

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2600

AN ACT

AMENDING SECTIONS 28-304, 28-6308, 28-6313 AND 28-6353, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6356, 28-6357 AND 28-6358, ARIZONA REVISED STATUTES; AMENDING SECTION 37-622, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-151.02, 41-511, 41-511.01 AND 41-511.14, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 41-1279.03, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-2148 AND 41-3023.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 53; AMENDING SECTIONS 41-5301, 41-5302, 41-5303, 41-5304, 41-5305, 41-5306, 41-5307, 41-5308, 41-5309, 41-5310, 41-5311, 41-5312, 41-5313, 41-5314, 41-5315, 41-5316, 41-5317, 41-5318, 41-5319, 41-5320 AND 41-5321, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 45-618, 49-281 AND 49-282, ARIZONA REVISED STATUTES; REPEALING SECTIONS 49-289.04 AND 49-289.05, ARIZONA REVISED STATUTES; RELATING TO STATE AGENCIES AND BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-304, Arizona Revised Statutes, is amended to
3 read:
4 28-304. Powers and duties of the board; transportation
5 facilities
6 A. The board shall:
7 1. Develop and adopt a statewide transportation policy statement. The
8 policy statement shall be adopted as described in section 28-306.
9 2. Adopt a long-range statewide transportation plan. The plan shall
10 be adopted as described in section 28-307.
11 3. Adopt uniform transportation planning practices and performance
12 based planning processes for use by the department. The practices and
13 processes shall be developed as described in sections 28-502 and 28-503.
14 4. Adopt transportation system performance measures and factors and
15 data collection standards to be used by the department. The performance
16 measures, factors and standards shall be developed as described in sections
17 28-504 and 28-505.
18 B. With respect to highways, the board shall:
19 1. Establish a complete system of state highway routes.
20 2. Determine which state highway routes or portions of the routes are
21 accepted into the state highway system and which state highway routes to
22 improve.
23 3. Establish, open, relocate or alter a portion of a state route or
24 state highway.
25 4. Vacate or abandon a portion of a state route or state highway as
26 prescribed in section 28-7209.
27 5. Sell board funding obligations to the state treasurer as provided
28 in section 28-7678.
29 C. The board shall:
30 1. Establish policies to guide the development or modification of the
31 five year transportation facilities construction program that are consistent
32 with the principles of performance based planning developed pursuant to
33 article 7 of this chapter. The percentage of department discretionary monies
34 allocated to the region in the regional transportation plan approved pursuant
35 to chapter 17, article 1 of this title shall not increase or decrease unless
36 the board, in cooperation with the regional planning agency, agrees to change
37 the percentage of the discretionary monies.
38 2. Award all construction contracts for transportation facilities.
39 3. Monitor the status of these construction projects.
40 ~~D. Consistent with the board's responsibilities, the board shall:~~
41 ~~1. Consider the citizens transportation oversight committee's~~
42 ~~recommendations on the five year construction program for the regional~~
43 ~~transportation plan pursuant to chapter 17 of this title.~~
44 ~~2. Respond to any complaint and approve, disapprove or modify~~
45 ~~recommendations regarding a complaint forwarded to it by the citizens~~

1 ~~transportation oversight committee within ninety days after the citizens~~
2 ~~transportation oversight committee forwards a complaint to the board.~~

3 ~~E.~~ D. The board shall determine priority program planning with
4 respect to transportation facilities using the performance based methods
5 developed pursuant to article 7 of this chapter.

6 ~~F.~~ E. With respect to transportation facilities other than highways,
7 the board shall establish, open, relocate, alter, vacate or abandon all or
8 portions of the facilities.

9 ~~G.~~ F. With respect to aeronautics, the board shall perform the
10 functions prescribed in chapter 25 of this title.

11 ~~H.~~ G. The board shall not spend any monies, adopt any rules or
12 implement any policies or programs to convert signs to the metric system or
13 to require the use of the metric system with respect to designing or
14 preparing plans, specifications, estimates or other documents for any highway
15 project before the conversion or use is required by federal law, except that
16 the board may:

17 1. Spend monies and require the use of the metric system with respect
18 to designing or preparing plans, specifications, estimates or other documents
19 for a highway project that is awarded before October 1, 1997 and that is
20 exclusively metric from its inception.

21 2. Prepare for conversion to and use of the metric system not more
22 than six months before the conversion or use is required by federal law.

23 Sec. 2. Section 28-6308, Arizona Revised Statutes, is amended to read:

24 28-6308. Regional planning agency transportation policy
25 committee; regional transportation plan; plan review
26 process; committee termination

27 A. The regional planning agency in the county shall establish a
28 transportation policy committee consisting of twenty-three members as
29 follows:

30 1. Seventeen members of the regional planning agency, including ~~the~~
31 ~~chairperson of the citizens transportation oversight committee~~, one member of
32 the state transportation board who represents the county, one member of the
33 county board of supervisors and one member representing Indian communities in
34 the county.

35 2. Six members who represent regionwide business interests, one of
36 whom must represent transit interests, one of whom must represent freight
37 interests and one of whom must represent construction interests. The
38 president of the senate and the speaker of the house of representatives shall
39 each appoint three members to the committee pursuant to this paragraph.
40 Members who are appointed pursuant to this paragraph serve six-year terms.
41 The chairman of the regional planning agency may submit names to the
42 president of the senate and the speaker of the house of representatives for
43 consideration for appointment to the transportation policy committee.

44 B. Through the regional planning agency, the transportation policy
45 committee shall:

1 1. By a majority vote of the members, recommend approval of a twenty
2 year comprehensive, performance based, multimodal and coordinated regional
3 transportation plan in the county, including transportation corridors by
4 priority and a schedule indicating the dates that construction will commence
5 for projects contained in the plan.

6 2. Develop the plan in cooperation with the regional public
7 transportation authority in the county and the department of transportation
8 and in consultation with the county board of supervisors, Indian communities
9 and cities and towns in the county.

10 3. Submit the plan for review by the regional public transportation
11 authority in the county, the state board of transportation, the county board
12 of supervisors, Indian communities and cities and towns in the county at the
13 alternatives stage of the plan and the final draft stage of the plan. After
14 reviewing the plan, the regional public transportation authority in the
15 county, the county board of supervisors and the state board of
16 transportation, by majority vote of the members of each entity within thirty
17 days after receiving the plan, shall submit a written recommendation to the
18 transportation policy committee that the plan be approved, modified or
19 disapproved. Within thirty days after receiving the plan, Indian communities
20 and cities and towns in the county may submit a written recommendation to the
21 transportation policy committee that the plan be approved, modified or
22 disapproved.

23 4. Consider plan modifications proposed by any of the entities as
24 prescribed in paragraph 3 of this subsection.

25 5. By majority vote, approve, disapprove or further modify each
26 proposed plan modification.

27 6. Provide a written response to the regional public transportation
28 authority, the state board of transportation, the county board of supervisors
29 and the entity that submitted the proposed modification within thirty days
30 after the vote on the proposed modification explaining the affirmation,
31 rejection or further modification of each proposed modification.

32 7. Recommend the plan to the regional planning agency for approval for
33 an air quality conformity analysis.

34 C. The regional transportation plan:

35 1. Shall include the following transportation mode classifications
36 with a revenue allocation to each classification consistent with section
37 42-6105, subsection D:

38 (a) Freeways and other routes in the state highway system.

39 (b) Major arterial streets and intersection improvements.

40 (c) Public transportation systems.

41 2. Shall provide a suggested construction schedule for the
42 transportation projects contained in the plan.

43 3. May be annually updated to introduce new controlled access
44 highways, related grade separations and transportation projects or to modify
45 the existing plan.

1 4. Shall be developed to meet federal air quality requirements
2 established for the region in which it is located.

3 D. Transportation excise tax revenues that are distributed pursuant to
4 section 42-6105, subsection D shall not be redistributed or used for other
5 transportation modes. Except as provided by section 28-6353, subsections D,
6 E and F, transportation excise tax revenues that are dedicated in the plan to
7 a specific project or transportation system may only be redistributed to or
8 otherwise used for another project within the same transportation mode if
9 approved by a majority vote of the transportation policy committee.

10 E. The committee established pursuant to this section ends on July 1,
11 2024 pursuant to section 41-3103.

12 Sec. 3. Section 28-6313, Arizona Revised Statutes, is amended to read:
13 28-6313. Performance audits of proposed transportation projects
14 and systems

15 A. Beginning in 2010 and every fifth year thereafter, the auditor
16 general shall contract with a nationally recognized independent auditor with
17 expertise in evaluating multimodal transportation systems and in regional
18 transportation planning to conduct a performance audit, as defined in section
19 41-1278, of the regional transportation plan and projects scheduled for
20 funding during the next five years.

21 B. With respect to light rail systems, the audit shall consider the
22 criteria used by the federal transit administration pursuant to 49 United
23 States Code section 5309(e)(1)(B) and the interrelationship among the
24 criteria to provide federal funding for light rail systems. For light rail
25 systems, the audit shall also consider:

- 26 1. Service levels.
- 27 2. Capital costs.
- 28 3. Operation and maintenance costs.
- 29 4. Transit ridership.
- 30 5. Farebox revenues.

31 C. The audit shall:

32 1. Examine the regional transportation plan and projects scheduled for
33 funding within each transportation mode based on the performance factors
34 established in section 28-505, subsection A, in the context of the
35 transportation system.

36 2. Review past expenditures of the regional transportation plan and
37 examine the performance of the system in relieving congestion and improving
38 mobility.

39 3. Make recommendations regarding whether further implementation of a
40 project or transportation system is warranted, warranted with modifications
41 or not warranted.

42 D. The auditor general or the auditors contracted to conduct the audit
43 shall periodically update the transportation policy committee regarding the
44 progress of the audit.

1 E. Within forty-five days after the release of the audit, the regional
2 public transportation authority, ~~the citizens transportation oversight~~
3 ~~committee~~, the state transportation board and the county board of
4 supervisors, by a majority vote of each entity, shall submit written
5 recommendations to the transportation policy committee that the findings are
6 agreed to or disagreed with and the recommendations should be implemented, **BE**
7 implemented with modification or not be implemented.

8 F. Within forty-five days after the audit's release, the regional
9 planning agency shall hold a public hearing on the audit findings and
10 recommendations.

11 G. The auditor general shall distribute copies of the audit to:

12 1. The regional planning agency.

13 2. The transportation policy committee.

14 ~~3. The citizens transportation oversight committee.~~

15 ~~4.~~ 3. The regional public transportation authority in the county.

16 ~~5.~~ 4. The county board of supervisors.

17 ~~6.~~ 5. The state transportation board.

18 ~~7.~~ 6. The governor, secretary of state, president of the senate and
19 speaker of the house of representatives.

20 ~~8.~~ 7. The Arizona state library, archives and public records.

21 ~~9.~~ 8. Any other person who requests a copy pursuant to title 39,
22 **CHAPTER 1**, article 2.

23 H. The state transportation board, regional planning agency, regional
24 public transportation authority and county board of supervisors shall
25 cooperate with and submit to the auditor general and the auditors contracted
26 to conduct the audit information necessary to conduct the audits under this
27 section.

28 I. The cost incurred by the auditor general in contracting with
29 independent auditors for conducting performance audits under subsection A of
30 this section shall be paid from revenues of the county transportation excise
31 tax under section 42-6105. When due, the payments have priority over any
32 other distribution authorized by section 42-6105. The auditor general shall
33 deposit the payments in the audit services revolving fund established by
34 section 41-1279.06.

35 Sec. 4. Section 28-6353, Arizona Revised Statutes, is amended to read:

36 **28-6353. Regional transportation plan and project enhancements**
37 **and changes**

38 A. The regional planning agency in the county shall approve any change
39 in the regional transportation plan and the projects funded in the regional
40 transportation plan that affect the planning agency's transportation
41 improvement program, including project priorities.

42 B. Requests for changes to transportation projects funded in the
43 regional transportation plan that would materially increase costs shall be
44 submitted to the regional planning agency for approval and submitted by the
45 regional planning agency to the board for approval.

1 C. If a local authority requests an enhancement to a transportation
2 project funded pursuant to the regional transportation plan, the local
3 authority shall pay all costs associated with the enhancement.

4 D. The process prescribed in subsection E of this section is required
5 if:

6 1. An audit finding pursuant to section 28-6313 recommends that a
7 project or system in the regional transportation plan is not warranted or
8 requires a modification that is a major amendment as defined in section
9 28-6301.

10 2. The transportation policy committee recommends to the regional
11 planning agency a modification of the regional transportation plan that is a
12 major amendment as defined in section 28-6301.

13 E. A major amendment requires the following:

14 1. Consideration by the transportation policy committee of
15 alternatives in the same modal category that will relieve congestion and
16 improve mobility in the same general corridor addressed by the originally
17 planned project or system.

18 2. If a reasonable option is identified as an alternative for the
19 originally planned project or system, the transportation policy committee
20 shall submit the proposed amendment for review by the regional public
21 transportation authority in the county, the state board of transportation,
22 the county board of supervisors, Indian communities, ~~AND~~ cities and towns in
23 the county ~~and the citizens transportation oversight committee~~. After
24 reviewing the proposed amendment, the board of directors of the regional
25 public transportation authority, the state board of transportation and the
26 county board of supervisors, by a majority vote of the members of each board
27 within thirty days after receiving the proposed amendment, shall submit a
28 written recommendation to the transportation policy committee that the
29 proposed amendment be approved, modified or disapproved. Within thirty days
30 after receiving the amendment, ~~the citizens transportation oversight~~
31 ~~committee and~~ the Indian communities, ~~AND~~ cities and towns may also submit
32 written recommendations to the transportation policy committee that the
33 proposed amendment be approved, modified or disapproved.

34 3. If no reasonable option for an alternative to the originally
35 planned project or system is identified, the transportation policy committee
36 shall submit an amendment to delete the original project for review by the
37 regional public transportation authority, the state board of transportation,
38 the county board of supervisors, Indian communities, ~~AND~~ cities and towns in
39 the county ~~and the citizens transportation oversight committee~~. After
40 reviewing the proposed amendment the board of directors of the regional
41 public transportation authority, the state board of transportation and the
42 county board of supervisors, by a majority vote of the members of each board
43 within thirty days after receiving the proposed amendment, shall submit a
44 written recommendation to the transportation policy committee that the
45 proposed amendment be approved, modified or disapproved. Within thirty days

1 after receiving the proposed amendment, ~~the citizens transportation oversight~~
2 ~~committee and~~ Indian communities, ~~AND~~ cities and towns in the county may
3 also submit written recommendations to the transportation policy committee
4 that the proposed amendment be approved, modified or disapproved.

5 4. The transportation policy committee must consider any written
6 recommendations submitted by any of the reviewing entities as prescribed by
7 paragraph 2 or 3 of this subsection.

8 5. The transportation policy committee shall recommend approval,
9 disapproval or modification of the proposed amendment to the regional
10 planning agency for consideration.

11 F. The affirmative vote of seventeen members of the transportation
12 policy committee is required to approve and proceed with either of the
13 following:

14 1. Recommendation of a major amendment to the regional planning agency
15 that fails to receive approval of either the regional public transportation
16 authority in the county, the state board of transportation or the county
17 board of supervisors as prescribed in this section.

18 2. A transportation project or system that is found to be unwarranted
19 by an audit as prescribed in this section.

20 Sec. 5. Repeal

21 Sections 28-6356, 28-6357 and 28-6358, Arizona Revised Statutes, are
22 repealed.

23 Sec. 6. Section 37-622, Arizona Revised Statutes, is amended to read:

24 37-622. Duties of state forester; acceptance of federal law

25 A. The state forester is designated as the agent of the state of
26 Arizona and shall administer the provisions of this chapter. In addition,
27 the state forester shall:

28 1. Perform all management and administrative functions assigned or
29 delegated to this state by the United States relating to forestry and
30 financial assistance and grants relating to forestry.

31 2. Identify sources of information relating to forest management,
32 including wildfire suppression and recovery and administrative and judicial
33 appeals and litigation with respect to timber sales and forest thinning
34 projects in this state, and develop procedures for compiling and transferring
35 that information to the state forester.

36 3. Take necessary action to maximize state fire assistance grants,
37 including establishing timelines for using grant monies and reallocating
38 lapsed grant monies to other projects.

39 4. Conduct education and outreach in forest communities explaining the
40 wildfire threat to private property caused by lack of timber harvesting and
41 thinning.

42 5. Monitor forestry projects and wildfire activities.

43 6. Intervene on behalf of this state and its citizens in
44 administrative and judicial appeals and litigation that challenge

1 governmental efforts supported by the state forester if the state forester
2 determines that intervention is in the best interests of this state.

3 7. Annually develop and implement a comprehensive plan for the
4 deployment of state, county, municipal, fire district, volunteer fire
5 association and private fire service provider contract resources to wildfire
6 suppression activities. The wildfire deployment plan shall take into account
7 anticipated fire conditions and fire severity and may include prepositioning
8 resources as necessary. The state forester shall consult with federal land
9 management firefighting agencies, state and county emergency agencies,
10 municipal fire departments, fire districts, statewide fire district and
11 statewide fire chiefs associations, volunteer fire departments and private
12 fire contractors in the development of a comprehensive wildfire deployment
13 plan, the implementation of standards for training and certification for all
14 classes of wildland fire personnel and the implementation of standards for
15 wildland fire apparatus and equipment that ~~is~~ ARE deployed under cooperative
16 agreements with the state forester.

17 8. Provide necessary oversight to ensure standardized training and
18 certification for all classifications of wildfire firefighters to be
19 deployed, through cooperator agreement with the state forester, to any
20 federal or state wildfire incident.

21 9. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR SAFEGUARDING LIFE
22 AND PROPERTY FROM WILDLAND FIRES AND FIRE HAZARDS, PREVENTING WILDLAND FIRES
23 AND ALLEVIATING FIRE HAZARDS.

24 10. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE STORAGE,
25 SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS, COMBUSTIBLES, FLAMMABLE
26 LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS IN WILDLAND-URBAN INTERFACE
27 AREAS.

28 11. CONSULT WITH THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF
29 EMERGENCY AND MILITARY AFFAIRS AND LOCAL GOVERNMENTS REGARDING THE
30 ESTABLISHMENT OF FIRE EVACUATION ROUTES AND COMMUNITY ALERT SYSTEMS.

31 12. MAKE RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE CREATION OF
32 DEFENSIBLE SPACES IN AND AROUND WILDLAND-URBAN INTERFACE AREAS AS AUTHORIZED
33 BY EXISTING COUNTY AND MUNICIPAL LAWS AND ORDINANCES.

34 B. During the first regular session of each legislature, the state
35 forester shall present information to the legislative committees with
36 jurisdiction over forestry issues. The state forester shall collaborate
37 with, and invite the participation of, relevant state, federal and local
38 governmental officers and agencies. A written report is not required, but
39 the presentation shall include information concerning:

40 1. Forestry management, including the current conditions of the
41 forests in this state on federal, state and private property as affected by
42 federal, state and local public policies, climatic conditions, wildfire
43 hazards, pest infestations, overgrowth and overgrowth control policies and
44 methods and the effects of current federal policy on forest management and
45 impacts on forest land management.

1 2. The wildland-urban interface, including the effects of county and
2 municipal zoning policies and wildfire hazards on public and private
3 property.

4 3. Wildfire emergency management issues, including:

5 (a) Intergovernmental and interagency primacy, cooperation,
6 coordination, roles and training of federal, state and local forestry,
7 firefighting and law enforcement agencies.

8 (b) Channels and methods of communicating emergency information to the
9 public.

10 (c) The roles of governmental and nongovernmental disaster relief
11 agencies and organizations.

12 (d) The level of federal, state and local emergency funding.

13 C. The state forester may:

14 1. Furnish technical advice to the people of the state on forestry
15 matters.

16 2. Do all other acts necessary to take advantage of and carry out the
17 provisions of the act of Congress described in subsection D.

18 D. This state accepts the provisions of the cooperative forestry
19 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
20 chapter 41) providing for federal forestry assistance programs to states.

21 Sec. 7. Repeal

22 Section 41-151.02, Arizona Revised Statutes, is repealed.

23 Sec. 8. Heading repeal

24 The article heading of title 41, chapter 3, article 1.1, Arizona
25 Revised Statutes, is repealed.

26 Sec. 9. Repeal

27 Sections 41-511, 41-511.01 and 41-511.14, Arizona Revised Statutes, are
28 repealed.

29 Sec. 10. Transfer and renumber

30 Title 41, chapter 3, article 1.1, Arizona Revised Statutes, is
31 transferred and renumbered for placement in title 41, chapter 53, article 1,
32 Arizona Revised Statutes, as added by this act. The following sections are
33 transferred and renumbered for placement in title 41, chapter 53, article 1:

<u>Former Sections</u>	<u>New Sections</u>
34	
35 41-511.02	41-5301
36 41-511.03	41-5302
37 41-511.04	41-5303
38 41-511.05	41-5304
39 41-511.06	41-5305
40 41-511.07	41-5306
41 41-511.08	41-5307

1 41-511.09 41-5308
2 41-511.10 41-5309
3 41-511.11 41-5310
4 41-511.12 41-5311
5 41-511.13 41-5312
6 41-511.15 41-5313
7 41-511.16 41-5314
8 41-511.17 41-5315
9 41-511.18 41-5316
10 41-511.19 41-5317
11 41-511.20 41-5318
12 41-511.21 41-5319
13 41-511.22 41-5320
14 41-511.23 41-5321

15 Sec. 11. Section 41-1279.03, Arizona Revised Statutes, is amended to
16 read:

17 41-1279.03. Powers and duties

18 A. The auditor general shall:

19 1. Prepare an audit plan for approval by the committee and report to
20 the committee the results of each audit and investigation and other reviews
21 conducted by the auditor general.

22 2. Conduct or cause to be conducted at least biennial financial and
23 compliance audits of financial transactions and accounts kept by or for all
24 state agencies subject to the single audit act of 1984 (P.L. 98-502). The
25 audits shall be conducted in accordance with generally accepted governmental
26 auditing standards and accordingly shall include tests of the accounting
27 records and other auditing procedures as may be considered necessary in the
28 circumstances. The audits shall include the issuance of suitable reports as
29 required by the single audit act of 1984 (P.L. 98-502) so the legislature,
30 federal government and others will be informed as to the adequacy of
31 financial statements of the state in compliance with generally accepted
32 governmental accounting principles and to determine whether the state has
33 complied with laws and regulations that may have a material effect on the
34 financial statements and on major federal assistance programs.

35 3. Perform procedural reviews for all state agencies at times
36 determined by the auditor general. These reviews may include evaluation of
37 administrative and accounting internal controls and reports on these reviews.

1 4. Perform special research requests, special audits and related
2 assignments as designated by the committee and conduct performance audits,
3 special audits, special research requests and investigations of any state
4 agency, whether created by the constitution or otherwise, as may be requested
5 by the committee.

6 5. Annually on or before the fourth Monday of December, prepare a
7 written report to the governor and to the committee that contains a summary
8 of activities for the previous fiscal year.

9 6. In the tenth year and in each fifth year thereafter in which a
10 transportation excise tax is in effect in a county as provided in section
11 42-6106 or 42-6107, conduct a performance audit that:

12 (a) Reviews past expenditures and future planned expenditures of the
13 transportation excise revenues and determines the impact of the expenditures
14 in solving transportation problems within the county and, for a
15 transportation excise tax in effect in a county as provided in section
16 42-6107, determines whether the expenditures of the transportation excise
17 revenues comply with section 28-6392, subsection B.

18 (b) Reviews projects completed to date and projects to be completed
19 during the remaining years in which a transportation excise tax is in effect.
20 Within six months after each review period the auditor general shall present
21 a report to the speaker of the house of representatives and the president of
22 the senate detailing findings and making recommendations. ~~If the parameters
23 of the performance audit are set by the citizens transportation oversight
24 committee, the auditor general shall also present the report to the citizens
25 transportation oversight committee.~~

26 (c) Reviews, determines, reports and makes recommendations to the
27 speaker of the house of representatives and the president of the senate
28 whether the distribution of highway user revenues complies with title 28,
29 chapter 18, article 2. ~~If the parameters of the performance audit are set by
30 the citizens transportation oversight committee, the auditor general shall
31 also present the report to the citizens transportation oversight committee.~~

32 7. If requested by the committee, conduct performance audits of
33 counties and incorporated cities and towns receiving highway user revenue
34 fund monies pursuant to title 28, chapter 18, article 2 to determine if the
35 monies are being spent as provided in section 28-6533, subsection B.

36 8. Perform special audits designated pursuant to law if the auditor
37 general determines that there are adequate monies appropriated for the
38 auditor general to complete the audit. If the auditor general determines the
39 appropriated monies are inadequate, the auditor general shall notify the
40 committee.

41 9. Beginning on July 1, 2001, establish a school-wide audit team in
42 the office of the auditor general to conduct performance audits and monitor
43 school districts to determine the percentage of every dollar spent in the
44 classroom by a school district. The performance audits shall determine
45 whether school districts that receive monies from the Arizona structured

1 English immersion fund established by section 15-756.04 and the statewide
2 compensatory instruction fund established by section 15-756.11 are in
3 compliance with title 15, chapter 7, article 3.1. The auditor general shall
4 determine, through random selection, the school districts to be audited each
5 year, subject to review by the joint legislative audit committee. A school
6 district that is subject to an audit pursuant to this paragraph shall notify
7 the auditor general in writing as to whether the school district agrees or
8 disagrees with the findings and recommendations of the audit and whether the
9 school district will implement the findings and recommendations, implement
10 modifications to the findings and recommendations or refuse to implement the
11 findings and recommendations. The school district shall submit to the
12 auditor general a written status report on the implementation of the audit
13 findings and recommendations every six months for two years after an audit
14 conducted pursuant to this paragraph. The auditor general shall review the
15 school district's progress toward implementing the findings and
16 recommendations of the audit every six months after receipt of the district's
17 status report for two years. The auditor general may review a school
18 district's progress beyond this two-year period for recommendations that have
19 not yet been implemented by the school district. The auditor general shall
20 provide a status report of these reviews to the joint legislative audit
21 committee. The school district shall participate in any hearing scheduled
22 during this review period by the joint legislative audit committee or by any
23 other legislative committee designated by the joint legislative audit
24 committee.

25 B. The auditor general may:

26 1. Subject to approval by the committee, adopt rules necessary to
27 administer the duties of the office.

28 2. Hire consultants to conduct the studies required by subsection A,
29 paragraphs 6 and 7 of this section.

30 C. If approved by the committee the auditor general may charge a
31 reasonable fee for the cost of performing audits or providing accounting
32 services for auditing federal funds, special audits or special services
33 requested by political subdivisions of the state. Monies collected pursuant
34 to this subsection shall be deposited in the audit services revolving fund.

35 D. The department of transportation, the board of supervisors of a
36 county that has approved a county transportation excise tax as provided in
37 section 42-6106 or 42-6107 and the governing bodies of counties, cities and
38 towns receiving highway user revenue fund monies shall cooperate with and
39 provide necessary information to the auditor general or the auditor general's
40 consultant.

41 E. The department of transportation shall reimburse the auditor
42 general as follows, and the auditor general shall deposit the reimbursed
43 monies in the audit services revolving fund:

44 1. For the cost of conducting the studies or hiring a consultant to
45 conduct the studies required by subsection A, paragraph 6, subdivisions (a)

1 and (b) of this section, from monies collected pursuant to a county
2 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

3 2. For the cost of conducting the studies or hiring a consultant
4 pursuant to subsection A, paragraph 6, subdivision (c) and paragraph 7 of
5 this section, from the Arizona highway user revenue fund.

6 Sec. 12. Repeal

7 Sections 41-2148 and 41-3023.06, Arizona Revised Statutes, are
8 repealed.

9 Sec. 13. Title 41, Arizona Revised Statutes, is amended by adding
10 chapter 53, to read:

11 CHAPTER 53

12 STATE PARKS

13 ARTICLE 1. GENERAL PROVISIONS

14 Sec. 14. Section 41-5301, Arizona Revised Statutes, as transferred and
15 renumbered, is amended to read:

16 41-5301. State parks director; qualifications; state historic
17 preservation officer

18 A. The governor shall appoint a full-time STATE PARKS director
19 pursuant to section 38-211 who shall:

20 ~~1. Not be a member of the Arizona state parks board.~~

21 ~~2.~~ 1. Serve at the pleasure of the governor.

22 ~~3.~~ 2. Be qualified by successful experience in administration in
23 business or in government.

24 ~~4.~~ 3. Have a knowledge of or training in the multiple use of lands
25 and the conservation of natural resources.

26 B. The governor shall designate a full-time employee ~~of the board~~ with
27 professional competence and expertise in the field of historic preservation
28 as the "state historic preservation officer" to administer the state historic
29 preservation program.

30 Sec. 15. Section 41-5302, Arizona Revised Statutes, as transferred and
31 renumbered, is amended to read:

32 41-5302. Purposes; objectives

33 The purposes and objectives of the ~~board shall be~~ STATE PARKS DIRECTOR
34 ARE to select, acquire, preserve, establish and maintain areas of natural
35 features, scenic beauty, historical and scientific interest, and zoos and
36 botanical gardens, for the education, pleasure, recreation, and health of the
37 people, and for such other purposes as may be prescribed by law.

38 Sec. 16. Section 41-5303, Arizona Revised Statutes, as transferred and
39 renumbered, is amended to read:

40 41-5303. Duties; director; partnership fund; state historic
41 preservation officer; definition

42 A. The ~~board~~ DIRECTOR shall:

43 1. Select areas of scenic beauty, natural features and historical
44 properties now owned by the state, except properties in the care and custody

- 1 of other agencies by virtue of agreement with the state or as established by
2 law, for management, operation and further development as state parks and
3 historical monuments.
- 4 2. Manage, develop and operate state parks, monuments or trails
5 established or acquired pursuant to law, or previously granted to the state
6 for park or recreation purposes, except those falling under the jurisdiction
7 of other state agencies as established by law.
- 8 3. Investigate lands owned by the state to determine in cooperation
9 with the agency that manages the land which tracts should be set aside and
10 dedicated for use as state parks, monuments or trails.
- 11 4. Investigate federally owned lands to determine their desirability
12 for use as state parks, monuments or trails and negotiate with the federal
13 agency having jurisdiction over such lands for the transfer of title to ~~the~~
14 ~~Arizona state parks board~~ THIS STATE.
- 15 5. Investigate privately owned lands to determine their desirability
16 as state parks, monuments or trails and negotiate with private owners for the
17 transfer of title to ~~the Arizona state parks board~~ THIS STATE.
- 18 6. Enter into agreements with the United States, other states or local
19 governmental units, private societies or persons for the development and
20 protection of state parks, monuments and trails.
- 21 7. Plan, coordinate and administer a state historic preservation
22 program, including the program established pursuant to the national historic
23 preservation act of 1966, as amended.
- 24 8. Advise, assist and cooperate with federal and state agencies,
25 political subdivisions of this state and other persons in identifying and
26 preserving properties of historic or prehistoric significance.
- 27 9. Keep and administer an Arizona register of historic places composed
28 of districts, sites, buildings, structures and objects significant in this
29 state's history, architecture, archaeology, engineering and culture ~~which~~
30 ~~THAT~~ meet criteria ~~which~~ ~~THAT~~ the ~~board~~ DIRECTOR establishes or ~~which~~ ~~THAT~~
31 are listed on the national register of historic places. Entry on the
32 register requires nomination by the state historic preservation officer and
33 owner notification in accordance with rules ~~which~~ ~~THAT~~ the ~~board~~ DIRECTOR
34 adopts.
- 35 10. Accept, on behalf of the state historic preservation officer,
36 applications for classification as historic property received from the county
37 assessor.
- 38 11. Adopt rules with regard to classification of historic property
39 including:
- 40 (a) Minimum maintenance standards for the property.
41 (b) Requirements for documentation.
- 42 12. Monitor the performance of state agencies in the management of
43 historic properties as provided in chapter 4.2 of this title.
- 44 13. Advise the governor on historic preservation matters.

1 14. Plan and administer a statewide parks and recreation program,
2 including the programs established pursuant to the land and water
3 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).

4 15. Prepare, maintain and update a comprehensive plan for the
5 development of the outdoor recreation resources of this state.

6 16. Initiate and carry out studies to determine the recreational needs
7 of this state and the counties, cities and towns.

8 17. Coordinate recreational plans and developments of federal, state,
9 county, city, town and private agencies.

10 18. Receive applications for projects to be funded through the land
11 and water conservation fund and the state lake improvement fund on behalf of
12 the Arizona outdoor recreation coordinating commission.

13 19. Provide staff support to the Arizona outdoor recreation
14 coordinating commission.

15 20. Maintain a statewide off-highway vehicle recreational plan. The
16 plan shall be updated at least once every five years and shall be used by all
17 participating agencies to guide distribution and expenditure of monies under
18 section 28-1176. The plan shall be open to public input and shall include
19 the priority recommendations for allocating available monies in the
20 off-highway vehicle recreation fund established by section 28-1176.

21 21. Collaborate with the state forester in presentations to
22 legislative committees on issues associated with forest management and
23 wildfire prevention and suppression as provided by section 37-622,
24 subsection B.

25 B. Notwithstanding section ~~41-511.21~~ 41-5319, the ~~board~~ DIRECTOR may
26 annually collect and expend monies to plan and administer the land and water
27 conservation fund program, in conjunction with other administrative tasks and
28 recreation plans, as a surcharge to subgrantees in a proportionate amount,
29 not to exceed ten ~~per-cent~~ PERCENT, of the cost of each project. The
30 surcharge monies shall be set aside to fund staff support for the land and
31 water conservation fund program.

32 C. A partnership fund is established consisting of monies received
33 pursuant to subsection B of this section, monies received from
34 intergovernmental agreements pursuant to title 11, chapter 7, article 3 and
35 monies received pursuant to section 35-148. The ~~board~~ DIRECTOR shall
36 administer the fund monies as a continuing appropriation for the purposes
37 provided in these sections.

38 D. The state historic preservation officer shall:

39 1. In cooperation with federal and state agencies, political
40 subdivisions of this state and other persons, direct and conduct a
41 comprehensive statewide survey of historic properties and historic private
42 burial sites and historic private cemeteries and maintain inventories of
43 historic properties and historic private burial sites and historic private
44 cemeteries.

1 2. Identify and nominate eligible properties to the national register
2 of historic places and the Arizona register of historic places and otherwise
3 administer applications for listing historic properties on the national and
4 state registers.

5 3. Administer grants-in-aid for historic preservation projects within
6 this state.

7 4. Advise, assist and monitor, as appropriate, federal and state
8 agencies and political subdivisions of this state in carrying out their
9 historic preservation responsibilities and cooperate with federal and state
10 agencies, political subdivisions of this state and other persons to ensure
11 that historic properties and historic private burial sites and historic
12 private cemeteries are taken into consideration at all levels of planning and
13 development.

14 5. Develop and make available information concerning professional
15 methods and techniques for the preservation of historic properties and
16 historic private burial sites and historic private cemeteries.

17 6. Make recommendations on the certification, classification and
18 eligibility of historic properties and historic private burial sites and
19 historic private cemeteries for property tax and investment tax incentives.

20 E. The state historic preservation officer may:

21 1. Collect and receive information for historic private burial sites
22 and historic private cemeteries from public and private sources and maintain
23 a record of the existence and location of such burial sites and cemeteries
24 located on private or public lands in this state.

25 2. Assist and advise the owners of the properties on which the
26 historic private burial sites and historic private cemeteries are located
27 regarding the availability of tax exemptions applicable for such property.

28 3. Make the records available to assist in locating the families of
29 persons buried in the historic private burial sites and historic private
30 cemeteries.

31 F. For the purposes of this section, "historic private burial sites
32 and historic private cemeteries" means places where burials or interments of
33 human remains first occurred more than fifty years ago, that are not
34 available for burials or interments by the public and that are not regulated
35 under title 32, chapter 20, article 6.

36 Sec. 17. Section 41-5304, Arizona Revised Statutes, as transferred and
37 renumbered, is amended to read:

38 41-5304. Powers; compensation

39 The ~~board~~ DIRECTOR may, subject to legislative budgetary control within
40 the limitations of this article:

41 1. Subject to chapter 4, article 4 and, as applicable, article 5 of
42 this title, employ, determine conditions of employment and specify the duties
43 of such administrative, secretarial and clerical workers and technical
44 employees such as naturalists, archaeologists, landscape architects, rangers,
45 park supervisors, caretakers, guides, skilled tradesmen, laborers, historians

1 and engineers, and contract to have the services of such advisors or
2 consultants as are reasonably necessary or desirable to enable ~~it~~ THE
3 DIRECTOR to perform adequately ~~its~~ THE DIRECTOR'S duties. The compensation
4 of the director and of all workers and employees shall be as determined
5 pursuant to section 38-611.

6 2. Make such contracts, leases and agreements and incur such
7 obligations as are reasonably necessary or desirable within the general scope
8 of ~~its~~ THE DIRECTOR'S activities and operations to enable ~~it~~ THE DIRECTOR to
9 perform adequately ~~its~~ THE DIRECTOR'S duties.

10 3. Acquire through purchase, lease, agreement, donation, grant,
11 bequest or otherwise real and personal property and acquire real property
12 through eminent domain for state park or monument purposes. No property may
13 be acquired in the manner provided in this paragraph which will require an
14 expenditure in excess of funds budgeted or received for such purposes. No
15 state park or monument, or additions to a state park or monument, shall be
16 created containing in excess of one hundred sixty acres of land unless
17 created by an act of the legislature. This acreage limitation shall not
18 apply in the case of lands given or donated for state park or monument
19 purposes nor to state owned lands that are selected by the ~~board~~ DIRECTOR
20 and that are not subject to outstanding leases, permits or other rights for the
21 use of the lands including preferential rights to renew such leases and
22 permits.

23 4. Sell, lease, exchange or otherwise dispose of real and personal
24 property. Any disposition of real property shall be submitted for approval
25 of the joint committee on capital review. The disposition of office
26 equipment, furnishings, vehicles and other materials is subject to chapter
27 23, article 8 of this title. The disposition of artifacts and other property
28 of scientific, archaeological, historical or sociological interest is exempt
29 from chapter 23, article 8 of this title, but the ~~board~~ DIRECTOR shall
30 consult with the Arizona historical society in disposing of property of
31 historical interest.

32 5. Construct at state parks and monuments necessary sanitary and other
33 facilities including picnic tables, fireplaces, campsites, service buildings
34 and maintenance shops, and contract with private persons for the construction
35 and operation of cabins, hotels and restaurants, and like establishments.

36 6. Erect suitable signs and markers at parks and monuments and write,
37 prepare and publish written material describing the historical significance
38 of monuments and other places of historical or other significance.

39 7. Solicit and work in cooperation with the department of
40 transportation and the highway departments of various counties and the United
41 States federal highway administration for necessary roads and trails within
42 the state parks and monuments and access roads to state parks and monuments.
43 For the purposes of this paragraph, the ~~board~~ DIRECTOR may designate roads,
44 spurs and other traffic related appurtenances within state park boundaries as
45 public highways. Designation of roads, spurs or other traffic related

1 appurtenances as public highways shall not prohibit the ~~board~~ DIRECTOR from
2 closing such public highways when the park is closed, charging for admission
3 to the park to persons using the public highway within the park or otherwise
4 managing such public highways in the same manner as other lands within the
5 park.

6 8. Levy and collect reasonable fees or other charges for the use of
7 such privileges and conveniences as may be provided under the jurisdiction of
8 the ~~board~~ DIRECTOR. The ~~board~~ DIRECTOR may enter into agreements for the
9 purpose of accepting payment for fees or other charges imposed pursuant to
10 this article by alternative payment methods, including credit cards, charge
11 cards, debit cards and electronic funds transfers. The collecting officer
12 shall deduct any fee charged or withheld by a company providing the
13 alternative payment method under an agreement with the ~~board~~ DIRECTOR before
14 the revenues are transferred to the ~~board~~ DIRECTOR.

15 9. Make reasonable rules for the protection of, and maintain and keep
16 the peace in, state parks and monuments. Such rules adopted by the ~~parks~~
17 ~~board~~ DIRECTOR are subject to review and approval by the legislature. After
18 a ~~board~~ DIRECTOR'S rule has been finally adopted pursuant to chapter 6 of
19 this title, the ~~board~~ DIRECTOR shall immediately forward a certified copy of
20 the rule to the legislature. The legislature may review and, by concurrent
21 resolution, approve, disapprove or modify such rule. However, such rule
22 shall be given full force and effect pending legislative review. If no
23 concurrent resolution is passed by the legislature with respect to the rule
24 within one year following receipt of a certified copy of the rule, the rule
25 shall be deemed to have been approved by the legislature. If the legislature
26 disapproves a rule or a section of a rule, the ~~board~~ DIRECTOR shall
27 immediately discontinue the use of any procedure, action or proceeding
28 authorized or required by the rule or section of the rule. If the
29 legislature modifies a rule or section of a rule, the ~~board~~ DIRECTOR shall
30 immediately suspend the use of any procedure, action or proceeding authorized
31 or required by the rule or section of the rule until the modified rule has
32 been adopted in accordance with chapter 6 of this title, after which all
33 proceedings pursuant to the rule shall be conducted in accordance with the
34 modified version of the rule.

35 10. Furnish advisory services to city and county park or recreation
36 boards and organizations.

37 11. Delegate to ~~the director,~~ the deputy director ~~or the director's~~
38 ~~designee~~ any of ~~its~~ THE DIRECTOR'S powers and duties, whether ministerial or
39 discretionary, which are prescribed by law, except that the ~~board~~ DIRECTOR
40 may not delegate ~~its~~ THE DIRECTOR'S power or duty to make rules.

41 12. Reimburse ~~board~~ volunteers for travel and lodging expenses and per
42 diem subsistence allowances incurred while on public business for the ~~board~~
43 PARKS. Reimbursement amounts shall not exceed those allowed under title 38,
44 chapter 4, article 2.

1 13. In consultation with the conservation acquisition board, develop a
2 grant program and adopt guidelines for allocating and obligating monies in
3 the land conservation fund pursuant to section ~~41-511.23~~ 41-5321. The
4 guidelines shall include consideration of both qualification issues relating
5 to applicants for grants and issues relating to the proposed use of the grant
6 money in a manner consistent with existing municipal, county and regional
7 land use plans.

8 Sec. 18. Section 41-5305, Arizona Revised Statutes, as transferred and
9 renumbered, is amended to read:

10 41-5305. Eminent domain

11 A. In acquiring property by eminent domain, no water, watering
12 facilities or water right of any person shall be taken separate and apart
13 from the land served by such water, watering facilities or water rights,
14 without fair and adequate compensation to be awarded for such land and water,
15 watering facilities or water rights.

16 B. In seeking to establish a state park or monument on state or
17 federally owned land, the ~~board~~ DIRECTOR shall not request the termination or
18 cancellation of any valid lease, permit, government land entry, mining claim,
19 privilege or other right unless fair and adequate compensation is awarded to
20 the holder of such lease, permit, privilege or other right. If the amount of
21 the compensation cannot be determined by agreement, the ~~board~~ DIRECTOR may
22 proceed to cause such lease, permit, privilege, government land entry, mining
23 claim or right to be terminated or cancelled if such can be lawfully done by
24 the state or federal agency having jurisdiction thereof, or the ~~board~~
25 DIRECTOR may proceed to acquire the same by eminent domain. In any event the
26 holder of such lease, permit, privilege, government land entry, mining claim
27 or right shall receive fair and adequate compensation for the cost of and
28 damage to his property interest or loss of his lease, privilege, government
29 land entry, mining claim or permit. In determining the amount of such
30 compensation, consideration shall be given to any preferential rights of
31 renewal and other preferential rights of the owner or holder thereof, the
32 damage to the remaining land, damage by access roads, and damage to the
33 rights and operation which such owner may have and all other relevant
34 factors.

35 Sec. 19. Section 41-5306, Arizona Revised Statutes, as transferred and
36 renumbered, is amended to read:

37 41-5306. Parks and monuments on state lands

38 The ~~board~~ DIRECTOR may take over state lands and improvements thereon
39 pursuant to ~~article 9, chapter 2,~~ title 37, CHAPTER 2, ARTICLE 9, except that
40 the application to and approval by the governor shall not be required if the
41 legislature has created the park or monument, and in determining the amount
42 of compensation to be received by a lessee or permittee all of the elements
43 of damage set forth in ~~subsection B of~~ section ~~41-511.06~~ 41-5305,
44 SUBSECTION B shall be considered.

1 Sec. 20. Section 41-5307, Arizona Revised Statutes, as transferred and
2 renumbered, is amended to read:

3 41-5307. Judicial review

4 Except as provided in section 41-1092.08, subsection H, an appeal from
5 a final decision of the ~~board or from a final decision of the~~ director ~~made~~
6 ~~pursuant to the powers and duties delegated to the director by the board~~ may
7 be taken pursuant to title 12, chapter 7, article 6.

8 Sec. 21. Section 41-5308, Arizona Revised Statutes, as transferred and
9 renumbered, is amended to read:

10 41-5308. Park ranger law enforcement officers; training

11 The ~~board~~ DIRECTOR may appoint one or more of ~~its officers or~~ THE
12 DIRECTOR'S employees as a park ranger law enforcement officer. Any person so
13 appointed shall have the minimum qualifications established for peace
14 officers and police officers pursuant to section 41-1822. When so appointed,
15 the ~~officer or~~ employee shall have the authority and power of a peace officer
16 with the primary duties of enforcement of this article and enforcement of
17 rules adopted pursuant to this article for the protection of the parks and
18 monuments against damage and for the preservation of peace in the parks and
19 monuments.

20 Sec. 22. Section 41-5309, Arizona Revised Statutes, as transferred and
21 renumbered, is amended to read:

22 41-5309. Rejection of gifts

23 The ~~board~~ DIRECTOR may reject any donation, bequest, or gift or
24 property deemed by ~~it~~ THE DIRECTOR to be unsuitable as a state park or
25 monument.

26 Sec. 23. Section 41-5310, Arizona Revised Statutes, as transferred and
27 renumbered, is amended to read:

28 41-5310. Disposition of gifts; state parks donations fund

29 Monies from unconditional gifts, donations, bequests and endowments,
30 which are not specifically designated to the state parks revenue fund, shall
31 be deposited, pursuant to sections 35-146 and 35-147, by the ~~board~~ DIRECTOR
32 in a fund to be known as the state parks donations fund, for use by the ~~board~~
33 DIRECTOR in accomplishing ~~its~~ THE DIRECTOR'S objectives and duties. All
34 expenditures from the state parks donations fund shall be made ~~upon~~ ON claims
35 duly itemized, verified and approved by the ~~Arizona state parks board~~
36 DIRECTOR.

37 Sec. 24. Section 41-5311, Arizona Revised Statutes, as transferred and
38 renumbered, is amended to read:

39 41-5311. Annual report

40 Not later than December 31 each year the ~~board~~ DIRECTOR shall deliver
41 to the governor, the director of the department of administration and the
42 legislature an annual report of the finances, goals and accomplishments of
43 the ~~board~~ DIRECTOR during the preceding fiscal year.

1 Sec. 25. Section 41-5312, Arizona Revised Statutes, as transferred and
2 renumbered, is amended to read:

3 41-5312. Violations; classification

4 A. Any person who knowingly damages, defaces or destroys any public
5 park or monument property ~~which~~ THAT is within ~~the~~ THIS state or any
6 political subdivision thereof is guilty of a class 2 misdemeanor.

7 B. It is unlawful for a person to violate any provision of this
8 article or rule or regulation prescribed under ~~the provisions of~~ this
9 article.

10 C. Unless a different or other penalty or punishment is specifically
11 prescribed, the person who violates any provisions of this article or who
12 violates or fails to comply with a lawful order, rule or regulation of the
13 ~~Arizona state parks board~~ DIRECTOR is guilty of a class 2 misdemeanor.

14 D. A park ranger law enforcement officer may ~~utilize~~ USE the procedure
15 prescribed by section 13-3903 for violations of this article or any order,
16 rule or regulation adopted pursuant to this article.

17 Sec. 26. Section 41-5313, Arizona Revised Statutes, as transferred and
18 renumbered, is amended to read:

19 41-5313. Arizona trail; fund; definition

20 A. The Arizona trail is designated as a state scenic trail to
21 memorialize former United States congressman Bob Stump for his significant
22 contributions to the trails and people of this state.

23 B. The ~~Arizona state parks board~~ DIRECTOR shall:

24 1. Participate in planning, establishing, developing, maintaining and
25 preserving the trail.

26 2. Provide information to any person involved in planning,
27 establishing, developing or maintaining the trail regarding the design,
28 corridors, signs, interpretive markers highlighting special areas and
29 historic uses and any other aspect of the trail to promote uniformity of
30 development, maintenance and preservation.

31 3. Encourage counties, cities and towns to adapt their general and
32 comprehensive plans to preserve the trail right-of-way and to acquire
33 property or legal interests in property to ensure the trail's continued
34 existence in a permanent location.

35 4. In cooperation with federal and state land management agencies,
36 prepare a trail management plan and a plan for interpretive markers for the
37 trail.

38 5. Coordinate the ~~board's~~ DIRECTOR'S trail plan with federal, state
39 and local activities and land uses that may affect the trail and with private
40 nonprofit support organizations to assist in planning, developing, promoting
41 and preserving the trail.

42 6. Accept gifts and grants of private and public monies for the
43 purposes of this section. Monies received pursuant to this paragraph shall
44 be deposited in the Arizona trail fund.

1 C. The trail shall be planned and designed for all nonmotorized
2 recreational uses, including hiking, biking, horseback and pack stock use,
3 cross country skiing, snowshoeing and camping.

4 D. An agency of this state or of a county, city or town may not refuse
5 to permit construction of the trail on property or rights-of-way owned or
6 managed by the agency if the trail does not conflict with existing or
7 proposed uses of the property. Each such agency shall:

8 1. Support the construction of the trail in the agency's long-term
9 plans for its property.

10 2. Support the designation of the trail as a part of the national
11 trail system.

12 3. Accommodate facilities for the safe trail crossing of highway
13 rights-of-way.

14 4. Not infringe on existing land uses, such as cattle grazing or
15 mineral development, that are near to or adjoin the trail. This paragraph
16 does not authorize any person using public lands under a permit or lease to
17 interfere with the use, maintenance or operation of the Arizona trail.

18 E. The Arizona trail fund is established consisting of legislative
19 appropriations and donations to the fund. The ~~Arizona state parks board~~
20 DIRECTOR shall administer the fund. The monies in the fund are continuously
21 appropriated for the sole purpose of maintaining and preserving the Arizona
22 trail.

23 F. For the purposes of this section, "Arizona trail" means a state
24 scenic trail that extends approximately eight hundred miles between the
25 southern border and the northern border of this state.

26 Sec. 27. Section 41-5314, Arizona Revised Statutes, as transferred and
27 renumbered, is amended to read:

28 41-5314. Rock climbing state park; fees, gifts and donations;
29 disposition

30 A. The ~~Arizona state parks board~~ DIRECTOR shall establish a rock
31 climbing state park subject to all of the following conditions:

32 1. The conveyance of approximately two thousand acres of bureau of
33 land management land by the United States secretary of the interior, pursuant
34 to the recreational and public purposes act (43 United States Code sections
35 869 through 869-4), to ~~the Arizona state parks board~~ THIS STATE. The land is
36 located in Gila county and is generally described as: the south 1/2 of
37 section 4, township 4 south, range 15 east; southeast 1/4 of section 5,
38 township 4 south, range 15 east; all of section 8, township 4 south, range 15
39 east, except north 1/2, of the southwest 1/4 and southeast 1/4, southeast
40 1/4; north 1/2, and the north 1/2 of the southwest 1/4 of section 9, township
41 4 south, range 15 east; north 1/2 section 16, township 4 south, range 15
42 east, except southeast 1/4 of the northeast 1/4; the north 1/2 of section 17,
43 township 4 south, range 15 east.

44 2. The conveyance or lease of three parcels of state trust land
45 totaling approximately one hundred sixty acres to ~~the Arizona state parks~~

1 ~~board~~ THIS STATE. The trust lands are located in Gila county and are
2 generally described as: the southeast 1/4 of the southeast 1/4 of section 8,
3 township 4 south, range 15 east; south 1/2 of the southeast 1/4, section 9,
4 township 4 south, range 15 east; southeast 1/4 of the northeast 1/4, section
5 16, township 4 south, range 15 east.

6 3. The establishment of a park access road as specified by the United
7 States Congress and a public access easement on the access road being
8 transferred to ~~the Arizona state parks board~~ THIS STATE.

9 B. Notwithstanding the provisions of section ~~41-511.05~~ 41-5304,
10 paragraph 3, additions to the rock climbing state park, up to five hundred
11 acres, shall not require additional legislative authorization.

12 C. The ~~Arizona state parks board~~ DIRECTOR shall use ~~its~~ THE DIRECTOR'S
13 best efforts to prevent trespass onto private lands adjacent to the
14 boundaries of the rock climbing state park and shall provide access to the
15 owners of any private lands within the exterior boundary of the state park.

16 D. The ~~Arizona state parks board~~ DIRECTOR may charge user fees and
17 concession fees and collect monies from other revenue generating activities.
18 The ~~state parks board~~ DIRECTOR shall deposit, pursuant to sections 35-146 and
19 35-147, all monies collected in the state parks revenue fund established by
20 section ~~41-511.21~~ 41-5319.

21 E. The ~~Arizona state parks board~~ DIRECTOR may accept gifts and
22 donations toward the acquisition, management and operations of the rock
23 climbing state park. The ~~Arizona state parks board~~ DIRECTOR shall deposit,
24 pursuant to sections 35-146 and 35-147, any gifts or donations collected in
25 the state parks donations fund established by section ~~41-511.11~~ 41-5310 and
26 account for these monies separately.

27 F. The ~~Arizona state parks board~~ DIRECTOR shall ensure public access
28 to the rock climbing state park.

29 G. Nothing in the establishment of the rock climbing state park shall
30 be construed to impose any new or additional management requirements,
31 restrictions or regulations under the laws of this state on the permitting,
32 management of or the conduct of activities on any lands outside the state
33 park, or to impose restrictions on these activities in addition to those
34 applicable to the same land within and outside the state park, before its
35 designation as a state park.

36 H. Mining and mining related activities carried out by users of lands
37 outside the rock climbing state park do not create a cause of action for any
38 injuries sustained by a person within the boundaries of the state park.

39 Sec. 28. Section 41-5315, Arizona Revised Statutes, as transferred and
40 renumbered, is amended to read:

41 41-5315. Sustainable state parks and roads fund

42 The sustainable state parks and roads fund is established consisting of
43 monies received pursuant to section 43-622. The ~~Arizona state parks board~~
44 DIRECTOR shall administer the fund. Monies in the fund are continuously
45 appropriated. The ~~Arizona state parks board~~ DIRECTOR shall use the monies in

1 the fund to operate, maintain and make capital improvements to buildings,
2 roads, parking lots, highway entrances and any related structure used to
3 operate state parks.

4 Sec. 29. Section 41-5316, Arizona Revised Statutes, as transferred and
5 renumbered, is amended to read:

6 41-5316. Spur Cross Ranch state park

7 A. The ~~Arizona state parks board~~ DIRECTOR shall establish Spur Cross
8 Ranch state park subject to the following conditions:

9 1. A purchase and sale agreement shall be executed between ~~the Arizona~~
10 ~~state parks board~~ THIS STATE and at least one owner of Spur Cross Ranch as
11 described in subsection D of this section. The purchase and sale agreement
12 shall be for property that is suitable for a state park consistent with the
13 mission of the ~~Arizona state parks board~~ DIRECTOR. The purchase and sale
14 agreement shall be based on an appraisal made by an appraiser who is
15 certified by a nationally recognized appraisal organization. The purchase
16 and sale agreement shall be for a price no greater than the appraised value,
17 but can and may be for a price less than the appraised value.

18 2. An intergovernmental agreement shall be executed between ~~the~~
19 ~~Arizona state parks board~~ THIS STATE and a county with a population of more
20 than one million two hundred thousand persons ~~according to the most recent~~
21 ~~United States decennial census~~. That county shall provide half of the
22 purchase price of the portion of Spur Cross Ranch as determined in the
23 purchase and sale agreement between ~~the Arizona state parks board~~ THIS STATE
24 and at least one owner of Spur Cross Ranch.

25 3. An intergovernmental agreement shall be executed between ~~the~~
26 ~~Arizona state parks board~~ THIS STATE and a county with a population of more
27 than one million two hundred thousand persons ~~according to the most recent~~
28 ~~United States decennial census~~ or with cities or towns or with both and that
29 specifies the obligations of the parties to manage and operate Spur Cross
30 Ranch state park.

31 B. If funding is provided for the acquisition of Spur Cross Ranch
32 other than from sources administered by an agency of this state or a county
33 with a population of more than one million two hundred thousand persons
34 ~~according to the most recent United States decennial census~~, the obligation
35 of this state and that county is reduced proportionately by the amount of
36 other funding sources. The use of federal monies for any portion of the
37 costs of acquisition of the Spur Cross Ranch shall not affect this state's
38 jurisdiction over the acquisition, operation or maintenance of the Spur Cross
39 Ranch as a state park.

40 C. The ~~Arizona state parks board~~ DIRECTOR may accept gifts and
41 donations toward the acquisition, management and operation of Spur Cross
42 Ranch state park. Any gifts and donations collected shall be deposited in
43 the state parks donations fund established by section ~~41-511.11~~ 41-5310 and
44 accounted for separately. The ~~Arizona state parks board~~ DIRECTOR shall
45 ensure public access to the Spur Cross Ranch state park.

- 1 D. Spur Cross Ranch state park consists of all or part of the
2 following described property:
- 3 1. Lots 3, 4, 5 and 6; the south half of the northwest quarter; the
4 northwest quarter of the southwest quarter; and the southeast quarter of the
5 northeast quarter, all lying in and being a part of section 4, township 6
6 north, range 4 east of the Gila and salt river base and meridian, Maricopa
7 county, Arizona.
- 8 2. All of section 5, township 6 north, range 4 east of the Gila and
9 salt river base and meridian, Maricopa county, Arizona; except the southeast
10 quarter of the southeast quarter of section 5.
- 11 3. All of section 6, township 6 north, range 4 east of the Gila and
12 salt river base and meridian, Maricopa county, Arizona.
- 13 4. The southwest quarter of the southwest quarter of section 4,
14 township 6 north, range 4 east of the Gila and salt river base and meridian,
15 Maricopa county, Arizona.
- 16 5. The southeast quarter of the southeast quarter of section 5,
17 township 6 north, range 4 east of the Gila and salt river base and meridian,
18 Maricopa county, Arizona.
- 19 6. The northeast quarter of the northeast quarter of section 8,
20 township 6 north, range 4 east of the Gila and salt river base and meridian,
21 Maricopa county, Arizona.
- 22 7. The northwest quarter of the northwest quarter of section 9,
23 township 6 north, range 4 east of the Gila and salt river base and meridian,
24 Maricopa county, Arizona.
- 25 8. Lots 1 and 2; and the southwest quarter of the northeast quarter,
26 all lying in and being a part of section 4, township 6 north, range 4 east of
27 the Gila and salt river base and meridian, Maricopa county, Arizona.
- 28 9. The north half of the north half of section 7, township 6 north,
29 range 4 east of the Gila and salt river base and meridian, Maricopa county,
30 Arizona.
- 31 10. The south half of the southeast quarter of section 7, township 6
32 north, range 4 east of the Gila and salt river base and meridian, Maricopa
33 county, Arizona.
- 34 11. The south half of the northeast quarter of section 8, township 6
35 north, range 4 east of the Gila and salt river base and meridian, Maricopa
36 county, Arizona.
- 37 12. The Catherine lode mining claim, designated by the surveyor
38 general as survey number 4096 embracing a portion of section 4, township 6
39 north, range 4 east of the Gila and salt river base and meridian, Maricopa
40 county, Arizona, in the cave creek mining district, as conveyed and more
41 particularly described in patent recorded in book 248 of deeds, page 400.
- 42 13. The Columbian lode mining claim, designated by the surveyor
43 general as survey number 2685, embracing a portion of the unsurveyed domain
44 in the cave creek mining district, as conveyed and more particularly
45 described in patent recorded in book 99 of deeds, page 10.

1 14. The Mashackety lode mining claim, designated by the surveyor
2 general as survey number 2685, embracing a portion of the unsurveyed domain
3 in the Cave Creek mining district, as conveyed and more particularly
4 described in patent recorded in book 99 of deeds, page 10.

5 15. The Mashackety number 1 lode mining claim, designated by the
6 surveyor general as survey number 2685, embracing a portion of the unsurveyed
7 domain in the Cave Creek mining district, as conveyed and more particularly
8 described in patent recorded in book 99 of deeds, page 10.

9 Sec. 30. Section 41-5317, Arizona Revised Statutes, as transferred and
10 renumbered, is amended to read:

11 41-5317. Catalina state park

12 A. There is established the Catalina state park which may consist of
13 all or a part of the following described property:

14 Sections 13, 24, 25, north one-half of Section 35, Section 36, all in
15 Township 10 South, Range 14 East, of the Gila and Salt River Base and
16 Meridian, Pinal County, Arizona, Section 1, south one-half of Section 2 East
17 of Lago Del Oro Parkway, South one-half of Section 11, west one-half of
18 Section 12, Section 14, all of Section 20 lying east of Highway 89, south
19 one-half of Section 21, south one-half and the northeast one-fourth of
20 Section 22, Section 23, Section 26, Section 27, Section 28, all of Section 29
21 lying east of Highway 89, all of Section 32 lying east of Highway 89, Section
22 33, Section 34, all in Township 11 South, Range 14 East, of the Gila and Salt
23 River Base and Meridian, Pima County, Arizona, Section 3, Section 4, all of
24 Section 5 lying east of Highway 89, all of Section 7 lying east of Highway
25 89, all of Section 8 lying east of Highway 89, Section 18, all in Township 12
26 South, Range 14 East, of the Gila and Salt River Base and Meridian, Pima
27 County, Arizona.

28 B. ~~The Arizona state parks board or its successor~~ THIS STATE may lease
29 or purchase from anyone any of the lands described in subsection A OF THIS
30 SECTION for Catalina state park purposes, subject to the availability of
31 funds appropriated for such purposes by the legislature.

32 C. Notwithstanding the provisions of title 37, chapter 2, article 14,
33 relating to the exchange of public lands, the state land commissioner may
34 obtain any of the land described in subsection A OF THIS SECTION by trade of
35 state land of equal value within Pima or Pinal county.

36 Sec. 31. Section 41-5318, Arizona Revised Statutes, as transferred and
37 renumbered, is amended to read:

38 41-5318. Authorized emergency use of water from Lake Patagonia
39 by city of Nogales

40 A. Notwithstanding any provision of law to the contrary, whenever an
41 emergency exists, as determined by the mayor of the city of Nogales, Arizona,
42 and concurred in by the director of water resources, that there is not
43 sufficient water for use by ~~such~~ THE city and that there is no other water
44 available from any other practical source, ~~then~~ the ~~state parks board shall~~
45 DIRECTOR, ~~upon~~ ON request by ~~such~~ THE mayor, SHALL authorize ~~such~~ THE city to

1 remove from Lake Patagonia such amount of water as needed to supply the city
2 with sufficient water. The city of Nogales shall provide the means for
3 transferring such water.

4 B. The director of water resources shall assess a fee to the city of
5 Nogales for the use of such water based ~~upon~~ ON the value of the water. Such
6 fee shall be paid by the city to the state parks ~~board~~ Lake Patagonia
7 account.

8 Sec. 32. Section 41-5319, Arizona Revised Statutes, as transferred and
9 renumbered, is amended to read:

10 ~~41-5319.~~ State parks revenue fund; purpose; exemption

11 A. The state parks revenue fund is established consisting of:

12 1. Monies received from the sale of park posters, park postcards,
13 books, souvenirs and sundry items pursuant to section ~~41-511.05~~ 41-5304,
14 paragraph 4.

15 2. Monies appropriated by the legislature for the purpose of enhancing
16 state parks.

17 3. Unconditional gifts and donations specifically designated to the
18 revenue fund, except for unconditional gifts, donations, bequests and
19 endowments deposited in the state parks donations fund pursuant to section
20 ~~41-511.11~~ 41-5310.

21 4. All monies derived from state park user fees, concession fees and
22 other revenue generating activities.

23 5. Surcharges on park reservations.

24 6. Sale of park assets.

25 B. The monies in the fund are subject to legislative appropriation:

26 1. For the operation and maintenance of the state park system.

27 2. For use by the ~~board~~ DIRECTOR to acquire and develop real property
28 and improvements as state parks consistent with the purposes and objectives
29 prescribed in section ~~41-511.03~~ 41-5302, subject to review by the joint
30 committee on capital review.

31 C. Monies in the fund shall not be appropriated in a manner that is
32 inconsistent with restrictions in the lease or deed to the property.

33 D. The ~~board~~ DIRECTOR may collect monies as a surcharge on park
34 reservations and shall determine the surcharge rate as provided in section
35 ~~41-511.05~~ 41-5304, paragraph 8 after considering the costs to plan and
36 administer the reservation system.

37 E. On notice from the ~~board~~ DIRECTOR, the state treasurer shall invest
38 and divest the monies in the state parks revenue fund as provided by section
39 35-313, and monies earned from investment shall be credited to the fund.

40 F. Monies in the state parks revenue fund are exempt from section
41 35-190, relating to lapsing of appropriations. The purposes for which monies
42 were expended during the preceding fiscal year shall be delineated in the
43 agency's annual report pursuant to section ~~41-511.12~~ 41-5311.

1 Sec. 33. Section 41-5320, Arizona Revised Statutes, as transferred and
2 renumbered, is amended to read:

3 41-5320. Trail systems plan; deposit of monies; definition

4 A. The ~~board~~ DIRECTOR shall prepare a trail systems plan that:

5 1. Identifies on a statewide basis the general location and extent of
6 significant trail routes, areas and complementary facilities.

7 2. Assesses the physical condition of the systems.

8 3. Assesses usage of trails.

9 4. Describes specific policies, standards and criteria to be followed
10 in adopting, developing, operating and maintaining trails in the systems.

11 5. Recommends to federal, state, regional, local and tribal agencies
12 and to the private sector actions ~~which~~ THAT will enhance the trail systems.

13 B. The plan shall be revised at least once every five years.

14 C. Monies from gifts, grants and other donations received by the ~~board~~
15 DIRECTOR for the trail systems plan shall be deposited in a separate account
16 of the state parks donations fund established by section ~~41-511.11~~ 41-5310
17 and may be allocated by the ~~board~~ DIRECTOR for special trail project
18 priorities established annually by the ~~board~~ DIRECTOR.

19 D. Monies deposited in the state parks donations fund account shall be
20 used for providing state monies up to an amount equal to the amount of cash,
21 materials and labor from any other source for the planning, acquisition,
22 maintenance or operation of the trails and for administrative expenses of not
23 more than twenty ~~per-cent~~ PERCENT of total account monies.

24 E. For purposes of this section, "trail systems" means coordinated
25 systems of trails in this state.

26 Sec. 34. Section 41-5321, Arizona Revised Statutes, as transferred and
27 renumbered, is amended to read:

28 41-5321. Conservation acquisition board; land conservation
29 fund; conservation donation and public conservation
30 accounts; livestock and crop conservation fund

31 A. The conservation acquisition board is established, as an advisory
32 body to the ~~Arizona state parks board~~ DIRECTOR, consisting of the following
33 members who are appointed by the governor, at least one of whom shall be
34 experienced in soliciting money from private sources:

35 1. One state land lessee.

36 2. One member who is qualified by experience in managing large
37 holdings of private land for income production or conservation purposes.

38 3. One member of the state bar of Arizona who is experienced in the
39 practice of private real estate law.

40 4. One real estate appraiser who is licensed or certified under title
41 32, chapter 36.

42 5. One member who is qualified by experience in marketing real estate.

43 6. One representative of a conservation organization.

44 7. One representative of a state public educational institution.

1 B. The governor shall designate a presiding member of the board. The
2 term of office is five years except that initial members shall assign
3 themselves by lot to terms of one, two, three, two members for four and two
4 members for five years in office.

5 C. The conservation acquisition board shall:

6 1. Solicit donations to the conservation donation account.

7 2. Consult with entities such as private land trusts, state land
8 lessees, the state land department, the ~~Arizona state parks board~~ STATE PARKS
9 DIRECTOR and others to identify conservation areas that are reclassified
10 pursuant to section 37-312 and that are suitable for funding.

11 3. Recommend to the ~~Arizona state parks board~~ DIRECTOR appropriate
12 grants from the land conservation fund.

13 D. The land conservation fund is established consisting of the
14 following accounts:

15 1. The conservation donation account consisting of monies received as
16 donations. Donations to the account are subject to any lawful conditions the
17 donor may prescribe, including any conditions on the use of the money or
18 reversion to the donor. Monies in the account are exempt from the provisions
19 of section 35-190 relating to lapsing of appropriations.

20 2. The public conservation account consisting of monies appropriated
21 to the account from the state general fund and monies from any other
22 designated source. In fiscal years 2000-2001 through 2010-2011, the sum of
23 twenty million dollars is appropriated each fiscal year from the state
24 general fund to the public conservation account in the land conservation fund
25 for the purposes of this section. Monies in the account are appropriated for
26 the purposes of this section, and the ~~Arizona state parks board~~ DIRECTOR may
27 spend monies in the account without further legislative authorization. Each
28 expenditure of monies from the public conservation account for purposes
29 listed under subsection G, paragraph 2 of this section shall be matched by an
30 equal expenditure of monies from the conservation donation account or from
31 other private or governmental sources.

32 E. If the legislature fails to appropriate monies to the public
33 conservation account in a fiscal year, and if there are no other monies in
34 the public conservation account, the ~~Arizona state parks board~~ DIRECTOR may
35 either grant nothing from the fund in that year or, on recommendation by the
36 conservation acquisition board, may grant available monies in the
37 conservation donation account for purposes authorized in subsection G of this
38 section.

39 F. The monies in the fund are exempt from the provisions of section
40 35-190 relating to lapsing of appropriations.

41 G. Monies in the public conservation account, with matching monies
42 from the conservation donation account, are appropriated as follows:

43 1. A total of two million dollars each fiscal year to the livestock
44 and crop conservation fund. The fund is established for the purposes of this
45 paragraph. Monies in the fund are continuously appropriated to the Arizona

1 department of agriculture for the exclusive purpose of granting monies to
2 individual landowners and grazing and agricultural lessees of state or
3 federal land who contract with the Arizona department of agriculture to
4 implement conservation based management alternatives using livestock or crop
5 production practices, or reduce livestock or crop production, to provide
6 wildlife habitat or other public benefits that preserve open space and for
7 administrative expenses as provided by this paragraph. The department shall
8 administer the fund. On notice from the director of the department, the
9 state treasurer shall invest and divest monies in the fund as provided by
10 section 35-313, and monies earned from investment shall be credited to the
11 fund. Monies in the fund are exempt from the provisions of section 35-190
12 relating to lapsing of appropriations. For the purposes of granting monies
13 from the fund pursuant to this paragraph, the department:

14 (a) Shall develop guidelines and criteria for implementation of this
15 program that shall include requiring as part of the application a letter
16 describing the intended use for the grant money.

17 (b) Shall give priority to lessees of state or federal land who reduce
18 livestock production to provide public benefits such as wildlife species
19 conservation or wildlife habitat.

20 (c) Shall not grant more than fifty ~~per-cent~~ PERCENT of the monies in
21 the fund with respect to land in one county in any fiscal year.

22 (d) Is exempt from chapter 6 of this title with respect to adopting
23 rules, except that the department shall provide for public notice and sixty
24 days for public comment on the annual grant guidelines and criteria,
25 including public hearings.

26 (e) Shall award all grants pursuant to chapter 24, article 1 of this
27 title.

28 (f) Shall require each grantee to submit to the department, within
29 twelve months after receiving the grant, a written report detailing how grant
30 monies were used to achieve the project described in the letter submitted as
31 part of the application. If the project is longer than one year, a written
32 report shall be submitted to the department on an annual basis until the
33 project is complete.

34 (g) May use not more than ten ~~per-cent~~ PERCENT of the monies
35 appropriated to the fund in any fiscal year for the purposes of administering
36 the program.

37 (h) Shall prepare a report of the disposition of monies appropriated
38 to the fund each fiscal year and provide a copy of the report to the
39 governor, to the ~~Arizona state parks board~~ DIRECTOR and to any person who
40 requests a copy.

41 2. The remainder of the monies to the ~~Arizona state parks board~~
42 DIRECTOR for the exclusive purpose of granting monies to the state or any of
43 its political subdivisions, or to a nonprofit organization that is exempt
44 from federal income taxation under section 501(c) of the internal revenue

1 code and that has the purpose of preserving open space, for the following
2 purposes only:

3 (a) To purchase or lease state trust lands that are classified as
4 suitable for conservation purposes pursuant to title 37, chapter 2, article
5 4.2. A grant of money under this subdivision to a nonprofit organization is
6 conditioned on the organization providing reasonable public access to any
7 land that is wholly or partly purchased with that money. The organization
8 shall agree with the ~~Arizona state parks board~~ DIRECTOR that it will impose a
9 restrictive covenant, running with the title to the land, granting such
10 access and providing for reversion to this state of any interest in the
11 property acquired with money granted under this subdivision on the failure to
12 comply with the terms of the covenant. The ~~Arizona state parks board~~
13 DIRECTOR and the state land commissioner have standing to either enforce the
14 covenant or recover the amount of the grant from the current owner, with
15 interest from the date the grant was awarded to the nonprofit organization.

16 (b) To purchase the development rights of state trust lands throughout
17 this state under the following conditions:

18 (i) The development rights shall be sold at public auction as provided
19 in section 37-258.01.

20 (ii) The lessee of the state trust land at the time the development
21 rights are purchased shall be notified of the purchase in writing.

22 (iii) The purchase of the development rights shall not result in
23 cancellation or modification of the current lease.

24 (iv) The purchase of the development rights shall not affect the
25 existing lessee's current economic use of the land and rights pursuant to
26 title 37, chapter 2, article 4.2.

27 (v) As a condition of the sale of the development rights, the
28 purchaser shall agree in perpetuity not to exercise the development rights
29 and that the land shall remain as open space.

30 (vi) The state trust land shall retain any other rights and attributes
31 as prescribed by law at the time of the purchase.

32 H. For the purposes of subsection G, paragraph 2 of this section:

33 1. The ~~Arizona state parks board~~ DIRECTOR shall not grant more than
34 fifty ~~per cent~~ PERCENT of the monies with respect to land in one county in
35 any fiscal year.

36 2. A grant of money is valid for eighteen months and may be extended
37 one time for twelve additional months if a required public auction has not
38 been held.

39 3. The ~~Arizona state parks board~~ DIRECTOR may adopt rules to establish
40 qualifications of nonprofit organizations for purposes of applying for and
41 receiving money granted.

42 4. The owner of property that is wholly or partly acquired with money
43 granted shall not restrict or unreasonably limit access to private lands.
44 Any sale of land with money granted shall include a condition requiring that
45 permanent access to private lands be allowed.

1 I. The ~~Arizona state parks board~~ DIRECTOR shall administer the land
2 conservation fund. On notice from the ~~board~~ DIRECTOR, the state treasurer
3 shall invest and divest monies in either account in the fund as provided by
4 section 35-313, and monies earned from investments shall be credited to a
5 separate administration account to pay the ~~board's~~ DIRECTOR'S expenses of
6 administering the land conservation and acquisition program under subsection
7 G, paragraph 2 of this section, which shall not exceed five ~~per cent~~ PERCENT
8 of the amount deposited in the public conservation account in any fiscal year
9 or five hundred thousand dollars, whichever is less. Investment earnings in
10 excess of five hundred thousand dollars are appropriated to the ~~Arizona state~~
11 ~~parks board~~ DIRECTOR for the purpose of operating state parks.

12 J. Members of the conservation acquisition board may be reimbursed for
13 travel and lodging expenses and per diem subsistence allowances incurred
14 while on public business for the board. Reimbursement amounts shall not
15 exceed those allowed under title 38, chapter 4, article 2.

16 Sec. 35. Section 45-618, Arizona Revised Statutes, is amended to read:
17 45-618. Arizona water quality fund

18 A. An Arizona water quality fund is established for agency
19 participation in activities related to title 49, chapter 2, article 5 and
20 coordination of data bases necessary for those activities. The director
21 shall administer the fund.

22 B. The Arizona water quality fund ~~consist~~ CONSISTS of monies from
23 legislative appropriations, grants, contributions and transfers from other
24 public agencies.

25 C. On notice from the director, the state treasurer shall invest and
26 divest monies in the fund as provided by section 35-313 and monies earned
27 from investment shall be credited to the fund.

28 D. Monies in the fund are exempt from lapsing under section 35-190.

29 E. Before December 31 of each year, the director shall submit to the
30 speaker of the house of representatives, ~~AND~~ the president of the senate ~~and~~
31 ~~the advisory board established by section 49-289.04~~ a written report
32 describing the activities of the department for the preceding fiscal year
33 relating to expenditures from the fund. The report shall include an
34 accounting for expenditures from the fund and how the monies were used to
35 perform duties in cooperation with the department of environmental quality
36 pursuant to title 49, chapter 2, article 5. The report shall address the
37 department of water ~~resources~~ RESOURCES' sharing and management of data with
38 the department of environmental quality, well inspection activities conducted
39 pursuant to this fund, measures to remediate wells pursuant to section
40 45-605, duties performed pursuant to agreements with the department of
41 environmental quality and the status of other departmental participation in
42 water quality assurance revolving fund activities.

43 Sec. 36. Section 49-281, Arizona Revised Statutes, is amended to read:
44 49-281. Definitions

45 In this article, unless the context otherwise requires:

1 1. "Applicant" means any individual, employee, officer, managing body,
2 trust, firm, joint stock company, consortium, public or private corporation,
3 including a government corporation, partnership or association, this state, a
4 political subdivision of this state, or a commission of the United States
5 government or a federal facility, an interstate body or any other entity that
6 applies for a settlement under either section 49-292.01 or 49-292.02.

7 2. "Community" means the broad spectrum of persons determined by the
8 director to be within an existing or proposed site placed on the registry
9 pursuant to section 49-287.01.

10 3. "Community involvement area" means the geographical area that is
11 within a site placed on the registry pursuant to section 49-287.01 and
12 additional geographic areas as found appropriate in the director's
13 discretion.

14 4. "Dispose" means the deposit, injection, dumping, spilling, leaking
15 or placing of any pollutant into or on any land or water so that the
16 pollutant or any constituent of the pollutant may enter the environment or be
17 discharged into any waters, including aquifers.

18 5. "Eligible party" means a person who enters into a written agreement
19 with the director to implement and complete a remedial investigation and
20 feasibility study with respect to a site or portion of a site that was on the
21 annual priority list on May 1, 1997 or any other person who incurs costs for
22 a remedial action that is in substantial compliance with section 49-282.06 as
23 determined by the director.

24 6. "Facility" means any land, building, installation, structure,
25 equipment, device, conveyance, area, source, activity or practice.

26 7. "Fund" means the water quality assurance revolving fund established
27 by section 49-282.

28 8. "Hazardous substance" has the same meaning prescribed in section
29 49-201 but does not include petroleum as defined in section 49-1001, except
30 to the extent that a constituent of petroleum is subject to the provisions of
31 section 49-283.02.

32 9. "Nonrecoverable costs" means any costs incurred by the director
33 after June 30, 1997:

34 (a) That consist of salaries and benefits paid to state employees,
35 including direct and indirect costs, except as specifically provided
36 in section 49-282.05, section 49-285, subsection B, section 49-285.01,
37 section 49-287.01, section 49-287.06, subsection H and section 49-287.07 and
38 for epidemiological studies conducted by the department of health services.

39 (b) For activities conducted pursuant to section 49-287.02.

40 (c) For water monitoring activities conducted pursuant to section
41 49-225.

42 (d) For well inspections, but not other remedial actions, to determine
43 whether vertical cross-contamination is resulting from a well pursuant to
44 section 45-605 or 49-282.04.

45 ~~(e) For the advisory board established by section 49-289.04.~~

1 ~~(f)~~ (e) For ~~rule-making~~ RULEMAKING.

2 10. "Orphan shares" means the shares of the cost of a remedial action
3 that are allocated to an identified person who is determined to be a
4 responsible party and that are not paid or otherwise satisfied by that
5 responsible party due to any of the following:

6 (a) The party cannot be located or no longer exists.

7 (b) The party has entered into a qualified business settlement
8 pursuant to this article.

9 (c) The party has entered into a settlement pursuant to this article
10 for an amount that is less than its allocated share.

11 (d) The director has determined that the share allocated to the party
12 is uncollectible.

13 11. "Release" means any spilling, leaking, pumping, pouring, emitting,
14 emptying, discharging, injecting, escaping, leaching, dumping or disposing
15 into the environment but excludes:

16 (a) Any release ~~which~~ THAT results in exposure to persons solely
17 within a workplace, with respect to a claim ~~which~~ THAT such persons may
18 assert against the employer of such persons.

19 (b) Emissions from the engine exhaust of any motor vehicle, rolling
20 stock, aircraft, vessel or pipeline pumping station engine.

21 (c) Release of source, by-product or special nuclear material, as
22 those terms are defined in section 30-651, resulting from the operation of a
23 production or utilization facility as defined in the atomic energy act of
24 1954 (68 Stat. 919; 42 United States Code sections 2011 through 2297), which
25 is subject to the regulatory authority of the United States nuclear
26 regulatory commission as specified in that act, and the agreement, dated
27 March 30, 1967, entered into between the governor of this state and the
28 United States atomic energy commission pursuant to section 30-656 and section
29 274 of the atomic energy act of 1954, as amended.

30 (d) The normal application of fertilizer.

31 12. "Remedial actions" means those actions that are reasonable,
32 necessary, cost-effective and technically feasible in the event of the
33 release or threat of release of hazardous substances into the environment,
34 such actions as may be necessary to investigate, monitor, assess and evaluate
35 such release or threat of release, actions of remediation, removal or
36 disposal of hazardous substances or taking such other actions as may be
37 necessary to prevent, minimize or mitigate damage to the public health or
38 welfare or to the environment ~~which~~ THAT may otherwise result from a release
39 or threat of release of a hazardous substance. Remedial actions include the
40 use of biostimulation with indigenous microbes and bioaugmentation using
41 microbes that are nonpathogenic, that are nonopportunistic and that are
42 naturally occurring. Remedial actions may include community information and
43 participation costs and providing an alternative drinking water supply.

44 13. "Remedy" means a remedial action selected in a record of decision
45 issued pursuant to section 49-287.04.

1 14. "Site" means the geographical areal extent of contamination.

2 15. "Vertical cross-contamination" means the vertical migration of
3 released hazardous substances in groundwater through a well from an aquifer
4 or aquifer layer to another aquifer or aquifer layer.

5 Sec. 37. Section 49-282, Arizona Revised Statutes, is amended to read:
6 49-282. Water quality assurance revolving fund

7 A. A water quality assurance revolving fund is established to be
8 administered by the director. The fund consists of monies from the following
9 sources:

10 1. Monies appropriated by the legislature.

11 2. Fertilizer license fees allocated under section 3-272, subsection
12 B, paragraph 2.

13 3. Pesticide registration fees allocated under section 3-351,
14 subsection D, paragraph 2.

15 4. The tax on water use pursuant to section 42-5302.

16 5. Water quality assurance fees collected under section 45-616.

17 6. Industrial discharge registration fees collected under section
18 49-209.

19 7. Manifest resubmittal fees collected under section 49-922.01.

20 8. Hazardous waste facility registration fees collected under section
21 49-929.

22 9. Hazardous waste resource recovery facility registration fees
23 collected under section 49-930.

24 10. Monies recovered from responsible parties as remedial action
25 costs.

26 11. Monies received as costs for a review of remedial actions at the
27 request of a person other than the state.

28 12. Monies received from the collection of corporate income taxes
29 under title 43, chapter 11, article 2 as prescribed by subsection B of this
30 section.

31 13. Prospective purchaser agreement fees collected under section
32 49-285.01.

33 B. The water quality assurance revolving fund shall be assured of an
34 annual funding amount of eighteen million dollars. ~~Beginning July 1, 1999,~~
35 ~~as soon as practicable~~ At the beginning of each fiscal year, the state
36 treasurer shall transfer the sum of fifteen million dollars to the water
37 quality assurance revolving fund from the corporate income tax as collected
38 pursuant to title 43, chapter 11, article 2. As custodian of the fund, the
39 director shall certify to the governor, the state treasurer, the president of
40 the senate and the speaker of the house of representatives at the end of that
41 fiscal year the amount of monies deposited in the water quality assurance
42 revolving fund pursuant to subsection A, paragraphs 1 through 9 of this
43 section. At the end of the fiscal year the state treasurer shall adjust the
44 fifteen million dollar transfer of corporate income tax so that, when
45 combined with monies deposited in the fund during that fiscal year pursuant

1 to subsection A, paragraphs 1 through 9 of this section, the fund receives
2 eighteen million dollars each fiscal year. This adjustment shall occur as
3 part of the year-end book closing process for that fiscal year. If
4 sufficient monies from the corporate income tax are not available to make any
5 necessary upward adjustments as part of the year-end book closing, the state
6 treasurer shall transfer the monies necessary to achieve the eighteen million
7 dollar funding level from the transaction privilege and severance tax
8 clearing account pursuant to section 42-5029, subsection D, paragraph 4, to
9 the water quality assurance revolving fund. Any transfers prescribed by this
10 subsection shall not be deducted from the net proceeds distributed pursuant
11 to section 43-206.

12 C. At the beginning of each fiscal year, the director of environmental
13 quality shall contract with the department of water resources for the
14 transfer of up to eight hundred thousand dollars from the water quality
15 assurance revolving fund to the Arizona water quality fund established by
16 section 45-618 for support services for the water quality assurance revolving
17 fund program. The support services provided for the water quality assurance
18 revolving fund program shall be determined by the director of water resources
19 in consultation with the director of environmental quality.

20 D. Monies in the fund are exempt from lapsing under section 35-190.
21 Interest earned on monies in the fund shall be credited to the fund.

22 E. Monies from the water quality assurance revolving fund shall be
23 used for the following purposes:

24 1. To provide state matching monies or to meet such other obligations
25 as are prescribed by section 104 of CERCLA.

26 2. For all reasonable and necessary costs to implement this article,
27 including:

28 (a) Taking remedial actions.

29 (b) Conducting investigations of an area to determine if a release or
30 a threatened release of a hazardous substance exists.

31 (c) Conducting remedial investigations, feasibility studies, health
32 effect studies and risk assessments.

33 (d) Identifying and investigating potentially responsible parties and
34 allocating liability among the responsible parties.

35 (e) Funding orphan shares.

36 (f) Participating in the allocation process, administrative appeals
37 and court actions.

38 (g) Funding the community advisory boards and other community
39 involvement activities ~~and the water quality assurance revolving fund~~
40 ~~advisory board.~~

41 (h) Remediating pollutants if necessary to remediate a hazardous
42 substance.

43 3. For the reasonable and necessary costs of monitoring, assessing,
44 identifying, locating and evaluating the degradation, destruction, loss of or

- 1 threat to the waters of the state resulting from a release of a hazardous
2 substance to the environment.
- 3 4. For the reasonable and necessary costs of administering the fund.
- 4 5. For the reasonable and necessary costs of administering the
5 industrial discharge registration program under section 49-209.
- 6 6. For the costs of the water quality monitoring program described in
7 section 49-225.
- 8 7. For compliance monitoring, investigation and enforcement activities
9 pertaining to generating, transporting, treating, storing and disposing of
10 hazardous waste. The amount to be used pursuant to chapter 5 of this title
11 is limited to the amount received in the prior fiscal year from the hazardous
12 waste facility registration fee.
- 13 8. For emergency response use as prescribed in section 49-282.02.
- 14 9. For all reasonable and necessary costs of the preparation and
15 execution of prospective purchaser agreements.
- 16 10. For all reasonable and necessary costs of the voluntary
17 remediation program.
- 18 11. To reimburse a political subdivision of this state for its
19 reasonable, necessary and cost-effective remedial action costs incurred in
20 response to a release or threat of a release of a hazardous substance or
21 pollutants that presents an immediate and substantial endangerment to the
22 public health or the environment. The political subdivision is not eligible
23 for reimbursement until it has taken all reasonable efforts to obtain
24 reimbursement from the responsible party and the federal government. No more
25 than two hundred fifty thousand dollars may be spent from the fund for this
26 purpose in any fiscal year.
- 27 12. For all reasonable and necessary costs incurred by the department
28 pursuant to section 49-282.04 and the department of water resources pursuant
29 to section 45-605 for well inspections, remedial actions and review and
30 approval of well construction necessary to prevent vertical
31 cross-contamination. The director of environmental quality and the director
32 of water resources shall enter into an agreement for the transfer of these
33 costs.
- 34 13. For actions that are taken pursuant to section 49-282.03 before
35 the selection of a remedy.
- 36 14. For the reasonable and necessary costs of the conveyance, use or
37 discharge of water remediated as part of a remedy under this article.
- 38 15. For the reasonable and necessary costs incurred by the department
39 of health services at the request of the director of environmental quality to
40 assess and evaluate the effect of a release or threatened release of
41 hazardous substances to the public health or welfare and the environment.
42 The director of environmental quality and the director of the department of
43 health services shall enter into an agreement for the transfer of these
44 costs. The assessment and evaluation by the department of health services
45 may include:

1 (a) Performing health effect studies and risk assessments.

2 (b) Evaluating and calculating cleanup standards.

3 (c) Assisting in communicating health and risk issues to the public.

4 16. For the reasonable and necessary costs incurred by the department
5 of law to provide legal services at the request of the director of
6 environmental quality.

7 17. For the reasonable and necessary costs of contracting for the
8 goods and services to enable the director to implement this article.

9 18. For remediation demonstration projects that use bioremediation or
10 other alternative technologies. The department may not use more than five
11 hundred thousand dollars in a fiscal year pursuant to this paragraph.

12 F. Any political subdivision of this state ~~which~~ THAT uses, used or
13 may use waters of the state for drinking water purposes or any state agency,
14 regardless of whether the political subdivision or state agency is a
15 responsible party, may apply to the director for monies from the fund to be
16 used for remedial action. An application to the fund for remedial action
17 costs shall not be treated as an admission that a political subdivision or an
18 agency of the state is a responsible party, but a political subdivision or a
19 state agency that is a responsible party is liable for remedial action costs
20 in the same manner, including reimbursement of the fund, as any other
21 responsible party. The political subdivision shall commit a local matching
22 amount at least equal to the amount sought from the fund.

23 G. The director of environmental quality shall prepare and submit a
24 budget for the water quality assurance revolving fund program and the
25 director of water resources shall prepare and submit a budget for the Arizona
26 water quality fund with the departments' budgets that are required pursuant
27 to section 35-111. The committees on appropriations of the house of
28 representatives and the senate shall review the water quality assurance
29 revolving fund budget and the Arizona water quality fund budget to ensure
30 that the departments' expenditures are made in accordance with the
31 legislature's intent and that the departments are making adequate progress
32 toward accomplishing that intent.

33 Sec. 38. Repeal

34 Sections 49-289.04 and 49-289.05, Arizona Revised Statutes, are
35 repealed.

36 Sec. 39. Conforming legislation

37 The legislative council staff shall prepare proposed legislation
38 conforming the Arizona Revised Statutes to the provisions of this act for
39 consideration in the Fifty-third legislature, First regular session.