

REFERENCE TITLE: disaster response

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

## **HB 2701**

Introduced by  
Representatives Chabin, Pancrazi: Barton, Crandell, Fann, Goodale, Jones,  
McLain, Vogt, Yee

AN ACT

AMENDING SECTIONS 11-251, 26-301, 26-303, 26-305, 26-306, 26-308 AND 35-192,  
ARIZONA REVISED STATUTES; RELATING TO DISASTER RESPONSE AND RECOVERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-251, Arizona Revised Statutes, is amended to  
3 read:

4 11-251. Powers of board

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

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

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

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

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

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

26 6. Provide suitable rooms for county purposes.

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

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

36 9. Sell at public auction, after thirty days' previous notice given by  
37 publication in a newspaper of the county, stating the time and place of the  
38 auction, and convey to the highest bidder, for cash or contract of purchase  
39 extending not more than ten years from the date of sale and on such terms and  
40 for such consideration as the board shall prescribe, any property belonging  
41 to the county that the board deems advantageous for the county to sell, or  
42 that the board deems unnecessary for use by the county, and shall pay the  
43 proceeds thereof into the county treasury for use of the county, except that  
44 personal property need not be sold but may be used as a trade-in on the  
45 purchase of personal property when the board deems this disposition of the

1 personal property to be in the best interests of the county. When the  
2 property for sale is real property, the board shall have such property  
3 appraised by a qualified independent fee appraiser who has an office located  
4 in this state. The appraiser shall establish a minimum price, which shall  
5 not be less than ninety per cent of the appraised value. The notice  
6 regarding the sale of real property shall be published in the county where  
7 the property is situated and may be published in one or more other counties,  
8 and shall contain, among other things, the appraised value, the minimum  
9 acceptable sale price, and the common and legal description of the real  
10 property. Notwithstanding the requirement for a sale at public auction  
11 prescribed in this paragraph, a county, with unanimous consent of the board  
12 and without a public auction, may sell or lease any county property to any  
13 other duly constituted governmental entity, including the state, cities,  
14 towns and other counties. A county, with unanimous consent of the board and  
15 without public auction, may grant an easement on county property for public  
16 purposes to a utility as defined in section 40-491. A county, with unanimous  
17 consent of the board and without public auction, may sell or lease any county  
18 property for a specific use to any solely charitable, social or benevolent  
19 nonprofit organization incorporated or operating in this state. A county may  
20 dispose of surplus equipment and materials that have little or no value or  
21 that are unauctionable in any manner authorized by the board.

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

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

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

39 13. Equalize assessments.

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

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

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

- 1           17. Adopt provisions necessary to preserve the health of the county,  
2 and provide for the expenses thereof.
- 3           18. With the approval of the department of health services, contract  
4 with any qualified person to provide all or part of the health services,  
5 funded through the department of health services with federal or state  
6 monies, that the board in its discretion extends to residents of the county.
- 7           19. Contract for county printing and advertising, and provide books and  
8 stationery for county officers.
- 9           20. Provide for rebinding county records, or, if necessary, the  
10 transcribing of county records.
- 11          21. Make and enforce necessary rules and regulations for the government  
12 of its body, the preservation of order and the transaction of business.
- 13          22. Adopt a seal for the board, a description and impression of which  
14 shall be filed by the clerk in the office of the county recorder and the  
15 secretary of state.
- 16          23. Establish, maintain and conduct or aid in establishing, maintaining  
17 and conducting public aviation fields, purchase, receive by donation or lease  
18 any property necessary for that purpose, lease, at a nominal rental if  
19 desired, sell such aviation fields or property to the United States or any  
20 department, or sell or lease such aviation fields to a city, exchange lands  
21 acquired pursuant to this section for other lands, or act in conjunction with  
22 the United States in maintaining, managing and conducting all such property.  
23 If any such property or part of that property is not needed for these  
24 purposes, it shall be sold by the board and the proceeds shall be paid into  
25 the general fund of the county.
- 26          24. Acquire and hold property for the use of county fairs, and conduct,  
27 take care of and manage them.
- 28          25. Authorize the sheriff to offer a reward, not exceeding ten thousand  
29 dollars in one case, for information leading to the arrest and conviction of  
30 persons charged with crime.
- 31          26. Contract for the transportation of insane persons to the state  
32 hospital or direct the sheriff to transport such persons. The county is  
33 responsible for such expense to the extent the expense is not covered by any  
34 third party payor.
- 35          27. Provide for the reasonable expenses of burial for deceased  
36 indigents as provided in section 36-831 and maintain a permanent register of  
37 deceased indigents, including name, age and date of death, and when burial  
38 occurs, the board shall mark the grave with a permanent marker giving the  
39 name, age, and date of birth, if known.
- 40          28. Sell or grant to the United States the title or interest of the  
41 county in any toll road or toll train in or partly within a national park, on  
42 such terms as may be agreed on by the board and the secretary of the interior  
43 of the United States.
- 44          29. Enter into agreements for acquiring rights-of-way, construction,  
45 reconstruction or maintenance of highways in their respective counties,

1 including highways that pass through Indian reservations, with the government  
2 of the United States, acting through its duly authorized officers or agents  
3 pursuant to any act of Congress, except that the governing body of any Indian  
4 tribe whose lands are affected must consent to the use of its land, and any  
5 such agreements entered into before June 26, 1952 are validated and  
6 confirmed.

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

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

16 32. Budget for funds for foster home care during the school week for  
17 children with intellectual disabilities and otherwise handicapped children  
18 who reside within the county and attend a school for the handicapped in a  
19 city or town within such county.

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

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

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

32 36. Subject to the prohibitions, restrictions and limitations as set  
33 forth in section 11-812, adopt and enforce standards for excavation, landfill  
34 and grading to prevent unnecessary loss from erosion, flooding and  
35 landslides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42           62. In counties that employ or have designated an animal control county  
43 enforcement agent pursuant to section 11-1005, enter into agreements with  
44 foundations or charitable organizations to solicit donations, property or  
45 services, excluding enforcement or inspection services, for use by the county

1 enforcement agent solely to perform nonmandated services and to fund capital  
2 improvements for county animal control, subject to annual financial and  
3 performance audits by an independent party as designated by the county board  
4 of supervisors. For the purposes of this paragraph, nonmandated services are  
5 limited to low cost spay and neuter services, public education and outreach  
6 efforts, pet adoption efforts, care for pets that are victims of cruelty or  
7 neglect and support for volunteer programs.

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

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

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

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

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

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

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

34 67. ADOPT RESOLUTIONS UNDER ITS POLICE AUTHORITY TO PROTECT PUBLIC  
35 HEALTH AND SAFETY DECLARING ALL OR PART OF THE UNINCORPORATED AREA OF THE  
36 COUNTY TO BE A DISASTER RECOVERY AREA. THIS PARAGRAPH DOES NOT REQUIRE A  
37 REQUEST FROM AN ASSOCIATION OR A MAJORITY OF THE RESIDENTS OF AN AREA BEFORE  
38 ADOPTING THE RESOLUTION. THE BOARD MAY ADOPT THE RESOLUTION ON THE REQUEST  
39 OR PETITION OF EITHER:

40 (a) A HOMEOWNERS' ASSOCIATION THAT REPRESENTS A MAJORITY OF THE  
41 HOMEOWNERS IN THE AREA COVERED BY THE ASSOCIATION AND TO WHICH THE RESOLUTION  
42 WOULD APPLY.

43 (b) A MAJORITY OF THE RESIDENTS OF THE AREA TO WHICH THE RESOLUTION  
44 WOULD APPLY.

1           Sec. 2. Section 26-301, Arizona Revised Statutes, is amended to read:

2           ~~26-301.~~ Definitions

3           In this chapter, unless the context otherwise requires:

4           1. "Commercial nuclear generating station" means an electric power  
5 generating facility which is owned by a public service corporation, a  
6 municipal corporation or a consortium of public service corporations or  
7 municipal corporations and which produces electricity by means of a nuclear  
8 reactor.

9           2. "Council" means the state emergency council.

10          3. "Director" means the director of the division.

11          4. "DISASTER RECOVERY" MEANS THE RECOVERY AND MITIGATION ACTIVITIES  
12 NECESSARY TO RECOVER FROM DISASTERS AFTER AN INITIAL EMERGENCY RESPONSE,  
13 WITHIN THE STATE CAUSED BY AIR POLLUTION, FIRE, FLOOD OR FLOODWATER, STORM,  
14 EPIDEMIC, RIOT, EARTHQUAKE, MINING OR INDUSTRIAL ACCIDENT OR OTHER CAUSES,  
15 EXCEPT THOSE RESULTING IN A STATE OF WAR EMERGENCY, THAT ARE BEYOND THE  
16 CONTROL OF THE SERVICES, PERSONNEL, EQUIPMENT AND FACILITIES OF A SINGLE  
17 COUNTY, CITY OR TOWN AND THAT REQUIRE THE COMBINED EFFORTS OF THE STATE AND  
18 THE POLITICAL SUBDIVISION.

19          ~~4-~~ 5. "Division" means the division of emergency management within  
20 the department of emergency and military affairs.

21          ~~5-~~ 6. "Emergency functions" includes warning and communications  
22 services, relocation of persons from stricken areas, radiological defense,  
23 temporary restoration of utilities, plant protection, transportation,  
24 welfare, public works and engineering, search or rescue, health and medical  
25 services, law enforcement, fire fighting, mass care, resource support, urban  
26 search or rescue, hazardous materials, food and energy information and  
27 planning and other activities necessary or incidental thereto.

28          ~~6-~~ 7. "Emergency management" means the preparedness, response,  
29 recovery and mitigation activities necessary to respond to and recover from  
30 disasters, emergencies or contingencies.

31          ~~7-~~ 8. "Emergency worker" means any person who is registered, whether  
32 A temporary or permanent WORKER, A paid or volunteer WORKER, with a local or  
33 state emergency management organization and certified by the local or state  
34 emergency management organization for the purpose of engaging in authorized  
35 emergency management activities or performing emergency functions, or who is  
36 an officer, agent or employee of this state or a political subdivision of  
37 this state and who is called on to perform or support emergency management  
38 activities or perform emergency functions.

39          ~~8-~~ 9. "Hazardous materials" means:

40           (a) Any hazardous material designated pursuant to the hazardous  
41 materials transportation act of 1974 (P.L. 93-633; 88 Stat. 2156; 49 United  
42 States Code section 1801).

43           (b) Any element, compound, mixture, solution or substance designated  
44 pursuant to the comprehensive environmental response, compensation, and

1 liability act of 1980 (P.L. 96-510; 94 Stat. 2767; 42 United States Code  
2 section 9602).

3 (c) Any substance designated in the emergency planning and community  
4 right-to-know act of 1986 (P.L. 99-499; 100 Stat. 1613; 42 United States Code  
5 section 11002).

6 (d) Any substance designated in the water pollution control act (P.L.  
7 92-500; 86 Stat. 816; 33 United States Code sections 1317(a) and  
8 1321(b)(2)(A)).

9 (e) Any hazardous waste having the characteristics identified under or  
10 listed pursuant to section 49-922.

11 (f) Any imminently hazardous chemical substance or mixture with  
12 respect to which action has been taken pursuant to the toxic substances  
13 control act (P.L. 94-469; 90 Stat. 2003; 15 United States Code section 2606).

14 (g) Any material or substance determined to be radioactive pursuant to  
15 the atomic energy act of 1954 (68 Stat. 919; 42 United States Code section  
16 2011).

17 (h) Any substance designated as a hazardous substance pursuant to  
18 section 49-201.

19 (i) Any highly hazardous chemical or regulated substance as listed in  
20 the clean air act of 1963 (P.L. 88-206; 42 United States Code sections 7401  
21 through 7671).

22 ~~9.~~ 10. "Hazardous materials incident" means the uncontrolled,  
23 unpermitted release or potential release of hazardous materials that may  
24 present an imminent and substantial danger to the public health or welfare or  
25 to the environment.

26 ~~10.~~ 11. "Local emergency" means the existence of conditions of  
27 disaster or of extreme peril to the safety of persons or property within the  
28 territorial limits of a county, city or town, which conditions are or are  
29 likely to be beyond the control of the services, personnel, equipment and  
30 facilities of such political subdivision as determined by its governing body  
31 and which require the combined efforts of other political subdivisions.

32 ~~11.~~ 12. "Mitigation" means measures taken to reduce the need to  
33 respond to a disaster and to reduce the cost of disaster response and  
34 recovery.

35 ~~12.~~ 13. "Preparedness" means actions taken to develop the response  
36 capabilities needed for an emergency.

37 ~~13.~~ 14. "Recovery" means short-term activities necessary to return  
38 vital systems and facilities to minimum operating standards and long-term  
39 activities required to return life to normal or improved levels.

40 ~~14.~~ 15. "Response" means activities that are designed to provide  
41 emergency assistance, limit the primary effects, reduce the probability of  
42 secondary damage and speed recovery operations.

43 ~~15.~~ 16. "State of emergency" means the duly proclaimed existence of  
44 conditions of disaster or of extreme peril to the safety of persons or  
45 property within the state caused by air pollution, fire, flood or floodwater,

1 storm, epidemic, riot, earthquake or other causes, except those resulting in  
2 a state of war emergency, which are or are likely to be beyond the control of  
3 the services, personnel, equipment and facilities of any single county, city  
4 or town, and which require the combined efforts of the state and the  
5 political subdivision.

6 ~~16-~~ 17. "State of war emergency" means the condition which exists  
7 immediately whenever this nation is attacked or upon receipt by this state of  
8 a warning from the federal government indicating that such an attack is  
9 imminent.

10 Sec. 3. Section 26-303, Arizona Revised Statutes, is amended to read:

11 ~~26-303.~~ Emergency powers of governor; termination;  
12 authorization for adjutant general; limitation

13 A. During a state of war emergency, the governor may:

14 1. Suspend the provisions of any statute prescribing the procedure for  
15 conduct of state business, or the orders or rules of any state agency, if the  
16 governor determines and declares that strict compliance with the provisions  
17 of any such statute, order or rule would in any way prevent, hinder or delay  
18 mitigation of the effects of the emergency.

19 2. Commandeer and utilize any property, except for firearms or  
20 ammunition or firearms or ammunition components, or personnel deemed  
21 necessary in carrying out the responsibilities vested in the office of the  
22 governor by this chapter as chief executive of the state and thereafter the  
23 state shall pay reasonable compensation therefor as follows:

24 (a) If property is taken for temporary use, the governor, within ten  
25 days after the taking, shall determine the amount of compensation to be paid  
26 therefor. If the property is returned in a damaged condition, the governor,  
27 within ten days after its return, shall determine the amount of compensation  
28 to be paid for such damage.

29 (b) If the governor deems it necessary for the state to take title to  
30 property under this section, the governor shall then cause the owner of the  
31 property to be notified thereof in writing by registered mail, postage  
32 prepaid, and then cause a copy of the notice to be filed with the secretary  
33 of state.

34 (c) If the owner refuses to accept the amount of compensation fixed by  
35 the governor for the property referred to in subdivisions (a) and (b), the  
36 amount of compensation shall be determined by appropriate proceedings in the  
37 superior court in the county where the property was originally taken.

38 B. During a state of war emergency, the governor shall have complete  
39 authority over all agencies of the state government and shall exercise all  
40 police power vested in this state by the constitution and laws of this state  
41 in order to effectuate the purposes of this chapter.

42 C. The powers granted the governor by this chapter with respect to a  
43 state of war emergency shall terminate if the legislature is not in session  
44 and the governor, within twenty-four hours after the beginning of such state  
45 of war emergency, has not issued a call for an immediate special session of

1 the legislature for the purpose of legislating on subjects relating to such  
2 state of war emergency.

3 D. The governor may proclaim a state of emergency which shall take  
4 effect immediately in an area affected or likely to be affected if the  
5 governor finds that circumstances described in section 26-301, paragraph 15  
6 16 exist.

7 E. During a state of emergency:

8 1. The governor shall have complete authority over all agencies of the  
9 state government and the right to exercise, within the area designated, all  
10 police power vested in the state by the constitution and laws of this state  
11 in order to effectuate the purposes of this chapter.

12 2. The governor may direct all agencies of the state government to  
13 utilize and employ state personnel, equipment and facilities for the  
14 performance of any and all activities designed to prevent or alleviate actual  
15 and threatened damage due to the emergency. The governor may direct such  
16 agencies to provide supplemental services and equipment to political  
17 subdivisions to restore any services in order to provide for the health and  
18 safety of the citizens of the affected area.

19 F. The powers granted the governor by this chapter with respect to a  
20 state of emergency shall terminate when the state of emergency has been  
21 terminated by proclamation of the governor or by concurrent resolution of the  
22 legislature declaring it at an end.

23 G. No provision of this chapter may limit, modify or abridge the  
24 powers vested in the governor under the constitution or statutes of this  
25 state.

26 H. If authorized by the governor, the adjutant general has the powers  
27 prescribed in this subsection. If, in the judgment of the adjutant general,  
28 circumstances described in section 26-301, paragraph 15 exist, the adjutant  
29 general may:

30 1. Exercise those powers pursuant to statute and gubernatorial  
31 authorization following the proclamation of a state of emergency under  
32 subsection D of this section.

33 2. Incur obligations of twenty thousand dollars or less for each  
34 emergency or contingency payable pursuant to section 35-192 as though a state  
35 of emergency had been proclaimed under subsection D of this section.

36 I. The powers exercised by the adjutant general pursuant to subsection  
37 H of this section expire seventy-two hours after the adjutant general makes a  
38 determination under subsection H of this section.

39 J. Pursuant to the second amendment of the United States Constitution  
40 and article II, section 26, Constitution of Arizona, and notwithstanding any  
41 other law, the emergency powers of the governor, the adjutant general or any  
42 other official or person shall not be construed to allow the imposition of  
43 additional restrictions on the lawful possession, transfer, sale,  
44 transportation, carrying, storage, display or use of firearms or ammunition  
45 or firearms or ammunition components.

1 K. Nothing in this section shall be construed to prohibit the  
2 governor, the adjutant general or other officials responding to an emergency  
3 from ordering the reasonable movement of stores of ammunition out of the way  
4 of dangerous conditions.

5 Sec. 4. Section 26-305, Arizona Revised Statutes, is amended to read:  
6 26-305. Division of emergency management; duties; director;  
7 term; qualifications; compensation; emergency  
8 management training fund; disaster recovery area fund

9 A. There is established in the department of emergency and military  
10 affairs the division of emergency management, which is administered by the  
11 department under the authority of the adjutant general, subject to powers  
12 vested in the governor as provided by law.

13 B. The division shall prepare for and coordinate those emergency  
14 management activities that may be required to reduce the impact of disaster  
15 on persons or property.

16 C. Through the powers vested in the governor, the division shall  
17 coordinate the cooperative effort of all governmental agencies including the  
18 federal government, this state and its political subdivisions to alleviate  
19 suffering and loss resulting from disaster.

20 D. The adjutant general shall appoint the director who serves at the  
21 pleasure of the adjutant general. The adjutant general shall select the  
22 director on the basis of demonstrated ability in governmental functions or  
23 business administration and general knowledge of contingency planning and  
24 disaster preparedness.

25 E. The director is eligible to receive compensation pursuant to  
26 section 38-611.

27 F. Employees other than the director are employees as defined by  
28 section 41-762.

29 G. The emergency management training fund is established consisting of  
30 monies received from fees collected by the division for coordinating  
31 symposiums, training conferences and seminars relating to its powers and  
32 duties. The director of the division shall deposit all fees collected for  
33 these activities in the fund, which shall be used only for expenses of the  
34 activities. All monies collected from each event that are in excess of the  
35 expenses of the event shall ~~revert to the state general~~ BE TRANSFERRED TO THE  
36 DISASTER RECOVERY AREA fund by the end of the fiscal year.

37 H. THE DISASTER RECOVERY AREA FUND IS ESTABLISHED CONSISTING OF MONIES  
38 RECEIVED FROM TRANSFERS PURSUANT TO SUBSECTION G OF THIS SECTION, DONATIONS  
39 MADE BY PRIVATE INDIVIDUALS AND APPROPRIATIONS FROM THE STATE LEGISLATURE.  
40 THE DIRECTOR OF EMERGENCY MANAGEMENT SHALL ADMINISTER THE FUND. ON NOTICE  
41 FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE  
42 FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL  
43 BE DEPOSITED IN THE FUND. THE MONIES IN THE FUND ARE CONTINUOUSLY  
44 APPROPRIATED FOR DISASTER RECOVERY AREAS ACCORDING TO PROCEDURES ADOPTED BY  
45 THE STATE EMERGENCY COUNCIL.



1 local government in connection with the emergency management activities of  
2 the state.

3 2. Represent the state at conferences in the development and promotion  
4 of the emergency management capability of the state.

5 3. Establish a disaster prevention council to plan for disaster  
6 prevention. The council shall consist of the members of the state emergency  
7 council and other members as determined by the director. The disaster  
8 prevention council shall coordinate the disaster prevention expertise of  
9 representatives of federal, state and local business and industry and promote  
10 partnerships to substantially reduce property loss from natural and  
11 technological disasters.

12 Sec. 6. Section 26-308, Arizona Revised Statutes, is amended to read:

13 26-308. Powers of local government; local emergency management  
14 establishment; organization

15 A. Each county and incorporated city and town of the state may  
16 appropriate and expend ~~funds~~ **MONIES**, make contracts and obtain and distribute  
17 equipment, materials and supplies for emergency management **AND DISASTER**  
18 **RECOVERY** purposes.

19 B. Each county and incorporated city and town of the state shall  
20 establish and provide for emergency management **AND DISASTER RECOVERY** within  
21 its jurisdiction in accordance with state emergency plans and programs. Each  
22 unincorporated community may establish such emergency management **AND DISASTER**  
23 **RECOVERY** programs.

24 C. The chief executive officer or governing body of each county,  
25 incorporated city or incorporated town may appoint a director who shall be  
26 responsible for the organization, administration and operation of local  
27 emergency management **AND DISASTER RECOVERY** programs, subject to the direction  
28 and control of such executive officer or governing body.

29 D. State emergency **AND DISASTER RECOVERY** plans shall be in effect in  
30 each such political subdivision of the state. The governing body of each  
31 such political subdivision shall take such action as is necessary to carry  
32 out the provisions ~~thereof~~ **OF THE PLANS**, including the development of  
33 additional emergency **AND DISASTER RECOVERY** plans for the political  
34 subdivision in support of the state emergency **AND DISASTER RECOVERY** plans.

35 E. Each county's emergency management organization shall:

36 1. Maintain a list of public and private organizations within the  
37 county ~~which~~ **THAT** have personnel trained and available for assisting in  
38 meeting emergency **AND DISASTER RECOVERY** needs.

39 2. Maintain an inventory of facilities, equipment, supplies and other  
40 resources within the county available for use in meeting emergency needs.

41 3. Provide a summary of the information required in paragraphs 1 and 2  
42 to the state director of emergency management.

1           Sec. 7. Section 35-192, Arizona Revised Statutes, is amended to read:  
2           35-192. Authorization for declaration of disaster:  
3                   authorization for liabilities and expenses:  
4                   priorities and limitations; review and report of  
5                   expenditures

6           A. The governor may declare an emergency arising from such major  
7           disasters as provided in this section and incur liabilities therefor,  
8           regardless of whether or not the legislature is in session.

9           B. When the governor, or the director of the division of emergency  
10          management in the department of emergency and military affairs pursuant to  
11          section 26-303, subsection H, determines that a contingency or disaster so  
12          justifies, and declares an emergency, specific liabilities and expenses  
13          provided for in this section are authorized to be incurred against and to be  
14          paid as claims against the state from unrestricted monies from the general  
15          fund to mitigate and meet contingencies and emergencies arising from:

- 16           1. Invasions, hostile attacks, riots or insurrections.
- 17           2. Epidemics of disease or plagues of insects.
- 18           3. Floods or floodwaters.
- 19           4. Acts of God or any major disaster.
- 20           5. ~~Wild-land~~ WILDLAND fires, but only after all necessary  
21          authorizations under section 37-623.02 are exhausted.

22           6. INDUSTRIAL AND MINING ACCIDENTS.  
23          C. When authorized by the governor, specific liabilities and expenses  
24          provided for in this section may be incurred against and may be paid as  
25          claims against the state from unrestricted monies from the general fund to  
26          meet contingencies and emergencies arising from incidents relating to  
27          hazardous materials as defined in section 26-301 and search or rescue  
28          operations conducted pursuant to section 11-251.02, section 11-441,  
29          subsection C or section 26-306 subject to the limitations provided in section  
30          35-192.01.

31          D. Liabilities and expenses authorized under the provisions of  
32          subsection B of this section may be incurred for any of the emergencies or  
33          contingencies prescribed in subsection B of this section in the following  
34          order of priority:

- 35           1. Reimbursement for expenses incurred to combat a menace to the  
36          health, lives or property of any considerable number of persons of the state,  
37          or to property of the state or its political subdivisions.
- 38           2. Reimbursement for expenses incurred to repair damage to any  
39          property of the state.
- 40           3. Reimbursement for expenses incurred to repair damage to any  
41          property of the political subdivisions of the state.
- 42           4. Reimbursement for expenses incurred in search or rescue operations.
- 43           5. Reimbursement for expenses incurred in emergency or disaster  
44          recovery activities or in matching federal disaster recovery programs.

1           6. Reimbursement for expenses for property loss mitigation measures or  
2 to match federal property loss mitigation programs.

3           E. The auditor of the department of emergency and military affairs  
4 shall review liabilities incurred and expenditures made under this section  
5 and report to the state emergency council at ninety day intervals during the  
6 emergency and conduct a final review of each emergency within ninety days  
7 after the termination of the emergency. The state emergency council shall  
8 make a written report not later than August 1 of each year to the legislature  
9 of the actions of the state emergency council during the preceding fiscal  
10 year including an itemized statement of expenditures for each emergency  
11 during the year.

12           F. All liabilities incurred under the provisions of this section shall  
13 be subject to the following limitations:

14           1. No liability shall be incurred against the monies authorized  
15 without the approval of the governor, or the adjutant general pursuant to  
16 section 26-303, subsection H, for each contingency or emergency.

17           2. Incurring of liabilities in excess of two hundred thousand dollars  
18 in any single disaster or emergency shall not be made without consent of a  
19 majority of the members of the state emergency council.

20           3. The aggregate amount of all liabilities incurred under the  
21 provisions of this section shall not exceed four million dollars for  
22 any fiscal year beginning July 1 through June 30. Monies authorized for  
23 disasters and emergencies in prior fiscal years may be used in subsequent  
24 fiscal years only for the disaster or emergency for which they were  
25 authorized. Monies authorized for disasters and emergencies in prior fiscal  
26 years, and expended in subsequent fiscal years for the disaster or emergency  
27 for which they were authorized, apply toward the four million dollar  
28 liability limit for the fiscal year in which they were authorized.

29           4. An obligation of monies under the provisions of this section may be  
30 made only when one or more of the following conditions exist:

31           (a) No appropriation or other authorization is available to meet the  
32 contingency or emergency.

33           (b) An appropriation is insufficient to meet the contingency or  
34 emergency.

35           (c) Federal monies available for such contingency or emergency require  
36 the use of state or other public monies.

37           G. The director of the division of emergency management in the  
38 department of emergency and military affairs shall develop rules for  
39 administering the monies authorized for liabilities under this section,  
40 subject to approval by the governor.