Colorado river and the Salt river, and  
42 one hundred thousand acre-feet per annum diverted from the system south of  
43 the Salt river.

1 C. All or any part of the rights to water acquired by the department  
2 under any such contract may be sold, assigned and transferred to any lessee  
3 or purchaser of any of the state lands on which such water has been or is to  
4 be used or to any provider of permanent municipal water service to those  
5 lands. The department shall not make the purchase or use of central Arizona  
6 project water by the lessee a condition to renewal of a lease of state land  
7 or by the purchaser or lessee in a sale or new lease where mining of  
8 groundwater from state lands will not be involved. The transferee of any  
9 rights to water under this subsection must have or obtain before the transfer  
10 a contract with either or both the United States or a multi-county water  
11 conservation district for service of central Arizona project water for  
12 municipal and industrial use. The transferee shall reimburse the department,  
13 on a pro rata basis, for all costs and charges, including capital costs and  
14 administrative expenses, incurred by the department, as of the time of  
15 transfer, under its contract for the purchase and delivery of central Arizona  
16 project water under subsection A of this section.

17 D. The cost of central Arizona project water shall be paid from  
18 revenues derived from the transfer of water rights acquired by the department  
19 under its contract and from revenues from the sale of central Arizona project  
20 municipal and industrial water or, in the event such revenues are not  
21 sufficient, such cost shall be a charge against the state, providing such  
22 contract does not violate article IX, section 5, Constitution of Arizona.  
23 Nothing in this section shall be construed as creating a lien upon state  
24 lands or against the interest of the state therein or as creating an  
25 obligation of the state to pay any charges, costs, assessments or debts other  
26 than those described in this section.

27 E. Before the selection board allocates central Arizona project water  
28 to specific state trust lands the department, with the board's approval, may  
29 enter into interim contracts to sell unallocated central Arizona project  
30 water for municipal and industrial uses on state or any other land subject to  
31 a determination by a multi-county water conservation district that the  
32 proposed action complies with the terms of the applicable subcontract and the  
33 central Arizona project master repayment contract and subject to approval of  
34 the director of the department of water resources. Purchasers of water under  
35 this subsection shall reimburse the department, on a pro rata basis, for all  
36 costs and charges, including capital costs and administrative expenses,  
37 incurred by the department under its contract for the purchase and delivery  
38 of central Arizona project water under subsection A of this section.

39 F. The department, with the approval of the state selection board, may  
40 enter into contracts to undertake or authorize the storage of central Arizona  
41 project water for which the department has signed a municipal and industrial  
42 water service subcontract, but that the department has not otherwise  
43 allocated for use. A person with whom the department contracts shall pay to  
44 a multi-county water conservation district all applicable operation,  
45 maintenance and replacement charges established under the provisions of title

1 48, chapter 22 and associated with any water stored, but shall not be  
2 responsible for capital costs paid by the department pursuant to its  
3 contracts with the multi-county water conservation district. Each contract  
4 between the department and another person for water storage shall specify  
5 that the water storage permit holder for the stored water shall assign to the  
6 department a share of any long-term storage credits accrued pursuant to the  
7 permit and that the department's share of the long-term storage credits shall  
8 be negotiated based on the proportion of the costs incurred by the department  
9 in the water storage. The department may sell long-term storage credits for  
10 the benefit of the state trust land at the appraised fair market value of the  
11 credits. In undertaking water storage pursuant to this subsection, the  
12 department and the persons with whom it contracts shall comply with all of  
13 the provisions of title 45, chapter 3.1. For the purposes of this  
14 subsection, "water storage", "long-term storage credit" and "water storage  
15 permit" have the same meanings prescribed in section 45-802.01.

16 G. The department shall deposit, pursuant to sections 35-146 and  
17 35-147, revenues from the transfer of water rights under subsection C of this  
18 section and from the sale of water under subsection E of this section, except  
19 for monies attributable to reimbursement of administrative expenses, in the  
20 central Arizona project municipal and industrial repayment fund established  
21 by section 37-526. Monies attributable to reimbursement of administrative  
22 expenses, under both subsections C and E of this section, shall be deposited  
23 in the state general fund pursuant to sections 35-146 and 35-147.

24 Sec. 28. Section 37-623.02, Arizona Revised Statutes, is amended to  
25 read:

26 37-623.02. Emergencies; prohibiting fireworks; liabilities and  
27 expenses; fire suppression revolving fund

28 A. On request of the state forester, the governor may authorize the  
29 state forester to incur liabilities for suppressing wildland fires and  
30 responding to other unplanned all risk activities from unrestricted monies in  
31 the state general fund whether or not the legislature is in session.

32 B. The state forester has the authority to prohibit the use of  
33 fireworks during times of high fire potential in the unincorporated areas of  
34 the state.

35 C. The state forester or the state forester's designee shall review  
36 all liabilities incurred and expenditures made under this section and shall  
37 report the expenditures to the department of administration for audit  
38 according to department of administration rules. The state forester shall  
39 transmit a copy of the report to the state emergency council.

40 D. Liabilities incurred under this section are subject to the  
41 following limitations:

42 1. Wildland fire suppression or other unplanned all risk emergency  
43 liabilities shall not exceed three million dollars of state general fund  
44 monies pursuant to subsection A of this section in a fiscal year for costs  
45 associated with suppressing wildland fires, supporting other unplanned all

1 risk activities such as fire, flood, earthquake, wind and hazardous material  
2 responses and preparing for periods of extreme fire danger and pre-position  
3 equipment and other fire suppression resources to provide for enhanced  
4 initial attack on wildland fires. The state forester shall not incur  
5 nonreimbursable liabilities for support of nonfire all risk activities. The  
6 governor shall determine when periods of extreme fire danger exist and must  
7 approve any expenditure for pre-positioning activities.

8 2. If the funding authorization in paragraph 1 of this subsection is  
9 exhausted, or if the nonreimbursable liabilities incurred exceed the cash  
10 balance of the fire suppression revolving fund, the state forester shall not  
11 incur additional liabilities without the consent of a majority of the state  
12 emergency council as authorized by section 35-192.

13 E. The state forester shall process and pay claims for reimbursement  
14 for wildland fire suppression services as follows:

15 1. Except as provided by paragraph 2 of this subsection, within thirty  
16 days after receiving a complete and correct claim for wildland fire  
17 suppression services, the state forester shall pay the claim from available  
18 monies that have not been committed to the payment of other wildfire  
19 expenses.

20 2. Within thirty days after receiving a complete and correct claim for  
21 wildland fire suppression services on federal lands, the state forester shall  
22 complete the processing of the claim and forward the claim to the appropriate  
23 federal agency.

24 3. For any valid claim other than for federal reimbursement, if there  
25 is insufficient funding in the fire suppression revolving fund, the holder of  
26 the unpaid claim shall be issued a certificate pursuant to section 35-189.

27 ~~F. No later than December 31 of each year the state forester shall~~  
28 ~~submit a report to the joint legislative budget committee and the governor~~  
29 ~~detailing the specific uses of all monies authorized to be expended from the~~  
30 ~~fire suppression revolving fund and any additional monies authorized by the~~  
31 ~~governor to prepare for periods of extreme fire danger and pre position~~  
32 ~~equipment and other fire suppression resources to provide for enhanced~~  
33 ~~initial attack on wildland fires.~~

34 ~~G.~~ F. Monies received for suppressing wildland fires, pre-positioning  
35 equipment and firefighting resources and other unplanned all risk activities  
36 may be used for the purposes of section 37-623 and this section.

37 ~~H.~~ G. The state forester shall adopt rules for administering the  
38 wildland fire suppression monies authorized under this section, subject to  
39 approval of the governor.

40 ~~I.~~ H. The state forester may require reimbursement from cities and  
41 other political subdivisions of this state and state and federal agencies for  
42 costs incurred in the suppression of wildland fires, pre-suppression or  
43 unplanned all risk activities. Reimbursement shall be based on the terms and  
44 conditions in cooperative agreements, land ownership or negligence. The  
45 state forester may require reimbursement from individuals or businesses only

1 for costs incurred in the suppression of wildland fires or unplanned all risk  
2 activities caused by their negligence or criminal acts.

3 ~~+~~ I. The fire suppression revolving fund is established consisting  
4 of civil penalties collected pursuant to section 36-1610 and monies received  
5 by the state forester for wildland fire suppression and pre-positioning  
6 equipment and resources and for payment for activities related to combating  
7 wildland fires and supporting other unplanned all risk activities such as  
8 fire, flood, earthquake, wind and hazardous material responses. The state  
9 forester shall not incur nonreimbursable liabilities for support of nonfire  
10 all risk activities. The state forester shall administer the fund, and all  
11 monies received for these activities shall be deposited, pursuant to sections  
12 35-146 and 35-147, in the fund. Monies in the fire suppression revolving  
13 fund are continuously appropriated to the state forester, except that if the  
14 unobligated balance of the fund exceeds two million dollars at the end of any  
15 calendar year, the excess shall be transferred to the state general fund.  
16 Monies in the fire suppression revolving fund are otherwise exempt from the  
17 provisions of section 35-190 relating to lapsing of appropriations.

18 Sec. 29. Section 38-658, Arizona Revised Statutes, is amended to read:

19 38-658. Report to joint legislative budget committee

20 A. At least ten days before the department of administration enters  
21 into or renews contracts for medical and dental insurance coverage, the  
22 director of the department of administration shall meet with and review for  
23 the joint legislative budget committee in executive session the planned  
24 contribution strategy for each health plan, including indemnity health  
25 insurance, hospital and medical service plans, dental plans and health  
26 maintenance organizations. Information provided in executive session shall  
27 remain confidential until the contract award is made in compliance with title  
28 41, chapter 23.

29 B. **ON OR BEFORE OCTOBER 1 OF EACH YEAR**, the director of the department  
30 of administration shall report to the joint legislative budget committee ~~at~~  
31 ~~least semiannually~~ on the performance standards for health plans, including  
32 indemnity health insurance, hospital and medical service plans, dental plans  
33 and health maintenance organizations.

34 Sec. 30. Section 41-129, Arizona Revised Statutes, is amended to read:

35 41-129. Election systems improvement fund; purpose

36 A. The election systems improvement fund is established in the office  
37 of the secretary of state. The fund shall consist of monies received from  
38 the United States government, matching monies from state, county or local  
39 governments, legislative appropriations, gifts, grants and donations.

40 B. The secretary of state shall administer the fund. Any monies  
41 deposited into the fund in fiscal years 2002-2003 and 2003-2004 are  
42 appropriated to the secretary of state and are exempt from the provisions of  
43 section 35-190 relating to lapsing of appropriations. To the extent  
44 permitted by federal law, monies in the fund, other than state general fund  
45 monies, deposited each subsequent fiscal year are subject to legislative

1 appropriation and such appropriations are subject to the lapsing provisions  
2 of section 35-190. State general fund monies appropriated to the fund  
3 beginning in fiscal year 2004-2005 are available for use by the secretary of  
4 state without further appropriation. Monies in the fund do not revert to the  
5 state general fund or any other funding source at the end of the fiscal year.  
6 The state treasurer shall invest and divest monies in the fund as provided by  
7 section 35-313, and monies earned from investment shall be credited to the  
8 fund.

9 C. ~~Within thirty days after any expenditure of monies from the fund ON~~  
10 ~~OR BEFORE DECEMBER 31 OF EACH YEAR~~, the secretary of state shall submit to  
11 the joint legislative budget committee a summary of the total expenditure  
12 plan for the fund.

13 D. Monies in the fund shall be used to implement the provisions of the  
14 help America vote act of 2002 (P.L. 107-252).

15 Sec. 31. Section 41-178, Arizona Revised Statutes, is amended to read:  
16 41-178. Distribution of notary bond fees

17 The state treasurer shall transmit, distribute or deposit all monies  
18 received pursuant to section 41-126, subsection A, paragraphs 11 and 12 as  
19 follows:

20 1. 1.31 per cent for deposit in the drug and gang enforcement account  
21 established by section 41-2402 for the purposes of section 41-2402,  
22 subsection ~~H~~ G.

23 2. 8.87 per cent for deposit in the domestic violence shelter fund  
24 established by section 36-3002.

25 3. 1.93 per cent for deposit in the child abuse prevention fund  
26 established by section 8-550.01.

27 4. 7.62 per cent for proportional deposit in each county's law library  
28 fund established by section 12-305, based on the number of notaries  
29 commissioned per county.

30 5. 0.35 per cent for deposit in the alternative dispute resolution  
31 fund established by section 12-135.

32 6. 23.79 per cent for deposit in the elected officials' retirement  
33 plan fund established by section 38-802, which shall be distributed to the  
34 fund pursuant to section 38-810.

35 7. 17.07 per cent for deposit in the judicial collection enhancement  
36 fund established by section 12-113.

37 8. 0.26 per cent for deposit in the confidential intermediary and  
38 fiduciary fund established by section 8-135.

39 9. 31.29 per cent for deposit in the notary bond fund established by  
40 section 41-314.

41 10. 7.51 per cent shall be distributed to the county where the notary  
42 is commissioned in the same manner as the seven dollars of the time payment  
43 fee prescribed by section 12-116, subsection B.



1           1. All state owned buildings, including those of the universities,  
2 excluding buildings of community colleges, whether financed in whole or in  
3 part by state monies or buildings in which the state has an insurable  
4 interest as determined by the department of administration.

5           2. Contents in any buildings owned, leased or rented, in whole or in  
6 part, by or to the state, excluding buildings of community colleges, and  
7 reported to the department of administration.

8           3. The state and its departments, agencies, boards and commissions and  
9 all officers, agents and employees thereof and such others as may be  
10 necessary to accomplish the functions or business of the state and its  
11 departments, agencies, boards and commissions against liability for acts or  
12 omissions of any nature while acting in authorized governmental or  
13 proprietary capacities and in the course and scope of employment or  
14 authorization except as prescribed by this chapter.

15           4. All personal property reported to the department of administration,  
16 including vehicles and aircraft owned by the state and its departments,  
17 agencies, boards and commissions and all non-owned personal property which is  
18 under the clear responsibility of this state because of written leases or  
19 other written agreements.

20           5. The state and its departments, agencies, boards and commissions  
21 against casualty, use and occupancy and liability losses of every nature  
22 except as prescribed by this chapter.

23           6. Workers' compensation and employers' liability insurance.

24           7. Design and construction of buildings, roads, environmental  
25 remediations and other construction projects.

26           8. Other exposures to loss where insurance may be required to protect  
27 this state and its departments, agencies, boards and commissions and all  
28 officers, agents and employees acting in the course and scope of employment  
29 or authorization except as prescribed by this chapter.

30           B. To the extent it is determined necessary and in the best interests  
31 of the state, the department of administration shall obtain insurance or  
32 provide for state self-insurance against property damage caused by clients  
33 and liability coverage resulting from ~~the~~ the direct or incidental care of  
34 clients participating in programs of the state and its departments, agencies,  
35 boards or commissions relating to custodial care. The insurable programs  
36 shall include foster care, programs for the developmentally disabled, an  
37 independent living program pursuant to section 8-521 and respite-sitter  
38 service programs. The department shall obtain insurance or provide for state  
39 self-insurance pursuant to this subsection to protect the clients  
40 participating in these programs and individual providers of these program  
41 services on behalf of the state and its departments, agencies, boards or  
42 commissions. The insurance provided under this subsection does not include  
43 medical or workers' compensation coverage for providers. The department may  
44 include in its annual budget request pursuant to section 41-622, subsection D  
45 a charge for the insurance or self-insurance provided in this subsection. To

1 assist in carrying out the provisions of this subsection, the department  
2 shall establish a seven member advisory board in accordance with the  
3 following provisions:

4 1. The board shall consist of three members appointed by the director  
5 of the department of administration, at least one of whom shall be a foster  
6 parent, two members appointed by the director of the department of economic  
7 security, one member appointed by the director of the state department of  
8 corrections, and one member appointed by the administrative director of the  
9 courts.

10 2. The board shall elect a chairman from among its members.

11 3. The board shall hold at least two meetings a year or shall meet at  
12 the call of the chairman.

13 4. Board members shall serve for three year terms.

14 5. Board members are not eligible to receive compensation but are  
15 eligible for reimbursement of expenses pursuant to title 38, chapter 4,  
16 article 2.

17 6. The board shall provide advice to the department regarding coverage  
18 and administration of the provisions of this subsection and shall assist the  
19 department in coordinating its activities pursuant to this subsection with  
20 state departments, agencies, boards and commissions.

21 C. The department of administration may obtain insurance against loss,  
22 to the extent it is determined necessary and in the best interests of the  
23 state as provided in subsection F of this section for the professional  
24 liability of individual physicians and psychiatrists who provide services  
25 under a contract with the state department of corrections. Coverage is  
26 limited to acts and omissions committed inside a state department of  
27 corrections facility while in the performance of the contract and to  
28 individual physicians and psychiatrists who demonstrate to the satisfaction  
29 of the state department of corrections that they cannot otherwise obtain  
30 professional liability coverage for the services required by the contract.  
31 The director of the department of administration may impose on the state  
32 department of corrections a deductible of not more than ten thousand dollars  
33 per loss that arises out of a professional liability claim pursuant to this  
34 subsection. Deductible amounts established by the director shall be subject  
35 to annual review by the joint legislative budget committee.

36 D. The department of administration may obtain property, liability,  
37 disability or workers' compensation insurance, self-insure or develop risk  
38 retention pools to provide for payment of property loss or casualty claims or  
39 disability insurance claims against contractors of this state with the  
40 approval of the joint legislative budget committee. With respect to  
41 insurance, self-insurance or risk retention pools for contractors licensed  
42 and contracted to do work for this state, the coverage afforded applies with  
43 respect to the conduct of the business entity of that contractor. The pool  
44 is available to all contractors regardless of the amount that the state  
45 contracted work bears in relation to the amount of nonstate contracted work.

1 The contractor shall be terminated from the pool if the contractor ceases to  
2 be a state contractor.

3 E. The department of administration may determine, in the best  
4 interests of the state, that state self-insurance is necessary or desirable  
5 and, if that decision is made, shall provide for state self-insurance for  
6 losses arising out of state property, liability or workers' compensation  
7 claims prescribed by subsection A of this section. If the department of  
8 administration provides state self-insurance, such coverage shall be excess  
9 over any other valid and collectible insurance. The director of the  
10 department of administration may impose on state departments, agencies,  
11 boards and commissions a deductible ~~of not more than ten thousand dollars per~~  
12 **FOR EACH** loss that arises out of a property, liability or workers'  
13 compensation loss pursuant to this subsection. **ANY CHANGES IN** deductible  
14 amounts established by the director shall be subject to ~~annual~~ review by the  
15 joint legislative budget committee.

16 F. In carrying out the provisions of this chapter, the department of  
17 administration shall establish and provide the state with some or all of the  
18 necessary risk management services, or shall contract for risk management  
19 services pursuant to chapter 23 of this title, as the director of the  
20 department of administration deems necessary in the best interest of the  
21 state, and may, in addition to other specifications of such coverage as  
22 deemed necessary, determine self-insurance to be established. The provisions  
23 of chapter 23 of this title shall not apply to the department of  
24 administration's procurement of insurance to cover losses arising out of  
25 state property or liability claims prescribed in subsections A and D of this  
26 section or excess loss insurance for the state's workers' compensation  
27 liability for individual or aggregate claims, or both, in such amounts and at  
28 such primary retention levels as the department of administration deems in  
29 the best interest of the state. In purchasing insurance to cover losses  
30 arising out of state property or liability claims prescribed by subsection A  
31 of this section, the department of administration is not subject to the  
32 provisions of title 20, chapter 2, article 5.

33 G. No successful bidder for risk management services pursuant to this  
34 section shall be entitled to receive directly or indirectly any sales  
35 commission, contingent commission, excess profit commission, or other  
36 commissions, or anything of value, as payment for the risk management  
37 services except those amounts received directly from this state as payment  
38 for the risk management services.

39 H. The department of administration shall pay for purchased risk  
40 management services, premiums for insurance on state property and state  
41 liability and workers' compensation pursuant to the provisions of this  
42 chapter.

1 I. A state officer, agent or employee acting in good faith, without  
2 wanton disregard of his statutory duties and under the authority of an  
3 enactment that is subsequently declared to be unconstitutional, invalid or  
4 inapplicable, is not personally liable for an injury or damage caused  
5 thereby except to the extent that he would have been personally liable had  
6 the enactment been constitutional, valid and applicable.

7 J. A state officer, agent or employee, except as otherwise provided by  
8 statute, is not personally liable for an injury or damage resulting from his  
9 act or omission in a public official capacity where the act or omission was  
10 the result of the exercise of the discretion vested in him if the exercise of  
11 the discretion was done in good faith without wanton disregard of his  
12 statutory duties.

13 K. The state and its departments, agencies, boards and commissions are  
14 immune from liability for losses arising out of a judgment for willful and  
15 wanton conduct resulting in punitive or exemplary damages.

16 L. The following exclusions shall apply to subsections A, B and E of  
17 this section:

18 1. Losses against this state and its departments, agencies, boards and  
19 commissions that arise out of and are directly attributable to an act or  
20 omission determined by a court to be a felony by a person who is provided  
21 coverage pursuant to this article unless the state knew of the person's  
22 propensity for that action, except those acts arising out of the operation or  
23 use of a motor vehicle.

24 2. Losses arising out of contractual breaches.

25 M. If self-insurance coverage is determined to exist, the attorney  
26 general, with funds provided by the department of administration, shall  
27 provide for the defense, either through his office or by appointment of  
28 outside legal counsel, of the state and its departments, agencies, boards and  
29 commissions and all officers, agents and employees thereof and such others as  
30 are insured by the department of administration for or on account of their  
31 acts or omissions covered pursuant to this chapter. All state departments,  
32 agencies, boards and commissions, all officers, agents and employees thereof  
33 and such others as are insured by the department of administration shall  
34 cooperate fully with the attorney general and department of administration in  
35 the defense of claims arising pursuant to this chapter.

36 N. A claim for liability damages made pursuant to this chapter may be  
37 settled and payment made up to the amount of twenty-five thousand dollars or  
38 such higher limit as may be established by the joint legislative budget  
39 committee with the approval of the director of the department of  
40 administration. A claim over the amount of twenty-five thousand dollars up  
41 to fifty thousand dollars or such higher limit as may be established by the  
42 joint legislative budget committee may be settled and payment made with the  
43 approval of the director of the department of administration and the attorney  
44 general. Any claim over the amount of fifty thousand dollars or such higher  
45 limit as may be established by the joint legislative budget committee may be

1 settled and payment made with the approval of the director of the department  
 2 of administration, the attorney general and the joint legislative budget  
 3 committee. If it is in the best interest of this state, the joint  
 4 legislative budget committee may establish higher settlement limits. Any  
 5 settlements involving amounts in excess of fifty thousand dollars or such  
 6 higher limit as may be established by the joint legislative budget committee  
 7 shall be approved by the department of administration, the attorney general  
 8 and the joint legislative budget committee pursuant to the authority granted.  
 9 The settlement of liability claims shall be solely the authority of the  
 10 department of administration, the attorney general and the joint legislative  
 11 budget committee. No state department, agency, board or commission or any  
 12 officer, agent or employee of this state may voluntarily make any payment,  
 13 assume any obligation, incur any expense or maintain the individual right of  
 14 consent for liability claims made pursuant to this chapter except as provided  
 15 by this section.

16 0. Neither the authority provided by this section to insure, nor the  
 17 exercise of such authority, shall:

18 1. Impose any liability on this state or the departments, agencies,  
 19 boards and commissions or any officers, agents and employees of this state  
 20 unless such liability otherwise exists.

21 2. Impair any defense this state or the departments, agencies, boards  
 22 and commissions or any officers, agents and employees of this state otherwise  
 23 may have.

24 P. The department of administration shall pay, on behalf of any state  
 25 officer, agent or employee, any damages, excluding punitive damages, for  
 26 which the officer, agent or employee becomes legally responsible if the acts  
 27 or omissions resulting in liability were within the officer's, agent's or  
 28 employee's course and scope of employment. The department of administration  
 29 may pay for all damages however designated which the officer, agent or  
 30 employee becomes legally responsible for if the acts or omissions resulting  
 31 in liability are determined by the director of the department of  
 32 administration to be within the person's course and scope of employment.

33 Q. The department of administration shall adopt such rules as are  
 34 deemed necessary to carry out, implement and limit the provisions of this  
 35 chapter.

36 R. For the purposes of determining whether a state officer, agent or  
 37 employee is entitled to coverage under this chapter, "within the course and  
 38 scope of employment or authorization" means:

39 1. The acts or omissions that the state officer, agent or employee is  
 40 employed or authorized to perform.

41 2. The acts or omissions of the state officer, agent or employee occur  
 42 substantially within the authorized time and space limit.

43 3. The acts or omissions are activated at least in part by a purpose  
 44 to serve this state or its departments, agencies, boards or commissions.

1           S. To the extent it is determined necessary and in the best interest  
2 of this state, the department of administration may obtain design and  
3 construction insurance or provide for self-insurance against property damage  
4 caused by this state, its departments, agencies, boards and commissions and  
5 all officers and employees of this state in connection with the construction  
6 of public works projects. Workers' compensation liability insurance may be  
7 purchased to cover both general contractors and subcontractors doing work on  
8 a specific contracted work site. The department may include in its annual  
9 budget request, pursuant to section 41-622, subsection D, the cost of the  
10 insurance purchased or provided. In connection with the construction of  
11 public works projects, the department of administration may also use an  
12 owner-controlled or wrap-up insurance program if all of the following  
13 conditions are met:

14           1. The total cost of the project is over fifty million dollars.

15           2. The program maintains completed operations coverage for a term  
16 during which coverage is reasonably commercially available as determined by  
17 the director of the department of insurance, but in no event for less than  
18 three years.

19           3. Bid specifications clearly specify for all bidders the insurance  
20 coverage provided under the program and the minimum safety requirements that  
21 shall be met.

22           4. The program does not prohibit a contractor or subcontractor from  
23 purchasing any additional insurance coverage that a contractor believes is  
24 necessary for protection from any liability arising out of the contract. The  
25 cost of the additional insurance shall not be passed through to this state on  
26 a contract bid.

27           5. The program does not include surety insurance.

28           T. The state may purchase an owner-controlled or wrap-up policy that  
29 has a deductible or self-insured retention as long as the deductible or  
30 self-insured retention does not exceed one million dollars.

31           U. For the purposes of subsections S and T of this section:

32           1. "Owner-controlled or wrap-up insurance" means a series of insurance  
33 policies issued to cover this state and all of the contractors,  
34 subcontractors, architects and engineers on a specified contracted work site  
35 for purposes of general liability, property damage and workers' compensation.

36           2. "Specific contracted work site" means construction being performed  
37 at one site or a series of contiguous sites separated only by a street,  
38 roadway, waterway or railroad right-of-way, or along a continuous system for  
39 the provision of water and power.

40           V. Notwithstanding any other statute the department of administration  
41 may:

42           1. Limit the liability of a person who contracts to provide goods,  
43 software or other services to this state.

44           2. Allow the person to disclaim incidental or consequential damages.

45           3. Indemnify or hold harmless any party to the contract.

1           Sec. 35. Section 41-712, Arizona Revised Statutes, is amended to read:  
2           41-712. Telecommunications program office; state contractor;  
3                           cost of operation; employees; report

4           A. The director shall establish a telecommunications program office  
5 within the department to enter into a primary contract with a corporation  
6 authorized to do business in this state for the contractor to provide for the  
7 installation and maintenance of telecommunication systems and to act as the  
8 state's agent for telecommunication carrier services to the offices,  
9 departments and agencies of this state. Each office, department and agency  
10 of this state shall contract with the primary contractor through the  
11 telecommunications program office and make payment to the primary contractor  
12 for its telecommunications needs. ~~The department shall submit for review by~~  
13 ~~the joint legislative budget committee its initial contractor and carrier~~  
14 ~~cost rate structure by agency and fund type and shall submit a request for~~  
15 ~~review to the joint legislative budget committee for each subsequent rate~~  
16 ~~structure modification.~~

17           B. With the approval of the director, the telecommunications program  
18 office may enter into more than one contract for each statewide  
19 telecommunications product or service not provided by the primary contractor.

20           C. The director shall pay administrative costs of the  
21 telecommunications program office and each office, department or other state  
22 agency shall pay from available monies the proportionate cost of  
23 administration of the office as determined by the director. In carrying out  
24 this subsection, the director shall only employ those contract managers,  
25 telephone operators, help desk personnel and forensic investigators required  
26 to oversee the primary contract and administer efficiently the  
27 telecommunications program office.

28           D. The department shall prepare and submit an annual consolidated  
29 telecommunications budget report to the joint legislative budget committee in  
30 connection with its annual budget request showing the previous fiscal year's  
31 actual payments and the next fiscal year's anticipated payments charged and  
32 received by the primary contractor from state offices, departments and  
33 agencies for telecommunications services.

34           E. All procurement pursuant to this section shall be as prescribed in  
35 chapter 23 of this title unless otherwise provided by law.

36           F. Any contract involving the use of a state highway right-of-way is  
37 subject to approval pursuant to sections 28-304, 28-363, 28-7045, 28-7048 and  
38 28-7209.

39           Sec. 36. Section 41-763.02, Arizona Revised Statutes, is amended to  
40 read:

41           41-763.02. Special market adjustments; committee

42           A. The director shall establish a system of special market adjustments  
43 to modify salaries of state employees within certain identified job  
44 classifications.

1 B. The system shall provide for salary adjustments, subject to  
2 legislative appropriation, for state positions and for positions in job  
3 classifications that, in the opinion of the director, are critical to the  
4 orderly conduct of the agencies in which the positions are located and that  
5 meet specific comparative criteria. These criteria include whether the  
6 positions are experiencing substantially above average turnover or have  
7 salaries that are substantially below comparable positions outside state  
8 service.

9 C. The director shall establish procedures to determine the job  
10 classifications eligible for special market adjustments. The procedures  
11 shall include:

12 1. The systematic identification of job classifications based on  
13 specific comparative criteria including turnover and salary information.

14 2. The consideration of job classifications identified by agency  
15 directors.

16 3. In cases in which significant increases are recommended,  
17 recommended increases may be scheduled over two or more years. If multiple  
18 year increases are recommended, the cost of funding the proposed adjustments  
19 in each year shall be included.

20 D. A special market adjustment committee is established consisting of  
21 the following members:

22 ~~1. The director of the joint legislative budget committee or the~~  
23 ~~director's designee who serves as an advisory member. For the purposes of~~  
24 ~~this paragraph, "advisory member" means a member who gives advice to the~~  
25 ~~other members of the committee at meetings of the committee but is not~~  
26 ~~eligible to vote and is not a member for purposes of determining whether a~~  
27 ~~quorum is present.~~

28 ~~2.~~ 1. The director of the governor's office of strategic planning and  
29 budgeting or the director's designee.

30 ~~3.~~ 2. The administrative director of the courts or the administrative  
31 director's designee.

32 ~~4.~~ 3. Two members who have at least ten years of experience in human  
33 resources administration and who are appointed by the director of the  
34 department of administration. One of these members shall be employed in the  
35 private sector.

36 ~~5.~~ 4. One member who is a member of an employee organization that has  
37 at least one thousand members and who is appointed by the director of the  
38 department of administration.

39 ~~6.~~ 5. Two members who are state agency directors, deputy directors or  
40 assistant directors and who are appointed by the director of the department  
41 of administration.

42 E. Members of the special market adjustment committee who are  
43 appointed by the director of the department of administration shall not serve  
44 more than two consecutive three year terms. The department shall provide  
45 staff for the special market adjustment committee.

1 F. The special market adjustment committee may assist the director in  
2 determining recommendations for the cost of funding the proposed adjustments.

3 Sec. 37. Section 41-792.01, Arizona Revised Statutes, is amended to  
4 read:

5 41-792.01. Capital outlay stabilization fund; authorization for  
6 collection of rental; basis of payment;  
7 distribution of monies collected; transfer of  
8 payment; lease-purchase building operating and  
9 maintenance fund; definition

10 A. The capital outlay stabilization fund is established which shall  
11 consist of monies paid into it in accordance with subsections D and F of this  
12 section and legislative appropriations to the account. All monies in the  
13 fund are exempt from the provisions of section 35-190 relating to lapsing of  
14 appropriations.

15 B. The director shall make a recommendation for the allocation of a  
16 varying sum to the capital outlay stabilization fund each year. No part of  
17 the fund may be expended without specific appropriation from the legislature.

18 C. Each state department and each state agency when using space under  
19 the jurisdiction of the department as prescribed in section 41-791 or when  
20 using space in a building owned by or leased to the state shall pay rental  
21 and tenant improvement labor costs as prescribed in subsection D, E or F of  
22 this section.

23 D. The rental rates authorized for agencies occupying state owned  
24 buildings shall be determined by the ~~joint committee on capital review after~~  
25 ~~recommendation~~ by the director before July 1 of each even-numbered year. **ON**  
26 **OR BEFORE AUGUST 31 OF EACH YEAR, THE DIRECTOR SHALL REPORT THE RENTAL RATES**  
27 **FOR THE CURRENT AND THE FOLLOWING FISCAL YEAR TO THE JOINT LEGISLATIVE BUDGET**  
28 **COMMITTEE STAFF DIRECTOR.** The rental is payable whether the state department  
29 or state agency is funded in whole or in part by state monies. The  
30 department of administration shall transfer the entire amount of the rental  
31 fee assessed on a state agency from the agency account into the capital  
32 outlay stabilization fund promptly at the start of each fiscal year. During  
33 the remainder of the fiscal year, the department of administration shall  
34 calculate pro rata adjustments to the rental fee on a monthly basis to  
35 reflect any changes in the occupancy of state owned buildings. The  
36 department of administration shall transfer the amount of the rental fee  
37 adjustment assessed on a state agency from the agency account into the  
38 capital outlay stabilization fund. The rental fee authorized for state  
39 agencies occupying state owned buildings is the greater of the amount  
40 included in each agency's annual operating budget as reported by the staff of  
41 the joint legislative budget committee or the pro rata adjusted amount based  
42 on actual occupancy. The director of the department of administration, ~~upon~~  
43 ~~recommendation of the joint committee on capital review,~~ may authorize an  
44 exemption for periods of one year or more at a time for a state agency from  
45 the full payment account transfer requirements of this subsection if the

1 agency can demonstrate a practice of making full payment of rent on a  
2 different basis necessitated by its cash flow. If a state agency does not  
3 have the financial resources for state owned space, or does not occupy or  
4 vacates state owned space after the beginning of the fiscal year, the  
5 director of the department of administration, on recommendation of the joint  
6 committee on capital review, may authorize a whole or partial exemption from  
7 payment of the rental fee. ~~The department of administration shall report~~  
8 ~~quarterly to the director of the joint legislative budget committee on the~~  
9 ~~status of rental fee collections and adjustments.~~

10 E. The rental authorized for state agencies occupying state leased  
11 buildings shall be the greater of the amount included in each agency's annual  
12 operating budget as reported by the staff of the joint legislative budget  
13 committee or the pro rata adjusted amount based on actual occupancy. The  
14 rental amount shall include the amount necessary to pay the lease or  
15 lease-purchase obligation and may include the amount necessary to pay  
16 operating costs associated with the lease-purchase buildings. The rental is  
17 payable whether the state department or state agency is funded in whole or in  
18 part by state monies. At the start of each fiscal year, the department of  
19 administration shall transfer the entire amount of the rental fee assessed on  
20 a state agency from the agency account into the department of  
21 administration's funds established for the purposes of this subsection. The  
22 department shall transfer from the applicable state agency budgets to the  
23 lease-purchase building operating and maintenance fund established in  
24 subsection H of this section amounts necessary to pay all operating costs  
25 associated with a lease-purchase building in the amounts reported by the  
26 staff of the joint legislative budget committee. During the remainder of the  
27 fiscal year, the department of administration shall calculate pro rata  
28 adjustments to the rental fee on a monthly basis to reflect any changes in  
29 the occupancy of state leased buildings. The director of the department of  
30 administration, ~~on recommendation of the joint committee on capital review,~~  
31 may authorize an exemption for a state agency from the full payment account  
32 transfer requirements of this subsection for one year periods or longer  
33 periods if the agency can demonstrate a practice of making full payment of  
34 rent on a different basis necessitated by its cash flow. If a state agency  
35 does not have the financial resources for state leased space, or does not  
36 occupy or vacates state leased space after the beginning of the fiscal year,  
37 the director of the department of administration, on recommendation of the  
38 joint committee on capital review, may authorize a whole or partial exemption  
39 from payment of the rental fee.

40 F. The department shall charge state agencies for the full costs of  
41 labor services it provides to accomplish tenant improvement projects within a  
42 building owned by or leased to the state. Charges for this labor shall be  
43 deposited in the capital outlay stabilization fund.

44 G. State universities, community colleges and the department of  
45 transportation are exempt from the provisions of this section, except when

1 these state agencies are using space under the jurisdiction of the department  
2 of administration.

3 H. The lease-purchase building operating and maintenance fund is  
4 established consisting of monies transferred into it in accordance with  
5 subsection E of this section. All monies in the fund are exempt from the  
6 provisions of section 35-190 relating to lapsing of appropriations. Monies  
7 in the fund are subject to legislative appropriation.

8 I. For the purposes of this section, "state department" or "state  
9 agency" means any department or agency of the executive or judicial branch of  
10 state government.

11 Sec. 38. Section 41-821, Arizona Revised Statutes, is amended to read:  
12 41-821. Arizona historical society; powers; officers; duties of  
13 board of directors

14 A. An Arizona historical society is established.

15 B. Subject to limitations imposed by law, the society may purchase,  
16 receive, hold, lease and sell property, real and personal, for the benefit of  
17 this state and use of the society. The society may solicit private monetary  
18 donations for program activities.

19 C. The society shall have a president, a treasurer, a board of  
20 directors and other officers who shall be elected by the members of the  
21 society at times and by methods the bylaws of the society prescribe. The  
22 board of directors may designate from among its members an executive  
23 committee with authority to act in place of the board of directors and in  
24 accordance with directions the board of directors may give when the board of  
25 directors is not in session.

26 D. The president shall preside at meetings of the society and of the  
27 board of directors.

28 E. The treasurer shall have custody of the monies of the society,  
29 other than legislative appropriations. The treasurer shall hold the monies  
30 of the society deposited in trust for the society's use and for the benefit  
31 of this state and shall disburse them only as prescribed by law and the  
32 bylaws of the society. ~~The treasurer shall submit to the joint legislative  
33 budget committee a written report detailing all expenditures of  
34 nonappropriated funds for the society at the beginning of each quarter.~~

35 F. The board of directors shall hold in trust for this state and  
36 administer for the benefit of this state and use of the society all property  
37 acquired by the society.

38 G. All expenditures of legislative appropriations to the society shall  
39 be made on claims duly itemized, verified and approved by the executive  
40 director. The executive director shall present and file claims for payment  
41 with the director of the department of administration. The director of the  
42 department of administration shall draw the warrant on the state treasurer.  
43 The society may expend nonappropriated private funds related to program  
44 activities.

1 H. The board of directors shall annually designate one or more  
2 historical organizations within each county of this state that are  
3 incorporated as nonprofit organizations and that are deemed to have a  
4 functioning program of historical value based on criteria established by the  
5 board of directors. The board of directors may organize chapters made up of  
6 groups of its members who have a common interest in a geographical area of  
7 this state or a common interest in a field of history, may provide for the  
8 governance of these chapters and may grant to any chapter the power to  
9 exercise authority of the society as the board of directors may determine.

10 I. The board of directors, subject to legislative appropriation, may  
11 contract with certified historical organizations for services to be performed  
12 for the benefit of this state. The contracts shall be prepared by the  
13 Arizona historical society. The board of directors shall annually review the  
14 contracts to ensure fulfillment of their provisions.

15 J. The board of directors may employ an executive director and may  
16 employ or authorize the employment of other employees it considers  
17 appropriate to carry out the functions of the society. The executive  
18 director and all other employees shall have duties and exercise authority as  
19 may be prescribed by the board of directors or by the executive director  
20 acting under the direction of the board of directors.

21 K. The board may operate a program for the establishment and  
22 maintenance of historical markers at various locations in this state.

23 L. In cooperation with the advisory council established by section  
24 41-827.01, the board shall operate and maintain the centennial museum that  
25 houses the mining and mineral museum and may engage in other activities  
26 related to the museum as determined by the board or the executive director.  
27 Monies received pursuant to this subsection shall be credited to an account  
28 to be used for the maintenance and operations of the centennial museum that  
29 houses the mining and mineral museum.

30 Sec. 39. Section 41-986, Arizona Revised Statutes, is amended to read:

31 41-986. Arizona arts endowment fund

32 A. The Arizona arts endowment fund is established consisting of monies  
33 appropriated annually to the fund.

34 B. The Arizona commission on the arts shall administer the fund. On  
35 notice from the commission, the state treasurer shall invest and divest  
36 monies in the fund as provided by section 35-313. Monies earned from  
37 investment:

38 1. Shall be credited to the fund.

39 2. Are a continuing appropriation to the commission.

40 C. The commission may not spend any monies in the fund except monies  
41 earned from investment of fund monies.

42 D. Monies in the fund are exempt from the provisions of section 35-190  
43 relating to lapsing of appropriations.

44 E. The commission may enter into contracts with private charitable,  
45 nonprofit organizations that qualify for tax exemption under section

1 501(c)(3) of the United States internal revenue code to administer monies  
2 that are donated by the organization for use in conjunction with monies from  
3 the Arizona arts endowment fund. The commission shall adopt rules regarding  
4 matching private monies with monies from the Arizona arts endowment fund in a  
5 manner consistent with the intent of the fund.

6 F. The commission shall include in its annual report an accounting of  
7 the private monies that are donated for use in conjunction with the monies  
8 from the Arizona arts endowment fund. ~~Each year the joint legislative budget  
9 committee shall review the commission's records regarding amounts received  
10 from private sources in comparison with the amount appropriated to the fund.~~

11 G. Notwithstanding any law to the contrary, no monies from the Arizona  
12 arts endowment fund may be spent for payment to any person or entity for use  
13 in desecrating, casting contempt on, mutilating, defacing, defiling, burning,  
14 trampling or otherwise dishonoring or causing to bring dishonor on religious  
15 objects, the flag of the United States or the flag of this state.

16 Sec. 40. Section 41-1509, Arizona Revised Statutes, is amended to  
17 read:

18 41-1509. Oil overcharge fund; source of monies; uses; energy  
19 project loans; conditions

20 A. An oil overcharge fund is established. Monies received by the  
21 state as a result of oil overcharge settlements shall be deposited, pursuant  
22 to sections 35-146 and 35-147, in the fund. At least fifteen per cent of all  
23 monies received shall be allocated in accordance with subsections B and C of  
24 this section for loans, grants and other purposes which benefit the low  
25 income population.

26 B. The director may grant loans from the principal balance of the oil  
27 overcharge fund to assist political subdivisions and nonprofit organizations  
28 of this state in funding energy projects. Loans may be granted in accordance  
29 with the following provisions in a manner and on terms and conditions  
30 prescribed by the director:

31 1. Loans shall be made only for projects which meet legal requirements  
32 imposed on the uses of oil overcharge monies.

33 2. The director shall assess an administrative fee on each loan to  
34 cover the annual cost to this state of administering the loan program. Fees  
35 collected shall be deposited in the oil overcharge fund. Subject to  
36 legislative appropriation and in accordance with legal requirements, monies  
37 in the fund may be expended for the reasonable and necessary costs of  
38 administering the fund.

39 3. Each loan shall be evidenced by a contract between the political  
40 subdivision or nonprofit organization and the director, acting on behalf of  
41 this state. The contract shall provide a payment schedule including  
42 principal, interest and administrative fees for the term of the loan.

43 4. Each contract shall provide that the attorney general may commence  
44 actions that are necessary to enforce contracts and achieve repayments of  
45 loans made pursuant to this section.

1 C. Monies in the oil overcharge fund may be expended for grants and  
2 other purposes ~~which~~ THAT meet the applicable legal requirements imposed on  
3 their use ~~upon approval of the joint legislative budget committee.~~

4 D. The director shall report annually to the legislature on the status  
5 of the oil overcharge fund. The report shall include a financial summary of  
6 the oil overcharge fund for the preceding fiscal year with a description of  
7 the outstanding loans issued. It shall also include a summary of programs  
8 and projects for which grants were awarded and monies were expended. It  
9 shall include specific information regarding the program's starting and  
10 completion dates, the process by which the program was authorized and whether  
11 the program was authorized by the legislature or the executive branch, the  
12 current status of the program and the amount expended to date and whether the  
13 program is funded as a grant or a loan. The report shall be submitted to the  
14 president of the senate and the speaker of the house of representatives no  
15 later than December 31 of each year.

16 E. Investment earnings on the unexpended balance of the oil overcharge  
17 fund shall be credited to the oil overcharge fund.

18 F. The oil overcharge fund is exempt from the requirements of section  
19 35-190, relating to lapsing of appropriations.

20 Sec. 41. Section 41-2401, Arizona Revised Statutes, is amended to  
21 read:

22 41-2401. Criminal justice enhancement fund

23 A. The criminal justice enhancement fund is established consisting of  
24 monies collected pursuant to section 12-116.01 and monies available from any  
25 other source. The state treasurer shall administer the fund.

26 B. On or before November 1 of each year, each department, agency or  
27 office that receives monies pursuant to this section shall provide to the  
28 Arizona criminal justice commission a report for the preceding fiscal year.  
29 The report shall be in a form prescribed by the Arizona criminal justice  
30 commission ~~and shall be reviewed by the director of the joint legislative~~  
31 ~~budget committee.~~ The report shall set forth the sources of all monies and  
32 all expenditures. The report shall not include any identifying information  
33 about specific investigations.

34 C. On or before December 1 of each year, the Arizona criminal justice  
35 commission shall compile all reports into a single comprehensive report and  
36 shall submit a copy of the comprehensive report to the governor, the  
37 president of the senate, the speaker of the house of representatives and the  
38 director of the joint legislative budget committee.

39 D. On the first day of each month, the state treasurer shall  
40 distribute or deposit:

41 1. 6.46 per cent in the Arizona automated fingerprint identification  
42 system fund established by section 41-2414.

43 2. 1.61 per cent to the department of juvenile corrections for the  
44 treatment and rehabilitation of youth who have committed drug-related  
45 offenses.

1           3. 16.64 per cent in the peace officers' training fund established by  
2 section 41-1825.

3           4. 3.03 per cent in the prosecuting attorneys' advisory council  
4 training fund established by section 41-1830.03.

5           5. 9.35 per cent to the supreme court for the purpose of reducing  
6 juvenile crime.

7           6. 8.56 per cent to the department of public safety. Fifteen per cent  
8 of the monies shall be allocated for deposit in the Arizona deoxyribonucleic  
9 acid identification system fund established by section 41-2419. Eighty-five  
10 per cent of the monies shall be allocated to state and local law enforcement  
11 authorities for the following purposes:

12           (a) To enhance projects that are designed to prevent residential and  
13 commercial burglaries, to control street crime, including the activities of  
14 criminal street gangs, and to locate missing children.

15           (b) To provide support to the Arizona automated fingerprint  
16 identification system.

17           (c) Operational costs of the criminal justice information system.

18           7. 9.35 per cent to the department of law for allocation to county  
19 attorneys for the purpose of enhancing prosecutorial efforts.

20           8. 6.02 per cent to the supreme court for the purpose of enhancing the  
21 ability of the courts to process criminal and delinquency cases, orders of  
22 protection, injunctions against harassment and any proceeding relating to  
23 domestic violence matters, for auditing and investigating persons or entities  
24 licensed or certified by the supreme court and for processing judicial  
25 discipline cases. Notwithstanding section 12-143, subsection A, the salary  
26 of superior court judges pro tempore who are appointed for the purposes  
27 provided in this paragraph shall, and the salary of other superior court  
28 judges pro tempore who are appointed pursuant to section 12-141 for the  
29 purposes provided in this paragraph may, be paid in full by the monies  
30 received pursuant to this paragraph.

31           9. 11.70 per cent to the county sheriffs for the purpose of enhancing  
32 county jail facilities and operations, including county jails under the  
33 jurisdiction of county jail districts.

34           10. 1.57 per cent to the Arizona criminal justice commission.

35           11. 9.00 per cent in the crime laboratory operations fund established  
36 by section 41-1772.

37           12. 2.30 per cent in the crime laboratory assessment fund established  
38 by section 41-2415.

39           13. 7.68 per cent in the victims' rights fund established by section  
40 41-191.08.

41           14. 4.60 per cent in the victim compensation and assistance fund  
42 established by section 41-2407.

43           15. 2.13 per cent to the supreme court for the purpose of providing  
44 drug treatment services to adult probationers through the community  
45 punishment program established in title 12, chapter 2, article 11.

1 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,  
2 11, 12, 13 and 14 of this section constitute a continuing appropriation.  
3 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15  
4 of this section are subject to legislative appropriation.

5 F. The portion of the eighty-five per cent of the monies for direct  
6 operating expenses of the department of public safety in subsection D,  
7 paragraph 6 of this section is subject to legislative appropriation. The  
8 remainder of the monies in subsection D, paragraph 6 of this section  
9 including the portion of the eighty-five per cent for local law enforcement  
10 is continuously appropriated.

11 G. The allocation of monies pursuant to subsection D, paragraphs 6, 7,  
12 8 and 9 of this section shall be made in accordance with rules adopted by the  
13 Arizona criminal justice commission pursuant to section 41-2405.

14 Sec. 42. Section 41-2402, Arizona Revised Statutes, is amended to  
15 read:

16 41-2402. Drug and gang enforcement account; resource center  
17 fund

18 A. A drug and gang enforcement account is established within the  
19 criminal justice enhancement fund consisting of monies appropriated to the  
20 account by the legislature and any other monies available from other sources,  
21 public or private, to be used for the purpose of enhancing efforts to deter,  
22 investigate, prosecute, adjudicate and punish drug offenders and members of  
23 criminal street gangs as defined in section 13-105.

24 B. The Arizona criminal justice commission shall distribute monies  
25 from the drug and gang enforcement account in the following manner:

26 1. Up to fifty per cent to fund law enforcement agencies approved by  
27 the commission to enhance both:

28 (a) The investigation of drug and gang offenses and related criminal  
29 activity.

30 (b) Drug and gang education and prevention programs.

31 2. Up to fifty per cent to fund programs and agencies approved by the  
32 commission to enhance the state, county, city or town prosecution of drug and  
33 gang offenses and related criminal activity.

34 3. Up to thirty per cent to fund programs and agencies approved by the  
35 commission for the purpose of enhancing the ability of the courts to process  
36 drug and gang offenses and related criminal cases, either through the  
37 appointment of judges pro tempore or the establishment of additional  
38 divisions of the courts only for the purposes of this section, enhancing  
39 defense and probation services, including treatment, and funding the drug  
40 testing program.

41 4. Up to thirty per cent to fund programs by county sheriffs and the  
42 state department of corrections, as approved by the commission, to enhance  
43 drug offender treatment programs and the jail operations and facilities  
44 available to detain and incarcerate drug offenders and members of criminal  
45 street gangs as defined in section 13-105.

1           5. Up to thirty per cent to fund programs and agencies, as approved by  
2 the commission, to enhance the integration of criminal justice records  
3 relating to drug and gang offenders and their related criminal activity.

4           ~~C. Before any monies are expended from the account, the criminal~~  
5 ~~justice commission shall submit to the joint legislative budget committee a~~  
6 ~~plan of proposed expenditures from the account and the anticipated fiscal and~~  
7 ~~operational impact of those expenditures on all state and local agencies.~~

8           ~~D.~~ C. Any state agency that receives monies allocated from this  
9 account shall not include such monies as part of its continuation budget base  
10 for the purpose of requesting appropriations for the following fiscal year.

11           ~~E.~~ D. All the monies allocated from this account shall be dedicated  
12 solely to the purpose of enhancing efforts to deter, investigate, prosecute,  
13 adjudicate and punish drug and gang and related criminal offenders, except  
14 those monies allocated pursuant to subsection ~~H~~ G of this section.

15           ~~F.~~ E. Notwithstanding the limitations prescribed in subsection B of  
16 this section, any federal monies or matching state monies in the drug and  
17 gang enforcement account may only be allocated by the commission pursuant to  
18 a plan approved by the federal government.

19           ~~G.~~ F. The auditor general shall annually perform a full and complete  
20 audit of the fund or the commission shall annually contract with an  
21 accounting firm to perform the audit and deliver a report to the governor and  
22 the legislature. The audit shall be charged to the drug and gang enforcement  
23 account.

24           ~~H.~~ G. A resource center fund is established consisting of monies  
25 received pursuant to section 12-284.03, subsection A, paragraph 1 and section  
26 41-178 and all monies received from public or private gifts, grants or other  
27 sources, excluding federal monies and monies to be passed through to other  
28 entities, to be used solely for the purpose of funding the Arizona youth  
29 survey. Monies in the fund are subject to legislative appropriation. Any  
30 monies unexpended or unencumbered on June 30 of each year shall not be  
31 subsequently expended or encumbered unless reappropriated. No monies in the  
32 drug and gang enforcement account except those received pursuant to this  
33 subsection shall be used to fund the Arizona youth survey. Monies that are  
34 expended pursuant to this subsection are subject to the reporting  
35 requirements prescribed in section 41-617.01.

36           Sec. 43. Section 41-2826, Arizona Revised Statutes, is amended to  
37 read:

38           41-2826. Department of juvenile corrections restitution fund

39           A. The department of juvenile corrections restitution fund is  
40 established for the payment of restitution and monetary assessments by youths  
41 who are ordered to pay restitution or monetary assessments and who are  
42 financially unable to pay or who are otherwise unable to be employed to earn  
43 money to pay restitution or monetary assessments and who are working in the  
44 committed youth work program prescribed by section 41-2822 or the community  
45 work program established by section 41-2825. The fund consists of federal,

1 state and local appropriations, monies distributed to the fund pursuant to  
2 section 41-2828 and grants, gifts, devises and donations from any public or  
3 private source. The fund shall be used to pay a youth for the youth's work  
4 in the committed youth work program prescribed by section 41-2822 and to  
5 provide monies for the community work program established by section 41-2825.

6 B. The director may direct the payment of monies from the fund to the  
7 victim or the court for community restitution activities the youth does to  
8 pay restitution or monetary assessments that were ordered by the juvenile  
9 court or that the youth agreed to pay as part of a community work program  
10 administered by the department. If a youth performs community restitution  
11 pursuant to this subsection, the entity providing the work shall supervise  
12 the youth's work. The youth shall be credited for each hour worked at an  
13 hourly rate set by the director.

14 C. As monies are available, the department shall pay from the fund  
15 youths who perform work or community restitution activities for restitution  
16 and monetary assessments purposes.

17 D. The department may expend, for the payment of administrative costs  
18 and expenses, an amount not greater than ten per cent of the fund balance as  
19 of the end of the preceding fiscal year.

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

22 ~~F. On or before August 15 of each year, the department shall submit a~~  
23 ~~report to the joint legislative budget committee detailing all revenues~~  
24 ~~received by and expenditures made from the fund during the most recent fiscal~~  
25 ~~year.~~

26 Sec. 44. Section 41-3542, Arizona Revised Statutes, is amended to  
27 read:

28 41-3542. Advisory commission; powers and duties; report

29 A. The Arizona public safety communications advisory commission shall  
30 make recommendations to the agency regarding the development and maintenance  
31 of work plans to outline areas of work to be performed and appropriate  
32 schedules for at least the following:

33 1. The development of a standard based system that provides  
34 interoperability of public safety agencies' communications statewide.

35 2. The promotion of the development and use of standard based systems.

36 3. The identification of priorities and essential tasks determined by  
37 the advisory commission.

38 4. The development of a timeline for project activities.

39 5. Completion of a survey of existing and planned efforts statewide  
40 and benchmark against similar efforts nationally.

41 6. Providing support for the state interoperability executive  
42 committee.

43 7. Establishing committees and work groups as necessary.

44 B. The agency may:

45 1. Employ personnel as required with available monies.

1           2. Enter into contracts to assess, design, construct and use public  
2 safety communications systems.

3           3. Accept grants, fees and other monies for use by the agency and the  
4 advisory commission.

5           4. Enter into agreements to carry out the purposes of this article.

6           5. Request cooperation from any state agency for the purposes of this  
7 article.

8           C. The department of public safety shall consult with the director of  
9 the government information technology agency or the director's designee on an  
10 ongoing basis. **ON OR BEFORE SEPTEMBER 30 OF EACH YEAR**, the director of the  
11 government information technology agency shall submit a ~~quarterly~~ report to  
12 the joint legislative budget committee for review regarding expenditures and  
13 progress of the commission, including a review of staff operations and  
14 preparation of requests for proposals for system detail and concept work.

15           D. The commission shall annually submit a report of its activities and  
16 recommendations to the governor, the speaker of the house of representatives  
17 and the president of the senate on or before December 1 and shall provide a  
18 copy of the report to the secretary of state ~~and the director of the Arizona  
19 state library, archives and public records.~~

20           Sec. 45. Section 46-803, Arizona Revised Statutes, is amended to read:

21           46-803. Eligibility for child care assistance

22           A. The department shall provide child care assistance to eligible  
23 families who are attempting to achieve independence from the cash assistance  
24 program and who need child care assistance in support of and as specified in  
25 their personal responsibility agreement pursuant to chapters 1 and 2 of this  
26 title.

27           B. The department shall provide child care assistance to eligible  
28 families who are transitioning off of cash assistance due to increased  
29 earnings or child support income in order to accept or maintain employment.  
30 Eligible families must request this assistance within six months after the  
31 cash assistance case closure. Child care assistance may be provided for up  
32 to twenty-four months after the case closure and shall cease whenever the  
33 family income exceeds one hundred sixty-five per cent of the federal poverty  
34 level.

35           C. The department shall provide child care assistance to eligible  
36 families who are diverted from cash assistance pursuant to section 46-298 in  
37 order to obtain or maintain employment. Child care assistance may be  
38 provided for up to twenty-four months after the case closure and shall cease  
39 whenever the family income exceeds one hundred sixty-five per cent of the  
40 federal poverty level.

41           D. The department may provide child care assistance to support  
42 eligible families with incomes of one hundred sixty-five per cent or less of  
43 the federal poverty level to accept or maintain employment. Priority for  
44 this child care assistance shall be given to families with incomes of one  
45 hundred per cent or less of the federal poverty level.

1 E. The department may provide child care assistance to families  
2 referred by child protective services and to children in foster care pursuant  
3 to title 8, chapter 5 to support child protection.

4 F. The department may provide child care assistance to special  
5 circumstance families whose incomes are one hundred sixty-five per cent or  
6 less of the federal poverty level and who are unable to provide child care  
7 for a portion of a twenty-four hour day due to a crisis situation of domestic  
8 violence or homelessness, or a physical, mental, emotional or medical  
9 condition, participation in a drug treatment or drug rehabilitation program  
10 or court ordered community restitution. Priority for this child care  
11 assistance shall be given to families with incomes of one hundred per cent or  
12 less of the federal poverty level.

13 G. In lieu of the employment activity required in subsection B, C or D  
14 of this section, the department may allow eligible families with teenaged  
15 custodial parents under twenty years of age to complete a high school diploma  
16 or its equivalent or engage in remedial education activities reasonably  
17 related to employment goals.

18 H. The department may provide supplemental child care assistance for  
19 department approved education and training activities if the eligible parent,  
20 legal guardian or caretaker relative is working at least a monthly average of  
21 twenty hours per week and this education and training are reasonably related  
22 to employment goals. The eligible parent, legal guardian or caretaker  
23 relative must demonstrate satisfactory progress in the education or training  
24 activity.

25 I. Beginning March 12, 2003, the department shall establish waiting  
26 lists for child care assistance and prioritize child care assistance for  
27 different eligibility categories in order to manage within appropriated and  
28 available monies. Priority of children on the waiting list shall start with  
29 those families at one hundred per cent of the federal poverty level and  
30 continue with each successive ten per cent increase in the federal poverty  
31 level until the maximum allowable federal poverty level of one hundred  
32 sixty-five per cent. Priority shall be given regardless of time spent on the  
33 waiting list.

34 J. The department shall establish criteria for denying, reducing or  
35 terminating child care assistance that include:

36 1. Whether there is a parent, legal guardian or caretaker relative  
37 available to care for the child.

38 2. Financial or programmatic eligibility changes or ineligibility.

39 3. Failure to cooperate with the requirements of the department to  
40 determine or redetermine eligibility.

41 4. Hours of child care need that fall within the child's compulsory  
42 academic school hours.

43 5. Reasonably accessible and available publicly funded early childhood  
44 education programs.

1           6. Whether an otherwise eligible family has been sanctioned and cash  
2 assistance has been terminated pursuant to chapter 2 of this title.

3           7. Other circumstances of a similar nature.

4           8. Whether sufficient monies exist for the assistance.

5           K. Families receiving child care assistance under subsection D or F of  
6 this section are also subject to the following requirements for such child  
7 care assistance:

8           1. Each child is limited to no more than sixty cumulative months of  
9 child care assistance. The department may provide an extension if the family  
10 can prove that the family is making efforts to improve skills and move  
11 towards self-sufficiency.

12           2. Families are limited to no more than six children receiving child  
13 care assistance.

14           3. Copayments shall be imposed for all children receiving child care  
15 assistance. Copayments for each child may be higher for the first child in  
16 child care than for additional children in child care.

17           L. The department shall review each case at least once a year to  
18 evaluate eligibility for child care assistance.

19           M. The department shall report on December 31 and June 30 of each year  
20 to the joint legislative budget committee the total number of families who  
21 applied for child care assistance and the total number of families who were  
22 denied assistance under this section because the parents, legal guardians or  
23 caretaker relatives who applied for assistance were not citizens or legal  
24 residents of the United States or were not otherwise lawfully present in the  
25 United States.

26           N. This section shall be enforced without regard to race, religion,  
27 gender, ethnicity or national origin.

28           ~~0. Notwithstanding section 35-173, monies appropriated for the~~  
29 ~~purposes of this section shall not be used for any other purpose without the~~  
30 ~~approval of the joint legislative budget committee.~~

31           ~~P.~~ 0. The department shall refer all child care subsidy recipients to  
32 child support enforcement and to local workforce services and provide  
33 information on the earned income tax credit.

34           Sec. 46. Section 49-545, Arizona Revised Statutes, is amended to read:

35           49-545. Agreement with independent contractor; qualifications  
36 of contractor; agreement provisions

37           A. The director is authorized to enter into an emissions inspection  
38 agreement with one or more independent contractors, subject to public  
39 bidding, to provide for the construction, equipment, establishment,  
40 maintenance and operation of any official emissions inspection stations in  
41 such numbers and locations as may be required to provide vehicle owners  
42 reasonably convenient access to inspection facilities for the purpose of  
43 obtaining compliance with this article and the rules adopted pursuant to this  
44 article. The agreement may provide that official inspection stations shall  
45 be placed in permanent or movable buildings at particular locations as well

1 as in mobile units for conveyance from one preannounced particular location  
2 to another.

3 B. The director is prohibited from entering into an emissions  
4 inspection agreement with any independent contractor who:

5 1. Is engaged in the business of manufacturing, selling, maintaining  
6 or repairing vehicles, except that the independent contractor shall not be  
7 precluded from maintaining or repairing any vehicle owned or operated by the  
8 independent contractor.

9 2. Does not have the capability, resources or technical and management  
10 skill to adequately construct, equip, operate and maintain a sufficient  
11 number of official emissions inspection stations to meet the demand for  
12 inspection of every vehicle which is required to be submitted for inspection  
13 pursuant to this article.

14 C. All persons employed by the independent contractor in the  
15 performance of an emissions inspection agreement are deemed to be employees  
16 of the independent contractor and not of this state. No employee of the  
17 independent contractor shall wear any badge, insignia, patch, emblem, device,  
18 word or series of words which would tend to indicate that such person is  
19 employed by this state. Employees of the independent contractor are  
20 specifically prohibited under this subsection from wearing the flag of this  
21 state, the words "state of Arizona", the words "official emissions inspection  
22 program" or any similar emblem or phrase.

23 D. The emissions inspection agreement authorized by this section shall  
24 contain, in addition to any other provisions, provisions relating to the  
25 following:

26 1. A contract term or duration of between five and seven years with  
27 reasonable compensation to the contractor if the provisions of this article  
28 are repealed.

29 2. That nothing in the agreement or contract shall require the state  
30 to purchase any asset or assume any liability if such agreement or contract  
31 is not renewed.

32 3. The minimum requirements for adequate staff, equipment, management  
33 and hours and place of operation of official emissions inspection stations.

34 4. The submission of such reports and documentation concerning the  
35 operation of official emissions inspection stations as the director and the  
36 auditor general may require.

37 5. Surveillance by the department of environmental quality and the  
38 auditor general to ensure compliance with vehicular emissions standards,  
39 procedures, rules and laws.

40 6. The right of this state, upon providing reasonable notice to the  
41 independent contractor, to terminate the contract with the independent  
42 contractor and the right of this state on termination of the contract to  
43 assume operation of the vehicle emissions inspection program through another  
44 contract provider or otherwise.

1           7. The right of this state upon termination of the term of the  
2 agreement or upon assumption of the operation of the program to have  
3 transferred and assigned to it for reasonable compensation any interest in  
4 land, buildings, improvements, equipment, parts, tools and services used by  
5 the independent contractors in their operation of the program.

6           8. The right of this state upon termination of the term of the  
7 agreement or assumption of the operation of the program to have transferred  
8 and assigned to it any contract rights, and related obligations, for land,  
9 buildings, improvements, equipment, parts, tools and services used by the  
10 independent contractors in their operation of the program.

11           9. The obligation of the independent contractors to provide in any  
12 agreement to be executed by them, and to maintain in any agreements  
13 previously executed by them, for land, buildings, improvements, equipment,  
14 parts, tools and services used in their operation of the program for the  
15 right of the independent contractors to assign to this state any of their  
16 rights and obligations under such contract.

17           10. The right of the independent contractor, in the event the contract  
18 is terminated and the state elects to assume operation of the vehicle  
19 emissions inspection program through another contractor or otherwise, to  
20 retain and not transfer to the state any interest in or any contract rights  
21 and related obligations for improvements, equipment, parts, tools and  
22 services ~~which~~ **THAT ARE** used by the independent contractor in the operation of the  
23 program and ~~which~~ **THAT** are proprietary in nature, as may be more specifically  
24 set forth in the contract.

25           11. The amounts of liquidated damages payable by this state to the  
26 independent contractor if the state exercises its right to terminate the  
27 contract at the conclusion of each year of the contract pursuant to paragraph  
28 6 of this subsection. The damages recoverable by the independent contractor  
29 if the state exercises its right to terminate the contract shall be limited  
30 to the liquidated damages specified in the contract.

31           12. Any other provision deemed necessary by the director for the  
32 administration or enforcement of the emissions inspection agreement.

33           E. The department of environmental quality shall establish bid  
34 specifications or contract terms for a contract with an independent  
35 contractor as provided in this section, review bids for award of a contract  
36 with the independent contractors and negotiate any terms of a contract with  
37 the independent contractors.

38           F. In evaluating bids for an emissions inspection agreement, no  
39 additional consideration shall be given to a bid solely on the basis of the  
40 type of conditioning mode proposed in the bid.

41           G. After a contract is awarded to an independent contractor, the  
42 director may modify the contract with the independent contractor to allow the  
43 contractor and the state to comply with amendments to applicable statutes or  
44 rules. These modifications are exempt from public bidding and may include  
45 the addition, deletion or alteration of any contract provision in order to

1 make compliance feasible, including inspection fees and services rendered.  
2 Provisions relating to contract term or duration may be amended, except that  
3 the term or duration of the contract in existence on August 6, 1999 shall not  
4 be extended beyond December 31, 2001. Any proposed modification or amendment  
5 to the contract is subject to prior review by the joint legislative budget  
6 committee. If the director cannot negotiate an acceptable modification of  
7 the contract, the state may terminate the contract.

8 ~~H. The following apply for any contract that takes effect beginning on~~  
9 ~~or after January 1, 2002 and for which the contractor will be providing~~  
10 ~~services under this section:~~

11 ~~1. The department of environmental quality shall report at the end of~~  
12 ~~each calendar quarter to the joint legislative budget committee on the status~~  
13 ~~of the contract process, discussions, development of the request for~~  
14 ~~proposal, contract negotiations, and any other information as may be~~  
15 ~~requested.~~

16 ~~2. The contract terms are subject to prior review by the joint~~  
17 ~~legislative budget committee before placement of any advertisement that~~  
18 ~~solicits a response to requests for proposal.~~

19 ~~3. Any proposed modification or amendment to the contract is subject~~  
20 ~~to prior review by the joint legislative budget committee.~~

21 Sec. 47. Effective date

22 Sections 5-557 and 5-559, Arizona Revised Statutes, as amended by this  
23 act, are effective from and after June 30, 2012.