

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 208**  
**HOUSE BILL 2274**

AN ACT

PROVIDING FOR TRANSFERRING AND RENUMBERING; REPEALING TITLE 26, CHAPTER 1, ARTICLE 1.1, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-152 AND 26-153, ARIZONA REVISED STATUTES; REPEALING SECTION 26-183, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-231, 26-303 AND 26-305.01, ARIZONA REVISED STATUTES; REPEALING SECTION 26-305.02, ARIZONA REVISED STATUTES; AMENDING SECTION 26-306, ARIZONA REVISED STATUTES; REPEALING HEADING OF TITLE 26, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 26-1067, 26-1135, 32-2216, 35-192 AND 41-1711, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3018.08, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3022.20, ARIZONA REVISED STATUTES; REPEALING SECTION 43-619, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-104, 49-108 AND 49-110, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; AMENDING SECTIONS 49-927 AND 49-972, ARIZONA REVISED STATUTES; RELATING TO EMERGENCY MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Transfer and renumber

3 Section 26-113, Arizona Revised Statutes, is transferred and renumbered  
4 for placement in title 26, chapter 1, article 1, Arizona Revised Statutes, as  
5 section 26-104.

6 Sec. 2. Repeal

7 Title 26, chapter 1, article 1.1, Arizona Revised Statutes, is  
8 repealed.

9 Sec. 3. Section 26-152, Arizona Revised Statutes, is amended to read:

10 ~~26-152.~~ National guard fund; camp Navajo fund

11 A. The national guard fund is established consisting of monies  
12 appropriated to the national guard. ~~THE ADJUTANT GENERAL SHALL ADMINISTER~~  
13 ~~THE FUND. ON NOTICE FROM THE ADJUTANT GENERAL, THE STATE TREASURER SHALL~~  
14 ~~INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND~~  
15 ~~MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE~~  
16 ~~FUND ARE CONTINUOUSLY APPROPRIATED TO THE NATIONAL GUARD AND ARE EXEMPT FROM~~  
17 ~~THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.~~

18 B. The fund may be drawn ~~upon~~ ON by the adjutant general, ~~OR THE~~  
19 ~~ADJUTANT GENERAL'S DESIGNEE~~, for any purpose commensurate with the purpose  
20 and mission of the national guard.

21 C. The amount of the national guard fund appropriated for capital  
22 outlay or improvements shall be exempt from the provisions of section 35-190  
23 relating to lapsing appropriations.

24 ~~D. All proceeds from the rental or use of armories received by the~~  
25 ~~general staff pursuant to the authority of section 26 115, subsection E~~ THE  
26 ~~ADJUTANT GENERAL IS AUTHORIZED TO UTILIZE ANY NATIONAL GUARD FACILITY FOR~~  
27 ~~COMMERCIAL PURPOSES. ALL PROCEEDS FROM COMMERCIAL ACTIVITIES~~ shall be  
28 deposited, pursuant to sections 35-146 and 35-147, in a separate account in  
29 the national guard fund, and the monies are continuously appropriated to the  
30 department for the OPERATION, maintenance ~~of armories~~, SUPPORT AND CAPITAL  
31 IMPROVEMENTS OF ANY NATIONAL GUARD FACILITY. Monies in the account are  
32 exempt from the provisions of section 35-190 relating to lapsing of  
33 appropriations. ~~, except that any monies remaining in the account for one~~  
34 ~~hundred eighty days after the end of the fiscal year in which they were~~  
35 ~~received revert to the state general fund.~~

36 E. A camp Navajo fund is established for the operation, maintenance,  
37 capital improvements and personal services necessary for the national guard  
38 to operate a regional training site and storage facility at Bellemont. The  
39 fund consists of monies received from storage of commodities and services  
40 provided as approved by the adjutant general. The adjutant general shall  
41 administer the fund. On notice from the adjutant general, the state  
42 treasurer shall invest and divest monies in the fund as provided by section  
43 35-313, and monies earned from investment shall be credited to the fund.  
44 Monies in the fund are continuously appropriated to the national guard and  
45 are exempt from the provisions of section 35-190 relating to lapsing of  
46 appropriations.

1 F. AFTER ALL BUDGETED OPERATIONAL, MAINTENANCE, SUPPORT AND CAPITAL  
2 IMPROVEMENT REQUIREMENTS ARE MET AT CAMP NAVAJO, THE ADJUTANT GENERAL MAY USE  
3 THE REMAINING MONIES IN THE CAMP NAVAJO FUND TO PROVIDE FOR THE OPERATION,  
4 MAINTENANCE, SUPPORT AND CAPITAL IMPROVEMENTS OF ANY NATIONAL GUARD FACILITY.  
5 FOR THE PURPOSES OF THIS SUBSECTION, "FACILITY" MEANS ALL PROPERTY UNDER THE  
6 CONTROL AND ADMINISTRATION OF THE ADJUTANT GENERAL.

7 Sec. 4. Section 26-153, Arizona Revised Statutes, is amended to read:  
8 26-153. Morale, welfare and recreational fund; sources of  
9 monies; exemptions

10 A. ~~A~~ THE morale, welfare and recreational fund is established as a  
11 state fund for morale, welfare and recreational activities and support  
12 personnel for the national guard. Support personnel shall be employees of  
13 the fund and not of this state. The adjutant general shall administer the  
14 fund ~~pursuant to regulations of the general staff~~, subject to approval of the  
15 governor. Monies shall be deposited, pursuant to sections 35-146 and 35-147,  
16 in the fund from the following sources:

17 1. Monies transferred by the director of the department of  
18 transportation pursuant to section 28-2415.

19 2. Monies deposited pursuant to section 26-102, subsection B,  
20 paragraph 8 or monies generated from recycling activities consistent with  
21 federal recycling policies.

22 3. Any other nonappropriated monies received by the national guard  
23 from state and federal revenue producing military activities relating to  
24 morale, welfare and recreation.

25 B. Monies in the fund are from nonappropriated sources, are not  
26 subject to legislative appropriation and are exempt from the provisions of  
27 section 35-190 relating to lapsing of appropriations. The adjutant general  
28 may establish bank accounts for monies withdrawn from the fund to administer  
29 the operations of the morale, welfare and recreational programs.

30 C. On notice from the adjutant general, the state treasurer shall  
31 invest and divest monies in the fund as provided by section 35-313, and  
32 monies earned from investment shall be credited to the fund.

33 D. Expenditures of monies in the fund are subject to ~~general staff~~  
34 ~~regulations~~ RULES ADOPTED BY THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS  
35 and are exempt from the procurement code requirements of title 41,  
36 chapter 23.

37 Sec. 5. Repeal

38 Section 26-183, Arizona Revised Statutes, is repealed.

1 Sec. 6. Section 26-231, Arizona Revised Statutes, is amended to read:

2 26-231. Acquisition of property by national guard; surplus  
3 property of municipalities; acquisition by eminent  
4 domain; purchase; rent or lease; armory property fund

5 A. A county, city or town may sell, lease or otherwise grant to the  
6 state for national guard purposes surplus real or personal property owned by  
7 it. The determination of the governing body of the county, city or town that  
8 the property is surplus is final, and the property may be sold to the state  
9 for a consideration agreed ~~upon~~ ON between the governing body and the ~~general~~  
10 ~~staff~~ ADJUTANT GENERAL OR THE ADJUTANT GENERAL'S DESIGNEE, or for a nominal  
11 consideration. The sale shall be conducted without formalities,  
12 advertisement for bids or consideration of bids by other persons.

13 B. The governor may exercise the power of eminent domain to obtain  
14 from individuals, corporations or municipalities lands appropriate for  
15 national guard purposes.

16 C. The national guard may purchase real property, buildings and  
17 appurtenances from any person, corporation or municipal corporation with  
18 ~~funds~~ MONIES appropriated for that purpose.

19 D. The national guard may lease or rent real property, buildings and  
20 appurtenances with ~~funds~~ MONIES appropriated for that purpose.

21 E. The national guard may sell surplus armory real property and  
22 deposit the proceeds in a state armory property fund established for that  
23 purpose. Monies in the fund are continuously appropriated to the national  
24 guard for the construction and capital improvement of national guard  
25 armories, subject to the approval of the joint committee on capital review.  
26 On notice from the adjutant general, the state treasurer shall invest and  
27 divest monies in the fund as provided by section 35-313, and monies earned  
28 from investment shall be credited to the fund.

29 Sec. 7. Section 26-303, Arizona Revised Statutes, is amended to read:

30 26-303. Emergency powers of governor; termination;  
31 authorization for adjutant general; limitation

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

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

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

43 (a) If property is taken for temporary use, the governor, within ten  
44 days after the taking, shall determine the amount of compensation to be paid  
45 therefor. If the property is returned in a damaged condition, the governor,

1 within ten days after its return, shall determine the amount of compensation  
2 to be paid for such damage.

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

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

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

16 C. The powers granted the governor by this chapter with respect to a  
17 state of war emergency shall terminate if the legislature is not in session  
18 and the governor, within twenty-four hours after the beginning of such state  
19 of war emergency, has not issued a call for an immediate special session of  
20 the legislature for the purpose of legislating on subjects relating to such  
21 state of war emergency.

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

26 E. During a state of emergency:

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

31 2. The governor may direct all agencies of the state government to  
32 utilize and employ state personnel, equipment and facilities for the  
33 performance of any and all activities designed to prevent or alleviate actual  
34 and threatened damage due to the emergency. The governor may direct such  
35 agencies to provide supplemental services and equipment to political  
36 subdivisions to restore any services in order to provide for the health and  
37 safety of the citizens of the affected area.

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

42 G. No provision of this chapter may limit, modify or abridge the  
43 powers vested in the governor under the constitution or statutes of this  
44 state.

45 H. If authorized by the governor, the adjutant general has the powers  
46 prescribed in this subsection. If, in the judgment of the adjutant general,

1 circumstances described in section 26-301, paragraph 15 exist, the adjutant  
2 general may:

3 1. Exercise those powers pursuant to statute and gubernatorial  
4 authorization following the proclamation of a state of emergency under  
5 subsection D of this section.

6 2. Incur obligations of ~~twenty~~ ONE HUNDRED thousand dollars or less  
7 for each emergency or contingency payable pursuant to section 35-192 as  
8 though a state of emergency had been proclaimed under subsection D of this  
9 section.

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

13 J. Pursuant to the second amendment of the United States Constitution  
14 and article II, section 26, Constitution of Arizona, and notwithstanding any  
15 other law, the emergency powers of the governor, the adjutant general or any  
16 other official or person shall not be construed to allow the imposition of  
17 additional restrictions on the lawful possession, transfer, sale,  
18 transportation, carrying, storage, display or use of firearms or ammunition  
19 or firearms or ammunition components.

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

24 Sec. 8. Section 26-305.01, Arizona Revised Statutes, is amended to  
25 read:

26 26-305.01. Nuclear emergency plan: duties of division and  
27 director

28 A. The division is designated the lead agency and has the overall and  
29 primary responsibility for development of a state plan for off-site response  
30 to an emergency caused by an accident at a commercial nuclear generating  
31 station.

32 B. The director shall develop the plan by appointing a coordinator and  
33 response group and working in consultation with designated representatives  
34 from the following:

- 35 1. Radiation regulatory agency.
- 36 2. Arizona department of agriculture.
- 37 3. Department of health services.
- 38 4. Department of public safety.
- 39 5. Department of transportation.

40 ~~6. Division of military affairs within the department of emergency and~~  
41 ~~military affairs.~~

42 ~~7.~~ 6. Arizona commerce authority.

43 ~~8.~~ 7. Arizona corporation commission.

44 ~~9.~~ 8. Department of environmental quality.

45 ~~10.~~ 9. Any other agencies or offices deemed necessary by the division  
46 of emergency management.



1 technical, administrative and financial support from the federal, state and  
2 local government in connection with the emergency management activities of  
3 the state.

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

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

13 Sec. 11. Heading repeal

14 The article heading of title 26, chapter 2, article 3, Arizona Revised  
15 Statutes, is repealed.

16 Sec. 12. Transfer and renumber

17 Title 26, chapter 2, article 3, Arizona Revised Statutes, is  
18 transferred and renumbered for placement in title 49, chapter 1, Arizona  
19 Revised Statutes, as article 2. The following sections are transferred and  
20 renumbered for placement in title 49, chapter 1, article 2:

<u>Former Sections</u>	<u>New Sections</u>
21 26-341 .....	49-121
22 26-342 .....	49-122
23 26-343 .....	49-123
24 26-344 .....	49-124
25 26-345 .....	49-125
26 26-346 .....	49-126
27 26-347 .....	49-127
28 26-348 .....	49-128
29 26-349 .....	49-129
30 26-350 .....	49-130
31 26-351 .....	49-131
32 26-352 .....	49-132
33 26-353 .....	49-133

34  
35 Sec. 13. Section 26-1067, Arizona Revised Statutes, is amended to  
36 read:

37 26-1067. Court of military appeals; members; terms;  
38 compensation; duties; review; procedures

39 A. The Arizona court of military appeals is established and is located  
40 for administrative purposes only in the department of emergency and military  
41 affairs. The court shall consist of five judges appointed by the governor on  
42 the recommendation of the adjutant general with the advice of the state judge  
43 advocate for a term of six years. Initial appointments shall be staggered.  
44 The term of office for all successor judges is six years, but any judge  
45 appointed to fill a vacancy occurring before the expiration of the term for  
46 which ~~his~~ THE JUDGE'S predecessor was appointed shall be appointed only for

1 the unexpired term of ~~his~~ THE predecessor. Not more than three judges of the  
2 court may be appointed from the same political party. Judges may succeed  
3 themselves in office. A person is eligible for appointment to this court  
4 who, in addition to the requirements of article VI, section 22, Constitution  
5 of Arizona, has at least five years' experience as a judge advocate in the  
6 national guard or armed forces of the United States.

7 B. The governor shall designate one of the judges to act as chief  
8 judge. The chief judge has precedence and shall preside at any session ~~which~~  
9 ~~he~~ THE JUDGE attends. The other judges have precedence and shall preside  
10 according to the seniority of their appointments. Judges whose commissions  
11 bear the same date have precedence according to seniority in age.

12 C. The court shall sit in panels of no less than three judges to be  
13 selected by the presiding judge.

14 D. Judges of the Arizona court of military appeals may be removed by  
15 the governor, on notice and hearing, for neglect of duty or malfeasance in  
16 office or for mental or physical disability but for no other cause.

17 E. The judges of the Arizona court of military appeals, while actually  
18 sitting in review of a matter placed under their jurisdiction by this  
19 chapter, and while traveling to and from such session, are eligible to  
20 receive compensation equal to that compensation prescribed for the judges of  
21 the Arizona court of appeals, as provided by law, together with the actual  
22 cost of meals, lodging and travel expense or the amount set by law if private  
23 transportation is utilized. Payment shall be made from monies appropriated  
24 to the national guard.

25 F. The Arizona court of military appeals has exclusive appellate and  
26 special action jurisdiction, in appeals filed by this state pursuant to  
27 section 26-1062, or on petition of an accused, to hear and review the record  
28 in all general and special court-martial cases and all summary court-martial  
29 cases in which a sentence of confinement has been adjudged.

30 G. The accused has thirty calendar days from the time of receipt of  
31 actual notice of the final action on ~~his~~ THE case by the convening authority  
32 under section 26-1060 to petition the Arizona court of military appeals for  
33 review. The court shall act on a petition within sixty calendar days after  
34 receipt. If the court fails or refuses to grant a petition for review, the  
35 final action of the convening authority is deemed approved. Notwithstanding  
36 any other provision of this chapter, if the court grants a hearing of an  
37 appeal, the court may grant a stay or defer service of the sentence of  
38 confinement or any other punishment until the court's final decision on the  
39 case.

40 H. The Arizona court of military appeals may act only with respect to  
41 the findings and sentence as finally approved and ordered executed by the  
42 convening authority.

43 I. If the Arizona court of military appeals sets aside the findings  
44 and sentence, it may ORDER A REHEARING, except if the setting aside is based  
45 on lack of sufficient evidence in the record to support the findings, ~~order a~~  
46 ~~rehearing~~. If it sets aside the findings and sentence and does not order a

1 rehearing, it shall order that the charges be dismissed. After the Arizona  
2 court of military appeals has acted on the case, the record shall be returned  
3 to the state judge advocate who shall notify the convening authority of the  
4 court's decision. If further action is required, the state judge advocate  
5 shall instruct the convening authority to take action in accordance with that  
6 decision. If the court has ordered a rehearing, but the convening authority  
7 finds a rehearing impracticable, the state judge advocate may dismiss the  
8 charges.

9 J. Decisions of the Arizona court of military appeals are subject to  
10 review by the Arizona supreme court by a petition for review in accordance  
11 with the Arizona rules of criminal procedure and the rules of the supreme  
12 court of Arizona.

13 K. With monies appropriated to the national guard, the adjutant  
14 general may employ persons necessary to assist the Arizona court of military  
15 appeals in its duties.

16 L. The ADJUTANT general staff with the approval of the governor shall  
17 adopt rules necessary for the administration of the court. The accused has a  
18 right to appointed military counsel for his AN appeal.

19 Sec. 14. Section 26-1135, Arizona Revised Statutes, is amended to  
20 read:

21 26-1135. Courts of inquiry

22 A. Courts of inquiry may be convened to investigate any matter by any  
23 person authorized to convene a general court-martial or by any other person  
24 designated by the adjutant general for that purpose, whether or not the  
25 persons involved have requested such an inquiry.

26 B. A court of inquiry consists of three or more commissioned  
27 officers. For each court of inquiry the convening authority shall also  
28 appoint counsel for the court.

29 C. Any person who is subject to this chapter and whose conduct is  
30 subject to inquiry shall be designated as a party. Any person who is subject  
31 to this chapter ~~or employed by the division of military affairs~~ and who has a  
32 direct interest in the subject of inquiry may be designated as a party on  
33 request to the court. Any person designated as a party shall be given due  
34 notice and may be present, may be represented by counsel, may cross-examine  
35 witnesses and may introduce evidence.

36 D. Members of a court of inquiry may be challenged by a party but only  
37 for cause stated to the court.

38 E. The members, counsel, reporter and interpreters of courts of  
39 inquiry shall take an oath to faithfully perform their duties.

40 F. Witnesses may be summoned to appear and testify and be examined  
41 before courts of inquiry, as provided for courts-martial.

42 G. Courts of inquiry shall make findings of fact but shall not express  
43 opinions or make recommendations unless required to do so by the convening  
44 authority.

45 H. Each court of inquiry shall keep a record of its findings, which  
46 shall be authenticated by the signatures of the president and counsel for the

1 court and forwarded to the convening authority. If the record cannot be  
2 authenticated by the president, it shall be signed by a member in lieu of the  
3 president. If the record cannot be authenticated by the counsel for the  
4 court, it shall be signed by a member in lieu of the counsel.

5 Sec. 15. Section 32-2216, Arizona Revised Statutes, is amended to  
6 read:

7 32-2216. Issuance of temporary permits: emergency temporary  
8 permits: definition

9 A. The board may issue temporary permits to veterinary license  
10 applicants and to veterinarians licensed in other states who enter this state  
11 to provide voluntary services during a state of emergency as declared by the  
12 governor or the board of supervisors of the county in which the board of  
13 supervisors has declared a ~~state of~~ LOCAL emergency pursuant to section  
14 26-311. Applicants for all temporary permits must be graduates of an  
15 American veterinary medical association accredited veterinary college or  
16 holders of a certificate from the educational commission for foreign  
17 veterinary graduates or from a program for the assessment of veterinary  
18 education at the time of application.

19 B. The temporary permit issued under this section entitles a  
20 veterinary license applicant to engage in the active practice of veterinary  
21 medicine in this state as an employee of a licensed veterinarian, the state  
22 or any county or municipality in this state. Such applicant shall be  
23 eligible for the next examination, if the applicant has not violated any  
24 provision of this chapter. Such applicant working under the direct and  
25 personal instruction, control or supervision of a licensed veterinarian and  
26 whose compensation is paid by such veterinarian may perform those acts of  
27 animal health care assigned by the veterinarian having responsibility for the  
28 care of the animal. The temporary permit described in this subsection  
29 expires twenty days after the examination. If the applicant fails for good  
30 and sufficient reason to take the examination, the board, by majority  
31 consent, may extend the permit until the next succeeding examination. Except  
32 as otherwise provided in this section, the holder of a temporary permit must  
33 be examined and satisfactorily pass the license examination next following  
34 the issuance of the permit and duly receive a license in order to continue  
35 active professional practice. The temporary permit may be extended only one  
36 time. For the purposes of this subsection, "direct and personal instruction,  
37 control or supervision" means that a veterinarian licensed by the board is  
38 physically present and personally supervising a temporary permittee when the  
39 permittee is practicing acts of veterinary medicine except if the permittee  
40 is at a temporary site for the purpose of delivering services to large  
41 animals or if the permittee is administering emergency services not during  
42 regular office hours. In these cases, phone contact constitutes direct and  
43 personal instruction, control or supervision.

44 C. If an employer, for any reason, terminates the employment of the  
45 applicant, the employing veterinarian shall notify the board and the

1 temporary permit described in subsection B of this section is immediately  
2 void.

3 D. An emergency temporary permit that is issued to an individual who  
4 is a veterinarian licensed in good standing in another state entitles the  
5 individual to provide voluntary veterinary care during a state of emergency  
6 OR LOCAL EMERGENCY for the sole purpose of assisting in care related to that  
7 emergency. The emergency temporary permit expires ninety days after the date  
8 of issuance or at the end of the state of emergency OR LOCAL EMERGENCY,  
9 whichever occurs first. An applicant for an emergency temporary permit shall  
10 submit a complete application, including information regarding veterinary  
11 licensure in any other state and verification that the statutes and rules  
12 pertaining to the board have been reviewed. The board shall verify whether  
13 the veterinarian is licensed in the state or states indicated and confirm the  
14 applicant's good standing. The applicant is not required to pass the state  
15 veterinary examination. A veterinarian who is issued an emergency temporary  
16 permit under this section shall practice in accordance with all laws and  
17 rules related to the practice of veterinary medicine in this state. The  
18 board may investigate any alleged violation by a holder of an emergency  
19 temporary permit and take disciplinary action as prescribed in this chapter.  
20 A veterinarian granted an emergency temporary permit under this section is a  
21 licensed, certified or authorized emergency responder pursuant to section  
22 ~~26-353~~ 49-133 and an emergency worker as defined in section 26-301.

23 E. For the purposes of this section, "emergency temporary permit"  
24 means a temporary permit that is issued to a veterinarian licensed in another  
25 state who enters this state to provide voluntary services during a state of  
26 emergency as declared by the governor or ~~the~~ A LOCAL EMERGENCY DECLARED BY A  
27 county board of supervisors pursuant to section 26-311.

28 Sec. 16. Section 35-192, Arizona Revised Statutes, is amended to read:

29 ~~35-192.~~ Authorization for declaration of disaster; authorization  
30 for liabilities and expenses; priorities and  
31 limitations; review and report of expenditures

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

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

- 42 1. Invasions, hostile attacks, riots or insurrections.
- 43 2. Epidemics of disease or plagues of insects.
- 44 3. Floods or floodwaters.
- 45 4. Acts of God or any major disaster.

1           5. Wildland fires, but only after all necessary authorizations under  
2 section 37-623.02 are exhausted.

3           C. When authorized by the governor, specific liabilities and expenses  
4 provided for in this section may be incurred against and may be paid as  
5 claims against the state from unrestricted monies from the general fund to  
6 meet contingencies and emergencies arising from incidents relating to  
7 hazardous materials as defined in section 26-301 and search or rescue  
8 operations conducted pursuant to section 11-251.02, section 11-441,  
9 subsection C or section 26-306 subject to the limitations provided in section  
10 35-192.01. Within ninety days after monies are awarded under this section,  
11 the department of emergency and military affairs shall post in a prominent  
12 location on the department's official website the amount of monies awarded  
13 under this section, who received the monies and how the monies were spent.

14           D. Liabilities and expenses authorized under subsection B of this  
15 section may be incurred for any of the emergencies or contingencies  
16 prescribed in subsection B of this section in the following order of  
17 priority:

18           1. Reimbursement for expenses incurred to combat a menace to the  
19 health, lives or property of any considerable number of persons of the state,  
20 or to property of the state or its political subdivisions.

21           2. Reimbursement for expenses incurred to repair damage to any  
22 property of the state.

23           3. Reimbursement for expenses incurred to repair damage to any  
24 property of the political subdivisions of the state.

25           4. Reimbursement for expenses incurred in search or rescue operations.

26           5. Reimbursement for expenses incurred in emergency or disaster  
27 recovery activities or in matching federal disaster recovery programs.

28           6. Reimbursement for expenses for property loss mitigation measures or  
29 to match federal property loss mitigation programs.

30           E. The auditor of the department of emergency and military affairs  
31 shall review liabilities incurred and expenditures made under this section  
32 and report to the state emergency council at ninety-day intervals during the  
33 emergency and conduct a final review of each emergency within ninety days  
34 after the termination of the emergency. The state emergency council shall  
35 make a written report not later than ~~August~~ **SEPTEMBER** 1 of each year to the  
36 legislature of the actions of the state emergency council during the  
37 preceding fiscal year, including an itemized statement of expenditures for  
38 each emergency during the year. The department of emergency and military  
39 affairs shall post the report in a prominent location on the department's  
40 official website.

41           F. All liabilities incurred under this section shall be subject to the  
42 following limitations:

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



1 C. The director shall be selected on the basis of training and  
2 experience with a minimum of five years' experience in the administration of  
3 law enforcement.

4 D. The director shall be appointed by the governor pursuant to  
5 section 38-211 to serve concurrently with the appointing governor and shall  
6 be subject to removal for cause, including but not limited to malfeasance,  
7 misfeasance and nonfeasance in office. The director shall receive annual  
8 compensation as determined pursuant to section 38-611.

9 E. The director shall be directly responsible to the governor for the  
10 conduct and the administration of the department. If the director is unable  
11 to act, the deputy director shall direct the activities of the department  
12 during the period in which the director is unable to act. If the director  
13 and deputy director are unable to act, the governor shall direct the  
14 activities of the department during the period in which the director and  
15 deputy director are unable to act.

16 F. The director shall prescribe procedures for use of department  
17 personnel, facilities, equipment, supplies and other resources in assisting  
18 search or rescue operations.

19 G. The director shall be responsible for the establishment, operation  
20 and maintenance of the statewide emergency medical services communication  
21 system prescribed by section 41-1835.

22 H. The director may purchase, lease, equip, staff and operate air  
23 ambulances, including ambulance helicopters, pursuant to section 41-1834.

24 I. To limit the expenditures of monies derived from the state highway  
25 fund established pursuant to article IX, section 14, Constitution of  
26 Arizona, to traffic safety and traffic law enforcement purposes, the  
27 department of public safety shall:

28 1. Maintain a strict account of all costs incurred by each function  
29 of the department. Such costs shall be determined and allocated between  
30 traffic safety or traffic law enforcement functions and all other  
31 departmental functions and shall include such costs as wages or salaries,  
32 materials or supplies and equipment or facility use.

33 2. Immediately following the determination of all such costs certify  
34 to the office of strategic planning and budgeting the full amount of all  
35 such costs relating to the various functions within the department.

36 J. The office of strategic planning and budgeting shall annually  
37 submit a separate report to the legislature compiled from the department's  
38 functional costs certification indicating the complete breakdown between  
39 those costs which are related to traffic safety or traffic law enforcement  
40 functions and the various other functions within the department. The  
41 director of the department of administration shall include within the  
42 director's annual report to the legislature a recommendation for a separate  
43 appropriation to reimburse the state highway fund from the state general  
44 fund for any expenditures from the state highway fund during the prior  
45 fiscal year in excess of the total of all costs related to traffic safety or  
46 traffic law enforcement functions of the department.

1 K. The director shall establish a special hazardous materials  
2 emergency response organizational unit within the department to function as  
3 the initial response element of the hazardous materials emergency management  
4 program pursuant to section ~~26-305.02~~ 49-123.

5 L. The department is designated as this state's recipient of federal  
6 victims of crime act grants.

7 Sec. 18. Repeal

8 Section 41-3018.08, Arizona Revised Statutes, is repealed.

9 Sec. 19. Section 41-3022.20, Arizona Revised Statutes, is amended to  
10 read:

11 ~~41-3022.20.~~ Department of environmental quality; termination  
12 July 1, 2022

13 A. The department of environmental quality terminates on July 1, 2022.

14 B. Title 49, chapter 1, ~~article~~ ARTICLES 1 ~~is~~ AND 2 ARE repealed on  
15 January 1, 2023.

16 Sec. 20. Repeal

17 Section 43-619, Arizona Revised Statutes, is repealed.

18 Sec. 21. Section 49-104, Arizona Revised Statutes, is amended to read:

19 ~~49-104.~~ Powers and duties of the department and director

20 A. The department shall:

21 1. Formulate policies, plans and programs to implement this title to  
22 protect the environment.

23 2. Stimulate and encourage all local, state, regional and federal  
24 governmental agencies and all private persons and enterprises that have  
25 similar and related objectives and purposes, cooperate with those agencies,  
26 persons and enterprises and correlate department plans, programs and  
27 operations with those of the agencies, persons and enterprises.

28 3. Conduct research on its own initiative or at the request of the  
29 governor, the legislature or state or local agencies pertaining to any  
30 department objectives.

31 4. Provide information and advice on request of any local, state or  
32 federal agencies and private persons and business enterprises on matters  
33 within the scope of the department.

34 5. Consult with and make recommendations to the governor and the  
35 legislature on all matters concerning department objectives.

36 6. Promote and coordinate the management of air resources to assure  
37 their protection, enhancement and balanced utilization consistent with the  
38 environmental policy of this state.

39 7. Promote and coordinate the protection and enhancement of the  
40 quality of water resources consistent with the environmental policy of this  
41 state.

42 8. Encourage industrial, commercial, residential and community  
43 development that maximizes environmental benefits and minimizes the effects  
44 of less desirable environmental conditions.

45 9. Assure the preservation and enhancement of natural beauty and  
46 man-made scenic qualities.

1           10. Provide for the prevention and abatement of all water and air  
2 pollution including that related to particulates, gases, dust, vapors, noise,  
3 radiation, odor, nutrients and heated liquids in accordance with article 3 of  
4 this chapter and chapters 2 and 3 of this title.

5           11. Promote and recommend methods for the recovery, recycling and  
6 reuse or, if recycling is not possible, the disposal of solid wastes  
7 consistent with sound health, scenic and environmental quality policies.  
8 Beginning in 2014, the department shall report annually on its revenues and  
9 expenditures relating to the solid and hazardous waste programs overseen or  
10 administered by the department.

11           12. Prevent pollution through the regulation of the storage, handling  
12 and transportation of solids, liquids and gases that may cause or contribute  
13 to pollution.

14           13. Promote the restoration and reclamation of degraded or despoiled  
15 areas and natural resources.

16           14. Assist the department of health services in recruiting and  
17 training state, local and district health department personnel.

18           15. Participate in the state civil defense program and develop the  
19 necessary organization and facilities to meet wartime or other disasters.

20           16. Cooperate with the Arizona-Mexico commission in the governor's  
21 office and with researchers at universities in this state to collect data and  
22 conduct projects in the United States and Mexico on issues that are within  
23 the scope of the department's duties and that relate to quality of life,  
24 trade and economic development in this state in a manner that will help the  
25 Arizona-Mexico commission to assess and enhance the economic competitiveness  
26 of this state and of the Arizona-Mexico region.

27           17. Unless specifically authorized by the legislature, ensure that  
28 state laws, rules, standards, permits, variances and orders are adopted and  
29 construed to be consistent with and no more stringent than the corresponding  
30 federal law that addresses the same subject matter. This provision shall not  
31 be construed to adversely affect standards adopted by an Indian tribe under  
32 federal law.

33           B. The department, through the director, shall:

34           1. Contract for the services of outside advisers, consultants and  
35 aides reasonably necessary or desirable to enable the department to  
36 adequately perform its duties.

37           2. Contract and incur obligations reasonably necessary or desirable  
38 within the general scope of department activities and operations to enable  
39 the department to adequately perform its duties.

40           3. Utilize any medium of communication, publication and exhibition  
41 when disseminating information, advertising and publicity in any field of its  
42 purposes, objectives or duties.

43           4. Adopt procedural rules that are necessary to implement the  
44 authority granted under this title, but that are not inconsistent with other  
45 provisions of this title.

1           5. Contract with other agencies, including laboratories, in furthering  
2 any department program.

3           6. Use monies, facilities or services to provide matching  
4 contributions under federal or other programs that further the objectives and  
5 programs of the department.

6           7. Accept gifts, grants, matching monies or direct payments from  
7 public or private agencies or private persons and enterprises for department  
8 services and publications and to conduct programs that are consistent with  
9 the general purposes and objectives of this chapter. Monies received  
10 pursuant to this paragraph shall be deposited in the department fund  
11 corresponding to the service, publication or program provided.

12           8. Provide for the examination of any premises if the director has  
13 reasonable cause to believe that a violation of any environmental law or rule  
14 exists or is being committed on the premises. The director shall give the  
15 owner or operator the opportunity for its representative to accompany the  
16 director on an examination of those premises. Within forty-five days after  
17 the date of the examination, the department shall provide to the owner or  
18 operator a copy of any report produced as a result of any examination of the  
19 premises.

20           9. Supervise sanitary engineering facilities and projects in this  
21 state, authority for which is vested in the department, and own or lease land  
22 on which sanitary engineering facilities are located, and operate the  
23 facilities, if the director determines that owning, leasing or operating is  
24 necessary for the public health, safety or welfare.

25           10. Adopt and enforce rules relating to approving design documents for  
26 constructing, improving and operating sanitary engineering and other  
27 facilities for disposing of solid, liquid or gaseous deleterious matter.

28           11. Define and prescribe reasonably necessary rules regarding the  
29 water supply, sewage disposal and garbage collection and disposal for  
30 subdivisions. The rules shall:

31           (a) Provide for minimum sanitary facilities to be installed in the  
32 subdivision and may require that water systems plan for future needs and be  
33 of adequate size and capacity to deliver specified minimum quantities of  
34 drinking water and to treat all sewage.

35           (b) Provide that the design documents showing or describing the water  
36 supply, sewage disposal and garbage collection facilities be submitted with a  
37 fee to the department for review and that no lots in any subdivision be  
38 offered for sale before compliance with the standards and rules has been  
39 demonstrated by approval of the design documents by the department.

40           12. Prescribe reasonably necessary measures to prevent pollution of  
41 water used in public or semipublic swimming pools and bathing places and to  
42 prevent deleterious conditions at such places. The rules shall prescribe  
43 minimum standards for the design of and for sanitary conditions at any public  
44 or semipublic swimming pool or bathing place and provide for abatement as  
45 public nuisances of premises and facilities that do not comply with the  
46 minimum standards. The rules shall be developed in cooperation with the

1 director of the department of health services and shall be consistent with  
2 the rules adopted by the director of the department of health services  
3 pursuant to section 36-136, subsection H, paragraph 10.

4 13. Prescribe reasonable rules regarding sewage collection, treatment,  
5 disposal and reclamation systems to prevent the transmission of sewage borne  
6 or insect borne diseases. The rules shall:

7 (a) Prescribe minimum standards for the design of sewage collection  
8 systems and treatment, disposal and reclamation systems and for operating the  
9 systems.

10 (b) Provide for inspecting the premises, systems and installations and  
11 for abating as a public nuisance any collection system, process, treatment  
12 plant, disposal system or reclamation system that does not comply with the  
13 minimum standards.

14 (c) Require that design documents for all sewage collection systems,  
15 sewage collection system extensions, treatment plants, processes, devices,  
16 equipment, disposal systems, on-site wastewater treatment facilities and  
17 reclamation systems be submitted with a fee for review to the department and  
18 may require that the design documents anticipate and provide for future  
19 sewage treatment needs.

20 (d) Require that construction, reconstruction, installation or  
21 initiation of any sewage collection system, sewage collection system  
22 extension, treatment plant, process, device, equipment, disposal system,  
23 on-site wastewater treatment facility or reclamation system conform with  
24 applicable requirements.

25 14. Prescribe reasonably necessary rules regarding excreta storage,  
26 handling, treatment, transportation and disposal. The rules shall:

27 (a) Prescribe minimum standards for human excreta storage, handling,  
28 treatment, transportation and disposal and shall provide for inspection of  
29 premises, processes and vehicles and for abating as public nuisances any  
30 premises, processes or vehicles that do not comply with the minimum  
31 standards.

32 (b) Provide that vehicles transporting human excreta from privies,  
33 septic tanks, cesspools and other treatment processes shall be licensed by  
34 the department subject to compliance with the rules. The department may  
35 require payment of a fee as a condition of licensure. After ~~the effective~~  
36 ~~date of this amendment to this section~~ JULY 20, 2011, the department shall  
37 establish by rule a fee as a condition of licensure, including a maximum fee.  
38 As part of the rule making process, there must be public notice and comment  
39 and a review of the rule by the joint legislative budget committee. After  
40 September 30, 2013, the department shall not increase that fee by rule  
41 without specific statutory authority for the increase. The fees shall be  
42 deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee  
43 fund established by section 49-881.

44 15. Perform the responsibilities of implementing and maintaining a  
45 data automation management system to support the reporting requirements of

1 title III of the superfund amendments and reauthorization act of 1986 (P.L.  
2 99-499) and ~~title 26, chapter 2, article 3~~ ARTICLE 2 OF THIS CHAPTER.

3 16. Approve remediation levels pursuant to article 4 of this chapter.

4 17. Establish or revise fees by rule pursuant to the authority granted  
5 under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for  
6 the department to adequately perform its duties. All fees shall be fairly  
7 assessed and impose the least burden and cost to the parties subject to the  
8 fees. In establishing or revising fees, the department shall base the fees  
9 on:

10 (a) The direct and indirect costs of the department's relevant duties,  
11 including ~~employees~~ EMPLOYEE salaries and benefits, professional and outside  
12 services, equipment, in-state travel and other necessary operational expenses  
13 directly related to issuing licenses as defined in title 41, chapter 6 and  
14 enforcing the requirements of the applicable regulatory program.

15 (b) The availability of other funds for the duties performed.

16 (c) The impact of the fees on the parties subject to the fees.

17 (d) The fees charged for similar duties performed by the department,  
18 other agencies and the private sector.

19 C. The department may:

20 1. Charge fees to cover the costs of all permits and inspections it  
21 performs to ensure compliance with rules adopted under section 49-203, except  
22 that state agencies are exempt from paying the fees. Monies collected  
23 pursuant to this subsection shall be deposited, pursuant to sections 35-146  
24 and 35-147, in the water quality fee fund established by section 49-210.

25 2. Contract with private consultants for the purposes of assisting the  
26 department in reviewing applications for licenses, permits or other  
27 authorizations to determine whether an applicant meets the criteria for  
28 issuance of the license, permit or other authorization. If the department  
29 contracts with a consultant under this paragraph, an applicant may request  
30 that the department expedite the application review by requesting that the  
31 department use the services of the consultant and by agreeing to pay the  
32 department the costs of the consultant's services. Notwithstanding any other  
33 law, monies paid by applicants for expedited reviews pursuant to this  
34 paragraph are appropriated to the department for use in paying consultants  
35 for services.

36 D. The director may:

37 1. If the director has reasonable cause to believe that a violation of  
38 any environmental law or rule exists or is being committed, inspect any  
39 person or property in transit through this state and any vehicle in which the  
40 person or property is being transported and detain or disinfect the person,  
41 property or vehicle as reasonably necessary to protect the environment if a  
42 violation exists.

43 2. Authorize in writing any qualified officer or employee in the  
44 department to perform any act that the director is authorized or required to  
45 do by law.

46 Sec. 22. Section 49-108, Arizona Revised Statutes, is amended to read:

1           49-108. Hazardous materials emergency response operations

2           The director of environmental quality shall establish a hazardous  
3 materials emergency response and recovery organizational unit in the  
4 department to function as the scientific support, health, safety and  
5 environmental element of the hazardous materials emergency management program  
6 pursuant to section ~~26-305.02~~ 49-123. On request from the department of  
7 health services and at the direction of the director of environmental  
8 quality, the unit shall perform appropriate soil and water sampling for toxic  
9 and other harmful effects on the public health and the environment in areas  
10 that have been affected by a chemical or other toxic fire.

11           Sec. 23. Section 49-110, Arizona Revised Statutes, is amended to read:

12           49-110. Compliance order; hearing; judicial review; enforcement

13           A. If the director has reasonable cause to believe that a person is in  
14 violation of section 49-109, ARTICLE 2 OF THIS CHAPTER OR A RULE ADOPTED  
15 PURSUANT TO ARTICLE 2 OF THIS CHAPTER, the director may issue an order  
16 requiring compliance immediately or within a specified time period.

17           B. A compliance order shall state with reasonable specificity the  
18 nature of the violation, a time for compliance, if applicable, and the right  
19 to a hearing.

20           C. A compliance order shall be transmitted to the alleged violator by  
21 certified mail, return receipt requested, or by hand delivery.

22           D. A compliance order becomes final and enforceable in the superior  
23 court unless within thirty days after the receipt of the order the alleged  
24 violator requests a hearing before an administrative law judge. If a hearing  
25 is requested, the order does not become final until the administrative law  
26 judge has issued a final decision on the appeal. Except as provided in  
27 section 41-1092.08, subsection H, any final agency order issued pursuant to  
28 this section is subject to judicial review pursuant to title 12, chapter 7,  
29 article 6.

30           E. If a violator fails to comply with a compliance order issued  
31 pursuant to subsection A of this section, the director may issue an order  
32 assessing a civil penalty of not more than one thousand dollars for each day  
33 of continued noncompliance with the order, not to exceed twenty-five thousand  
34 dollars.

35           Sec. 24. Title 49, chapter 1, Arizona Revised Statutes, is amended by  
36 adding article 2, to read:

37                   ARTICLE 2. COMMUNITY RIGHT-TO-KNOW ACT  
38                   AND HAZARDOUS MATERIALS EMERGENCY RESPONSE

39           Sec. 25. Section 49-123, Arizona Revised Statutes, as transferred and  
40 renumbered, is amended to read:

41           49-123. Hazardous materials emergency management program;  
42                   Arizona emergency response commission; emergency  
43                   planning and community right-to-know

44           ~~A. The Arizona emergency response commission is established consisting~~  
45 ~~of the director of the division, who shall serve as chairperson, and the~~  
46 ~~directors, or their respective designees, of the department of environmental~~

1 ~~quality, the department of health services, the department of public safety~~  
2 ~~and the department of transportation.~~

3 ~~B. An advisory committee to the commission is established consisting~~  
4 ~~of:~~

5 ~~1. The state fire marshal.~~

6 ~~2. The chief administrative officer, or the officer's designee, of the~~  
7 ~~following agencies:~~

8 ~~(a) Arizona department of agriculture.~~

9 ~~(b) Corporation commission.~~

10 ~~(c) Industrial commission of Arizona.~~

11 ~~(d) Radiation regulatory agency.~~

12 ~~(e) State mine inspector.~~

13 ~~3. Two representatives nominated by the Arizona fire chiefs~~  
14 ~~association incorporated or its successor agency. One nominee shall~~  
15 ~~represent a fire department serving a population of two hundred fifty~~  
16 ~~thousand or more persons. One nominee shall represent a fire department or~~  
17 ~~fire district serving a population of less than two hundred fifty thousand~~  
18 ~~persons. The term of appointment is for two years.~~

19 ~~C. The governor shall appoint four private sector representatives to~~  
20 ~~the advisory committee to the commission after reviewing the recommendations~~  
21 ~~provided by the commission. The governor shall appoint, or reappoint, two of~~  
22 ~~the members each year from the private sector, to serve terms of two years.~~  
23 ~~These members, to the extent practicable, shall have technical expertise in~~  
24 ~~the emergency response field.~~

25 ~~D. The members of the commission shall serve without compensation but~~  
26 ~~are eligible for reimbursement for travel and other expenses as provided by~~  
27 ~~law. The division and the department of environmental quality shall provide~~  
28 ~~such professional, technical or administrative staff support as necessary to~~  
29 ~~implement and perform the commission duties.~~

30 ~~E. The commission shall meet as often as necessary and may organize~~  
31 ~~itself into such support committees as necessary to implement this article~~  
32 ~~and title III in this state. The full commission shall meet at least~~  
33 ~~annually. The commission may adopt internal operating rules.~~

34 ~~A. THE DEPARTMENT IS DESIGNATED THE LEAD AGENCY FOR DEVELOPING AND~~  
35 ~~IMPLEMENTING A STATE HAZARDOUS MATERIALS EMERGENCY MANAGEMENT PROGRAM.~~

36 ~~B. THE DIRECTOR SHALL APPOINT A COORDINATOR TO WORK IN CONSULTATION~~  
37 ~~WITH THE ARIZONA EMERGENCY RESPONSE COMMISSION IN THE DEVELOPMENT AND~~  
38 ~~IMPLEMENTATION OF THE HAZARDOUS MATERIALS EMERGENCY MANAGEMENT PROGRAM.~~

39 ~~C. THE ARIZONA EMERGENCY RESPONSE COMMISSION IS ESTABLISHED CONSISTING~~  
40 ~~OF REPRESENTATIVES FROM THE FOLLOWING AGENCIES AND DEPARTMENTS:~~

41 ~~1. THE DIVISION OF EMERGENCY MANAGEMENT.~~

42 ~~2. THE DEPARTMENT OF HEALTH SERVICES.~~

43 ~~3. THE DEPARTMENT OF PUBLIC SAFETY.~~

44 ~~4. THE DEPARTMENT OF TRANSPORTATION.~~

45 ~~5. THE ARIZONA DEPARTMENT OF AGRICULTURE.~~

46 ~~6. THE CORPORATION COMMISSION.~~

1           7. THE INDUSTRIAL COMMISSION OF ARIZONA.  
2           8. THE OFFICE OF STATE FIRE MARSHAL.  
3           9. THE OFFICE OF STATE MINE INSPECTOR.  
4           10. THE RADIATION REGULATORY AGENCY.  
5           11. TWO REPRESENTATIVES NOMINATED BY THE ARIZONA FIRE CHIEFS  
6 ASSOCIATION OR ITS SUCCESSOR ORGANIZATION, ONE OF WHOM REPRESENTS A FIRE  
7 DEPARTMENT OR A FIRE DISTRICT SERVING A POPULATION OF LESS THAN TWO HUNDRED  
8 FIFTY THOUSAND PERSONS.  
9           12. OTHER AGENCIES OR OFFICES DEEMED NECESSARY BY THE DIRECTOR.  
10          D. THIS ARTICLE DOES NOT CHANGE OR ALTER THE EXISTING REGULATORY  
11 AUTHORITY OR PROVISIONS OF LAW RELATING TO THE AGENCIES AND DEPARTMENTS  
12 LISTED IN SUBSECTION C OF THIS SECTION.  
13          E. THE DEPARTMENT IS DESIGNATED AS THE LEAD AGENCY FOR IMPLEMENTING  
14 TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986  
15 (P.L. 99-499). THE DIRECTOR SHALL ADMINISTER ANY MONIES RECEIVED UNDER  
16 SUBSECTION G OF THIS SECTION.  
17          F. The ~~commission~~ DEPARTMENT shall administer this article and the  
18 rules adopted under this article. The ~~commission~~ DEPARTMENT shall administer  
19 title III in this state and may conduct whatever activities are necessary to  
20 implement this article and title III in this state. The ~~commission~~  
21 DEPARTMENT is granted all the authority and responsibilities of a state  
22 emergency response commission for purposes of title III.  
23          G. The ~~commission~~ DEPARTMENT may procure by contract the temporary or  
24 intermittent services of experts or consultants if such services are to be  
25 performed on a part-time or fee-for-services basis and do not involve the  
26 performance of administrative duties. The ~~commission~~ DEPARTMENT may also  
27 enter into agreements with the federal government, Indian tribes, other  
28 states and political subdivisions of this state for the purposes of this  
29 article. The ~~commission~~ DEPARTMENT may also accept on behalf of this state  
30 any reimbursement, grant or gift that may become available for purposes of  
31 this ~~chapter~~ ARTICLE. The ~~commission~~ DEPARTMENT shall deposit, pursuant to  
32 sections 35-146 and 35-147, any such monies in the emergency response fund.  
33          H. The ~~commission~~ DEPARTMENT shall establish a program of financial  
34 grants to local governments funded through the ~~division~~ DEPARTMENT by  
35 appropriations to the emergency response fund. The grants shall be dedicated  
36 to and used for local compliance with this article. The ~~commission~~  
37 DEPARTMENT shall include procedures for applying for the grants and  
38 qualifying criteria for awarding the grants.  
39          I. The ~~commission~~ DEPARTMENT shall adopt and may modify, suspend or  
40 repeal rules pursuant to title 41, chapter 6. The rules may not be more  
41 stringent than title III and the federal regulations adopted under title III,  
42 except as specifically authorized in this article. These rules shall  
43 implement this ~~chapter~~ ARTICLE and title III in this state. The authority to  
44 adopt rules includes establishing:  
45           1. Procedures for handling public information requests.

1           2. Procedures and implementing programs for chemical emergency  
2 planning and preparedness.

3           3. Community right-to-know program reporting requirements.

4           4. ~~Through December 31, 2018,~~ Fees to implement the community  
5 right-to-know program. The fees shall be deposited, pursuant to sections  
6 35-146 and 35-147, in the emergency response fund established by section  
7 ~~26-352~~ 49-132. The governor's regulatory review council must approve rules  
8 adopted pursuant to this paragraph.

9           5. Release reporting requirements.

10          J. ~~Commissioners and advisory committee members~~ THE DEPARTMENT shall  
11 ensure that mandatory hazardous materials training programs for on-scene  
12 command personnel that are developed, delivered or managed by their  
13 respective agencies, departments or divisions address notification  
14 procedures, coordination of services and comprehensive management for  
15 protection of the public health during and after a chemical or other toxic  
16 fire event. The training shall include notification and coordination with  
17 ~~the emergency response unit of the department of environmental quality,~~ the  
18 department of public safety, the department of transportation, the radiation  
19 regulatory agency, the commission, local emergency planning committees, the  
20 department of health services, the division of emergency management, the  
21 national response center and the Arizona poison control system. Training  
22 shall also include orientation on the state emergency response and recovery  
23 plan concerning hazardous materials. ~~Commissioners and advisory committee~~  
24 ~~members~~ THE DEPARTMENT shall encourage private companies that deliver similar  
25 training in ~~Arizona~~ THIS STATE to include the same curriculum in their  
26 programs.

27          Sec. 26. Section 49-127, Arizona Revised Statutes, as transferred and  
28 renumbered, is amended to read:

29          49-127. Facilities subject to emergency planning; facility  
30 emergency response plans

31          A. A facility is subject to emergency planning requirements if a  
32 substance identified under section ~~26-346~~ 49-126 is present at the facility  
33 in an amount at or in excess of the threshold planning quantity for that  
34 substance.

35          B. For purposes of emergency planning, the ~~commission~~ DEPARTMENT may  
36 designate additional facilities ~~which~~ THAT are subject to this section. The  
37 designation shall be accomplished after providing at least thirty days' prior  
38 public notice in a newspaper of general circulation in the county where the  
39 facility is located, after allowing public comment to the ~~commission~~  
40 DEPARTMENT for thirty days and after notification to the facility of the  
41 proposed designation.

42          C. The owner or operator of a facility subject to this section shall  
43 provide to the ~~committee~~ DEPARTMENT the identity of a facility representative  
44 who will provide a facility emergency response plan and who will participate  
45 in the emergency planning process as the facility emergency coordinator.

1 D. Each facility THAT IS subject to this section shall prepare a  
2 facility emergency response plan and submit copies of that plan to the  
3 ~~commission~~ DEPARTMENT, the local emergency planning committee for the  
4 district in which the facility is located and the fire department with  
5 jurisdiction over the facility. A facility that is required to prepare a  
6 contingency plan under ~~title 49~~, chapter 5, article 2 OF THIS TITLE or the  
7 resource conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795)  
8 may submit that contingency plan in lieu of the emergency response plan  
9 required by this section if the information in paragraphs 1 through 7 of this  
10 subsection is included in the plan. In preparing the plan required by this  
11 section, the facility emergency coordinator shall consult with the local  
12 emergency planning committee and other emergency and health professionals to  
13 assure maximum coordination with those whose cooperation or services may be  
14 required in the event of a reportable release. The facility emergency  
15 response plan shall include specific actions to be taken in the event of an  
16 imminent or accidental reportable release to safeguard the public health,  
17 safety and welfare and the environment to the maximum extent practicable.  
18 The facility emergency response plan shall include:

19 1. Names, addresses and emergency telephone numbers of a facility  
20 emergency coordinator and alternate.

21 2. A description of emergency warning systems and a list of emergency  
22 units, emergency personnel and health professionals in close proximity to the  
23 facility.

24 3. A description of employee emergency response training and emergency  
25 preparedness programs.

26 4. A description of appropriate emergency equipment necessary to  
27 respond to a release.

28 5. A description of emergency response procedures, including  
29 notification procedures and evacuation plans in the event of a release.

30 6. Identification of transport routes and transportation methods used  
31 to transport extremely hazardous substances to and from the facility, if  
32 known.

33 7. Provisions for at least an annual review of the plan and provisions  
34 to demonstrate the capability to execute the plan on the request of the  
35 ~~commission~~ DEPARTMENT.

36 Sec. 27. Section 49-128, Arizona Revised Statutes, as transferred and  
37 renumbered, is amended to read:

38 49-128. Emergency notification of reportable releases

39 A. If a reportable release of an extremely hazardous substance listed  
40 under section ~~26-346~~ 49-126 occurs from a facility at which a hazardous  
41 chemical is produced, used or stored, the owner or operator of the facility,  
42 except as excluded under 40 Code of Federal Regulations sections 355.31 and  
43 355.32, in addition to any other notification required by law or rule, shall  
44 immediately orally notify the community emergency coordinator for the local  
45 emergency planning committee for any area likely to be affected by the  
46 reportable release, ~~and the commission, by notifying the emergency response~~

1 ~~unit of~~ the department ~~of environmental quality~~ and appropriate emergency  
2 responders designated by rule of the ~~commission~~ DEPARTMENT, in the manner  
3 prescribed by rule of the ~~commission~~ DEPARTMENT. Unless impracticable under  
4 the circumstances, this oral notification shall occur immediately after the  
5 facility emergency coordinator or ~~his~~ THE COORDINATOR'S designee has  
6 knowledge of the reportable release. The notice of the reportable release  
7 shall include the following to the extent known at the time of the notice and  
8 as long as no delay in responding to the emergency results:

- 9 1. The specific location of the release.
- 10 2. The chemical name or identity of substances released and a  
11 description of the container or vessel from which the release occurred.
- 12 3. An estimate of the quantity of substances ~~which~~ THAT were released  
13 into the environment.
- 14 4. The time and duration of the release.
- 15 5. The medium or media into which the release occurred.
- 16 6. Any known or anticipated acute or chronic health risks associated  
17 with the release and, if within the informant's knowledge, advice regarding  
18 medical attention necessary for exposed individuals.
- 19 7. Proper precautions to take as a result of the release, including  
20 evacuation and other proposed response actions.
- 21 8. The name and telephone number of the person or persons to be  
22 contacted for further information.

23 B. Within thirty days after the reportable release, the owner or  
24 operator of a facility where a release occurred requiring notification  
25 pursuant to this section shall submit to the local emergency planning  
26 committee and to the ~~commission~~ DEPARTMENT a written follow-up emergency  
27 notice stating and updating the information originally provided pursuant to  
28 subsection A of this section and including the following additional  
29 information:

- 30 1. Actions taken to respond to and contain the release.
- 31 2. Any known or anticipated acute or chronic health risks associated  
32 with the release.
- 33 3. If appropriate, advice regarding medical attention necessary for  
34 exposed individuals.
- 35 4. Measures ~~which~~ THAT have been or will be taken at the facility to  
36 avoid a reoccurrence of similar releases.

37 C. After additional information becomes known, the owner or operator  
38 shall update the notice in writing within seven calendar days.

39 Sec. 28. Section 49-129, Arizona Revised Statutes, as transferred and  
40 renumbered, is amended to read:

41 49-129. Material safety data sheets

42 A. A person who owns or operates a facility ~~which~~ THAT is required to  
43 prepare or have available a material safety data sheet for a hazardous  
44 chemical under the occupational safety and health act of 1970 (P.L. 91-593;  
45 84 Stat. 1590), and federal regulations adopted under that act, or under  
46 title 23, chapter 2, article 10, and rules adopted under that article, shall

1 submit to the local emergency planning committee for the district in which  
2 the facility is located, the ~~commission~~ DEPARTMENT, and the fire department  
3 with jurisdiction over the facility material safety data sheets or lists of  
4 hazardous chemicals and any extremely hazardous substances stored, handled or  
5 processed at the facility pursuant to minimum threshold levels prescribed in  
6 ~~title~~ 40 Code of Federal Regulations part 370 as well as comply with section  
7 311 of title III and regulations adopted under that act.

8 B. If a list of hazardous chemicals or extremely hazardous substances  
9 is submitted under this section, it shall include:

10 1. Information prescribed by section 311 of title III.

11 2. The chemical abstract service registry number applicable to each  
12 such chemical and substance, if available.

13 3. An indication of whether the owner elects to withhold information  
14 about the hazardous chemical or extremely hazardous substance from disclosure  
15 as a trade secret.

16 C. On request of a local emergency planning committee, the ~~commission~~  
17 DEPARTMENT or the local fire department with jurisdiction over the facility,  
18 an owner or operator of a facility who has submitted a list pursuant to this  
19 section shall also submit the material safety data sheet for any chemical on  
20 the list to the requesting agency. On request by any person, the local  
21 emergency planning committee may make available a material safety data sheet  
22 to the person or transmit the request to the ~~commission~~ DEPARTMENT, which  
23 shall make the material safety data sheet available, subject to the trade  
24 secret provisions and regulations adopted under title III. If the committee  
25 or ~~commission~~ DEPARTMENT does not have the requested material safety data  
26 sheet, the committee or ~~commission~~ DEPARTMENT shall request the sheet from  
27 the facility owner or operator. The facility owner or operator shall make  
28 the sheet available within thirty days after receiving the request to the  
29 committee or ~~commission~~ DEPARTMENT and the committee or ~~commission~~ DEPARTMENT  
30 shall make the sheet available to the requesting person subject to the trade  
31 secret provisions and regulations adopted under title III.

32 D. Within three months after discovery by an owner or operator of a  
33 facility of significant new information concerning an aspect of a hazardous  
34 chemical for which a list or material safety data sheet was submitted, or  
35 within three months after a facility obtains a new hazardous chemical subject  
36 to the reporting requirements of this section, the owner or operator shall  
37 update and submit a revised list or material safety data sheet to the local  
38 emergency planning committee, the ~~commission~~ DEPARTMENT and the fire  
39 department with jurisdiction over the facility.

40 Sec. 29. Section 49-130, Arizona Revised Statutes, as transferred and  
41 renumbered, is amended to read:

42 49-130. Emergency and hazardous chemical inventory forms

43 A. A person who owns or operates a facility ~~which~~ THAT is required to  
44 prepare or have available a material safety data sheet for a hazardous  
45 chemical under the occupational safety and health act of 1970 (P.L. 91-593;  
46 84 Stat. 1590) and federal regulations adopted under that act or ~~which~~ THAT

1 has to provide a material safety data sheet or listing under this article  
2 shall either file electronically as prescribed by subsection D OF THIS  
3 SECTION or submit to the local emergency planning committee for the district  
4 in which the facility is located, the ~~commission~~ DEPARTMENT and the fire  
5 department with jurisdiction over the facility an emergency and hazardous  
6 chemical inventory form pursuant to section 312 of title III as well as  
7 comply with section 312 of title III and regulations adopted under that act,  
8 except that the tier II emergency and hazardous chemical inventory form shall  
9 be the required form to comply with section 312 of title III effective with  
10 inventory forms due on or after March 1, 1991.

11 B. The tier II inventory form shall contain the following information:

12 1. The chemical name or the common name of the chemical as provided on  
13 the material safety data sheet and the CAS number.

14 2. An estimate, in ranges, of the maximum amount of the hazardous  
15 chemical present at the facility at any time during the preceding year.

16 3. An estimate, in ranges, of the average daily amount of the  
17 hazardous chemical present at the facility during the preceding year.

18 4. A brief description of the manner of storage of the hazardous  
19 chemical.

20 5. The location of the hazardous chemical at the facility.

21 6. An indication of whether the owner elects to withhold location  
22 information or other information about a specific hazardous chemical from  
23 disclosure to the public as a trade secret.

24 7. The fire department or district with jurisdiction for the facility,  
25 including a notation of whether the facility is located on Indian lands.

26 C. An owner or operator of a facility subject to this section shall  
27 submit the information required by this section on the inventory form  
28 provided by the ~~commission~~ DEPARTMENT. The tier II inventory form provided  
29 by the ~~commission~~ DEPARTMENT shall be available in electronic and paper  
30 formats and shall be based on and contain at least the information required  
31 by the federal forms as prescribed by 40 Code of Federal Regulations section  
32 370.41. The ~~commission~~ DEPARTMENT shall identify on its tier II inventory  
33 form each item that is required to be reported by 40 Code of Federal  
34 Regulations section 370.41. The ~~commission~~ DEPARTMENT shall provide notice  
35 on the form that the provision of the information items not required by 40  
36 Code of Federal Regulations section 370.41 is optional.

37 D. Facilities that are subject to reporting under this article may  
38 file reports electronically at an internet ~~web-site~~ WEBSITE that is  
39 designated by the ~~Arizona emergency response commission~~ DEPARTMENT. A  
40 facility that files electronically pursuant to this subsection is deemed to  
41 have complied with the reporting requirements of the ~~commission~~ DEPARTMENT  
42 and with the requirements of title III. Local emergency planning committees,  
43 fire departments and FIRE districts also may accept electronic reporting if  
44 they have agreed to do so in a written agreement with the ~~commission~~  
45 DEPARTMENT that provides for the electronic filing and sharing of reports.  
46 The ~~commission~~ DEPARTMENT shall publish on the ~~commission's web-site~~

1 DEPARTMENT'S WEBSITE a listing of local emergency planning committees, fire  
2 departments and fire districts that have agreed to accept electronic  
3 reporting to assist facilities in determining submission requirements.

4 E. On certifying an electronic submittal pursuant to subsection D OF  
5 THIS SECTION, the facility is deemed to have complied with the original  
6 signature requirements of section 312 of title III. The ~~commission~~  
7 DEPARTMENT and the facility shall each maintain tracking information for the  
8 submittal for purposes of confirmation.

9 F. Information that is collected pursuant to this section shall be  
10 made available to the public pursuant to 40 Code of Federal Regulations part  
11 370, subpart C, except for confidential information.

12 G. For purposes of this section, tier II forms are the forms  
13 established under 40 Code of Federal Regulations part 370.

14 Sec. 30. Section 49-131, Arizona Revised Statutes, as transferred and  
15 renumbered, is amended to read:

16 49-131. Toxic chemical release forms; definitions

17 A. In order to implement section 313 of title III, the owner or  
18 operator of a facility subject to the requirements of this section and  
19 section 313 of title III and regulations adopted under that act shall  
20 complete a toxic chemical release form as supplied by the administrator,  
21 pursuant to section 313(g) of title III, or as supplied by the ~~commission~~  
22 DEPARTMENT, for each toxic chemical listed in the Code of Federal Regulations  
23 by the administrator pursuant to section 313(c) of title III that was  
24 manufactured, processed or otherwise used in quantities exceeding the toxic  
25 chemical threshold quantity established by subsection E of this section  
26 during the preceding calendar year at that facility. The form shall be  
27 submitted to the administrator and to the ~~commission~~ DEPARTMENT on or before  
28 July 1 of each year and shall contain data reflecting releases in excess of  
29 the quantity of that toxic chemical established under subsection E of this  
30 section during the preceding calendar year.

31 B. The requirements of this section apply to owners and operators of  
32 facilities that have ten or more full-time employees and that are in standard  
33 industrial classification codes 20 through 39 in effect on July 1, 1987 as  
34 prepared by the statistical policy division of the United States office of  
35 management and budget, office of the president and that manufactured,  
36 processed or otherwise used a toxic chemical listed in ~~title~~ 40 Code of  
37 Federal Regulations part 372 pursuant to section 313(c) and (d) of title III  
38 in excess of the quantity of that toxic chemical established under subsection  
39 E of this section during the calendar year for which the release form is  
40 required under this section.

41 C. The ~~director of environmental quality as the representative of the~~  
42 ~~governor pursuant to this section~~ DEPARTMENT may request the administrator to  
43 apply the requirements of this section to the owners and operators of any  
44 particular facility that manufactures, processes or otherwise uses a toxic  
45 chemical listed pursuant to section 313(c) of title III if the administrator  
46 determines that such action is warranted on the basis of toxicity of the

1 toxic chemical, the proximity to other facilities that release the toxic  
2 chemical or to population centers, the history of releases of the chemical at  
3 the facility or such other factors as the administrator deems appropriate.

4 D. The toxic chemicals subject to the requirements of this section are  
5 those chemicals listed in ~~title~~ 40 Code of Federal Regulations by the  
6 administrator pursuant to section 313(c) of title III, including any revised  
7 version of the list as may be made pursuant to section 313(d) or (e) of  
8 title III. The ~~director of environmental quality as the representative of~~  
9 ~~the governor~~ DEPARTMENT, pursuant to section 313(e)(2) of title III, may  
10 petition the administrator to add a chemical to or delete a chemical from the  
11 list identified in this section.

12 E. The threshold amounts for purposes of reporting toxic chemicals  
13 under this section are:

14 1. With respect to a toxic chemical used at a facility, ten thousand  
15 pounds of the toxic chemical for the applicable calendar year.

16 2. With respect to a toxic chemical manufactured or processed at a  
17 facility:

18 (a) For the toxic chemical release form required to be submitted under  
19 this section on or before July 1, 1988, seventy-five thousand pounds of the  
20 toxic chemical per year.

21 (b) For the toxic chemical release form required to be submitted under  
22 this section on or before July 1, 1989, fifty thousand pounds of the toxic  
23 chemical per year.

24 (c) For the toxic chemical release form required to be submitted under  
25 this section on or before July 1, 1990 and for each year thereafter,  
26 twenty-five thousand pounds of the toxic chemical per year.

27 F. The threshold amounts for purposes of reporting toxic chemicals  
28 under this section shall be adjusted pursuant to revisions by the  
29 administrator.

30 G. Owners and operators of facilities subject to the requirements of  
31 this section shall provide the information required under this section on a  
32 uniform toxic chemical release form published by the administrator or on a  
33 uniform toxic chemical release form published by the ~~director of~~  
34 ~~environmental quality~~ DEPARTMENT. The form shall:

35 1. Provide for the name and location of and principal business  
36 activities at the facility.

37 2. Include an appropriate certification, signed by a senior official  
38 with management responsibility for the person or persons completing the form,  
39 regarding the accuracy or completeness of the report.

40 3. Provide for the following information for each listed toxic  
41 chemical known to be present at the facility:

42 (a) Whether the toxic chemical at the facility is manufactured,  
43 processed or otherwise used, and the general category or categories of use of  
44 the chemical.

45 (b) An estimate of the maximum amount in ranges of the toxic chemical  
46 present at the facility at any time during the preceding calendar year.

1 (c) For each wastestream, the waste treatment or disposal methods  
2 employed and an estimate of the treatment efficiency typically achieved by  
3 such methods for that wastestream.

4 (d) The annual quantity of the toxic chemical entering each  
5 environmental medium.

6 H. The release forms required under this section are intended to  
7 provide information to the federal, state and local governments and to the  
8 public, including citizens of communities surrounding facilities covered by  
9 this section. The release form shall be available consistent with the trade  
10 secret provisions of title III to inform persons about releases of toxic  
11 chemicals to the environment, to assist governmental agencies, researchers  
12 and other persons in conducting research and data gathering, to aid in  
13 developing appropriate rules and regulations, guidelines and standards and  
14 for similar purposes.

15 I. For purposes of this section:

16 1. "Administrator" means the administrator of the United States  
17 environmental protection agency.

18 2. "Manufacture" means to produce, prepare, import or compound a toxic  
19 chemical.

20 3. "Process" means the preparation of a toxic chemical after its  
21 manufacture for distribution in commerce either:

22 (a) In the same form or physical state as, or in a different form or  
23 physical state from, that in which it was received by the person so preparing  
24 the chemical.

25 (b) As part of an article containing the toxic chemical.

26 Sec. 31. Section 49-132, Arizona Revised Statutes, as transferred and  
27 renumbered, is amended to read:

28 49-132. Emergency response fund

29 The emergency response fund is established consisting of monies  
30 appropriated by the legislature for purposes of ~~section 26-305.02 and~~ this  
31 article and federal, private and other monies available for that purpose.  
32 The ~~chairman of the commission~~ DEPARTMENT shall manage the fund and expend  
33 monies in the fund in performing the functions required or authorized by this  
34 article. All interest earned from investing monies in the fund shall be  
35 credited to the fund. Monies in the fund are subject to legislative  
36 appropriation and are exempt from section 35-190 relating to lapsing of  
37 appropriations.

38 Sec. 32. Section 49-927, Arizona Revised Statutes, is amended to read:

39 49-927. Hazardous waste management fund

40 A. A hazardous waste management fund is established to be administered  
41 by the department. The fund consists of monies appropriated by the  
42 legislature, monies collected pursuant to section 49-931 and monies collected  
43 as fees for issuing permits under section 49-922, subsection B, paragraph 5.  
44 Monies in the fund are subject to legislative appropriation and are exempt  
45 from section 35-190 relating to lapsing of appropriations. On notice from the  
46 director, the state treasurer shall invest and divest monies in the fund as

1 provided by section 35-313, and monies earned from investment shall be  
2 credited to the fund.

3 B. Monies in the hazardous waste management fund shall be used for the  
4 following purposes:

5 1. Informing, educating and training the general public, treatment,  
6 storage and disposal facility operators, hazardous waste handlers and others.

7 2. Supporting statewide hazardous waste planning and program  
8 development activities.

9 3. Processing, issuing and maintaining permits for treatment, storage  
10 or disposal facilities.

11 4. Compliance monitoring, investigation and enforcement activities  
12 pertaining to generating, transporting, treating, storing and disposing of  
13 hazardous waste under this article.

14 5. Funding the pollution prevention technical assistance program  
15 established in section 49-965 and providing matching funds under section 6605  
16 of the pollution prevention act of 1990 (P.L. 101-508).

17 6. Administration of the pollution prevention program pursuant to  
18 article 4 of this chapter.

19 7. Reimbursement of appropriations received for fiscal year 1991-1992  
20 to the state general fund as provided by law.

21 C. Ten ~~per-cent~~ PERCENT of the monies in the fund shall be transmitted  
22 to the emergency response fund established ~~pursuant to~~ BY section ~~26-352~~  
23 ~~49-132~~ to be used for staffing local emergency planning committees and  
24 equipping local fire departments, fire districts and public safety agencies  
25 for the development of hazardous materials emergency response teams.

26 Sec. 33. Section 49-972, Arizona Revised Statutes, is amended to read:  
27 49-972. ~~Pollution prevention plan for state agencies:~~

28 definition

29 A. A state agency that produces hazardous waste or uses toxic  
30 substances in excess of the threshold quantity and time limits prescribed in  
31 section 49-963 shall file a pollution prevention plan with the director. The  
32 pollution prevention plan shall have a goal of twenty ~~per-cent~~ PERCENT  
33 reduction in hazardous waste within two years, fifty ~~per-cent~~ PERCENT  
34 reduction in hazardous waste within five years and a seventy ~~per-cent~~ PERCENT  
35 reduction in hazardous waste in ten years.

36 B. The pollution prevention plan shall address a reduction in the use  
37 of toxic substances and the generation of hazardous wastes. The plan shall  
38 be completed on a form published by the director and shall be filed with the  
39 director on or before January 1, 1993 and every five years thereafter.

40 C. A state agency required to file a pollution prevention plan may  
41 include in the report a certification that there is no reasonably available  
42 and technically feasible alternative to the current level of generation of  
43 hazardous waste at its facilities. If approved by the director, the  
44 certification shall serve as demonstration of compliance with the goals  
45 stated in subsection A of this section.

1 D. The state agency required to prepare a pollution prevention plan  
2 shall maintain a copy of the plan and annual summaries at the agency and at  
3 the facility, where they shall be available for inspection by the department  
4 and by the public.

5 E. The pollution prevention plan summary shall include a summary of  
6 all data and information in the plan, including the following:

7 1. A statement of the scope and objectives of the pollution prevention  
8 plan considering toxicity, volume, disposal costs and liability costs, and a  
9 numerical statement of the reductions in facility use of each hazardous waste  
10 at the facility over the next five or more years.

11 2. An analysis identifying pollution prevention opportunities to  
12 reduce or eliminate toxic substance releases and hazardous waste generation.

13 3. The name and location of all facilities associated with the state  
14 agency that are included in the plan and the name, address and telephone  
15 number of the operator and the senior official with management responsibility  
16 at the facility.

17 4. Identification and explanation of technology, procedures and  
18 options considered available and technically feasible for reducing the use of  
19 each hazardous waste and toxic substance at the facility, an explanation of  
20 options not implemented and a time schedule for implementing chosen options.

21 5. A written certification that the agency has prepared a pollution  
22 prevention plan and that a copy of the plan is available at the agency or  
23 facility for the department's inspection and for inspection by the public on  
24 request to the department.

25 6. Specific performance goals for the prevention of pollution,  
26 including an explanation of the rationale for each performance goal. The  
27 plan shall include a goal for the facility and may include goals for  
28 individual processes, operations, toxic substance usage and hazardous waste  
29 generation.

30 7. A written certification by the senior official with management  
31 responsibility that he has read the plan and that to the best of his  
32 knowledge it is true, accurate and complete.

33 8. A written policy setting forth management support for the pollution  
34 prevention plan and a commitment to implement the plan to achieve the plan  
35 goals.

36 9. An analysis of pollution prevention activities that are already in  
37 place and that are consistent with the requirements of this article.

38 10. Employee awareness and training programs to involve employees in  
39 pollution prevention planning and implementation to the maximum extent  
40 feasible.

41 11. Provisions to incorporate the plan into management practices and  
42 procedures to ensure the plan's institutionalization.

43 F. To the extent practicable, the information required for the  
44 preparation of a pollution prevention plan shall be based on information  
45 developed and forms completed by the state agency for the purposes of  
46 compliance with sections ~~26-347~~ 49-127 and ~~26-351~~ 49-131, the federal

1 pollution prevention act, section 304(l) of the federal water pollution  
2 control act, pretreatment sludge permits pursuant to 40 Code of Federal  
3 Regulations part 503, or other required state and federal reports.

4 G. The department shall make all pollution plans and pollution  
5 prevention plan summaries available to the public.

6 H. If the department determines that a plan is not in compliance with  
7 the requirements of this section, the department may allow the person  
8 submitting the plan ninety days from the date of the notice of deficiency to  
9 correct the deficiency.

10 I. Each state agency required to prepare and maintain a pollution  
11 prevention plan shall file an annual progress report. The annual progress  
12 report shall both:

13 1. Analyze the progress made, if any, in pollution prevention  
14 including toxics use reduction, source reduction and hazardous waste  
15 minimization relative to each performance goal established and relative to  
16 the plan contents.

17 2. Set forth amendments to the pollution prevention plan and explain  
18 the need for the amendments.

19 J. If the threshold quantity prescribed in section 49-963 is exceeded  
20 due to an accidental or remediation related release or occurrence, the  
21 requirement to file a plan pursuant to this section does not apply.

22 K. For purposes of this section, "state agency" includes all  
23 facilities controlled by an agency.

24 Sec. 34. Transfer and succession

25 A. As provided by this act, the department of environmental quality  
26 succeeds to the authority, powers, duties and responsibilities of the Arizona  
27 emergency response commission.

28 B. This act does not alter the effect of any actions that were taken  
29 or impair the valid obligations of the Arizona emergency response commission  
30 in existence before the effective date of this act.

31 C. Administrative rules and orders that were adopted by the Arizona  
32 emergency response commission continue in effect until superseded by  
33 administrative action by the department of environmental quality.

34 Sec. 35. Transfer of monies

35 All unexpended and unencumbered monies remaining in the national guard  
36 relief fund established by section 26-183, Arizona Revised Statutes, as  
37 repealed by this act, are transferred to the department of veterans' services  
38 on the effective date of this act. Using the rules or policies for grants  
39 adopted pursuant to section 41-608, Arizona Revised Statutes, the department  
40 of veterans' services shall distribute the monies transferred pursuant to  
41 this section to a nonprofit organization that provides financial assistance  
42 to Arizona national guard members and their families.

H.B. 2274

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.