

REFERENCE TITLE: regulatory boards; licensing; revisions

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

HB 2613

Introduced by
Representatives Petersen, Allen J, Weninger, Senators Worsley, Yee:
Representatives Lawrence, Livingston, Norgaard, Rivero, Shope, Senators
Begay, Farnsworth D

AN ACT

AMENDING SECTIONS 3-449, 3-466, 3-492, 3-496, 3-521, 15-341, 20-3151, 27-102, 28-411, 28-7361, 32-101, 32-102, 32-103, 32-112, 32-122, 32-122.01, 32-142 AND 32-143, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 1, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-153; AMENDING SECTIONS 32-1301, 32-1309, 32-1334 AND 32-1394, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-1394.01 AND 32-1394.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1395, 32-1396.01, 32-1399, 32-1921 AND 32-2352, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2372, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-2373, 32-2374, 32-2391, 32-3101, 32-3201, 32-3218 AND 32-4101, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-4102, 32-4103 AND 32-4104, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 41, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-4102; REPEALING SECTION 32-4105, ARIZONA REVISED STATUTES; REPEALING TITLE 32, CHAPTER 41, ARTICLES 2 AND 3, ARIZONA REVISED STATUTES; AMENDING SECTIONS 34-101, 36-601.01, 41-619.51, 41-1092, 41-1758, 41-1758.01, 41-2503 AND 41-2571, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3020.07, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5075, 45-454, 45-596 AND 49-1052, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO REGULATORY LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 3-449, Arizona Revised Statutes, is amended to
3 read:
4 3-449. Annual licensing; fees; application; penalty
5 A. ~~No~~ A person ~~shall~~ MAY NOT transact business as a citrus fruit
6 dealer, ~~packer~~ or shipper without first obtaining a license as provided in
7 this article. The license expires on August 1 of each year and is renewable
8 annually. The license fee shall be determined according to the annual gross
9 sales based on the dealer's or shipper's previous fiscal year as follows:
10 1. If the annual gross sales are five hundred thousand dollars or
11 more, the annual fee is four hundred fifty dollars.
12 2. If the annual gross sales are between two hundred thousand dollars
13 and five hundred thousand dollars, the annual fee is three hundred dollars.
14 3. If the annual gross sales are two hundred thousand dollars or less,
15 the annual fee is one hundred fifty dollars.
16 4. If the person was not in business the previous fiscal year, the
17 annual fee is one hundred fifty dollars.
18 ~~B. The application for a packer license shall be filed with the~~
19 ~~supervisor and be accompanied by an annual license fee of one hundred fifty~~
20 ~~dollars.~~
21 ~~C.~~ B. If a person engages in business in more than one category as a
22 dealer, ~~OR~~ shipper ~~or packer~~, the license designation shall be based on the
23 category in which most of the licensee's business is conducted.
24 ~~D.~~ C. The license fees collected by the supervisor shall be paid into
25 the citrus, fruit and vegetable trust fund.
26 ~~E.~~ D. The application for a dealer, ~~OR~~ shipper ~~or packer~~ license
27 shall contain the following information:
28 1. The full name of the person applying for the license.
29 2. Whether the applicant is an individual, partnership, firm,
30 corporation, association, trust or cooperative association and the full name
31 of each member of the partnership or firm, the full name of each officer and
32 director of the association or corporation or the full name of each trustee.
33 3. The principal business address of the applicant in this state and
34 elsewhere and the address where the applicant conducts the described
35 business.
36 4. The name of the statutory agent in this state for service of legal
37 notice.
38 5. The category of license for which the applicant is applying.
39 6. A statement of the facts, signed under penalty of perjury,
40 entitling the applicant to a license under the applicable category and
41 stating whether the applicant has ever had any license to handle citrus,
42 fruit or vegetables in any state denied, suspended or revoked.
43 7. If the applicant acts as a commission merchant, a schedule of
44 commissions and charges for services, which may not be altered during the
45 term of the license except by written agreement between the parties involved.

1 ~~F.~~ E. The supervisor shall issue to the applicant a license to
2 conduct the business described for a period of one year unless it is revoked
3 for cause.

4 ~~G.~~ F. An applicant who tenders a renewal application for a license
5 that is received by the supervisor after August 15 shall pay a penalty of
6 twenty-five dollars. An applicant who tenders a renewal application for a
7 license that is received after September 1 shall pay a penalty of fifty
8 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
9 trust fund.

10 Sec. 2. Section 3-466, Arizona Revised Statutes, is amended to read:

11 3-466. Civil penalties; hearing

12 A. A person is subject to a civil penalty of not more than five
13 hundred dollars~~;~~ if the person does either of the following:

14 1. Acts as a dealer~~;~~ OR shipper ~~or packer~~ without a valid license.

15 2. Knowingly falsifies or causes to be falsified information in a
16 record intended to show proof of ownership.

17 B. A person shall be subject to a civil penalty of not more than three
18 hundred dollars~~;~~ if the person does any of the following:

19 1. Makes a written or oral false, deceptive or misleading
20 representation or assertion concerning the quality, size, maturity or
21 condition of citrus fruit.

22 2. Alters, removes or destroys a warning notice from a lot or part of
23 a lot to which it was affixed except on written authorization of an
24 inspector, the supervisor or the director or by court order.

25 3. Alters a notice of noncompliance, notice of compliance or notice of
26 disposal that is issued by an inspector.

27 4. Refuses to submit any container or lot of citrus fruit governed
28 pursuant to this article to an inspection of a representative sample or to
29 refuse to stop and permit inspection of a representative sample of any
30 commercial vehicle containing citrus fruit governed pursuant to this article.

31 C. A commission merchant is subject to a civil penalty of not more
32 than five hundred dollars~~;~~ if the commission merchant does any of the
33 following:

34 1. Knowingly makes a false or misleading statement as to the condition
35 of any citrus fruit.

36 2. Makes a fraudulent charge or return for handling or selling citrus
37 fruit or for rendering any service in connection with handling or selling
38 citrus fruit.

39 3. Reconsigns a consignment to receive, collect or charge more than
40 one commission without the consent of the consignor.

41 4. Sells citrus fruit at less than market price to a person with whom
42 the consignment merchant has a direct or indirect financial connection.

43 5. Makes a sale and directly or indirectly receives a portion of the
44 purchase price other than the commission specified in the contract.

1 D. A person who is charged with violating this article or rules
2 adopted pursuant to this article may request a hearing pursuant to title 41,
3 chapter 6, article 10.

4 E. Civil penalties collected pursuant to this section shall be
5 deposited in the citrus, fruit and vegetable trust fund.

6 Sec. 3. Section 3-492, Arizona Revised Statutes, is amended to read:
7 3-492. Licensing dealers and shippers; application; fees;
8 penalty

9 A. ~~No~~ A person ~~shall~~ MAY NOT act as a dealer or shipper without first
10 obtaining a license as provided in this article. Application for the license
11 shall be filed with the supervisor and accompanied by a license fee
12 determined according to the annual gross sales based on the dealer's or
13 shipper's previous fiscal year as follows:

14 1. If the annual gross sales are five hundred thousand dollars or
15 more, the annual fee is five hundred dollars.

16 2. If the annual gross sales are between two hundred thousand dollars
17 and five hundred thousand dollars, the annual fee is three hundred fifty
18 dollars.

19 3. If the annual gross sales are two hundred thousand dollars or less,
20 the annual fee is two hundred dollars.

21 4. If the person was not in business the previous fiscal year, the
22 annual fee is two hundred dollars.

23 ~~B. A person may not act as a packer without first obtaining a license~~
24 ~~as provided in this article. The application for a packer license shall be~~
25 ~~filed with the supervisor and accompanied by an annual license fee of two~~
26 ~~hundred dollars.~~

27 ~~C.~~ B. If a person engages in business in more than one category as a
28 dealer, ~~OR~~ shipper ~~or packer~~, the license designation shall be based on the
29 category in which most of the licensee's business is conducted.

30 ~~D.~~ C. The monies received as license fees under this section shall be
31 paid into the citrus, fruit and vegetable trust fund. The license shall
32 expire on September 1 of each year and is renewable annually.

33 ~~E.~~ D. The application for a dealer, ~~OR~~ shipper ~~or packer~~ license
34 shall contain the following information:

35 1. The full name of the person applying for the license.

36 2. Whether the applicant is an individual, partnership, firm,
37 corporation, association, trust or cooperative association and the full name
38 of each member of the partnership or firm, the full name of each officer and
39 director of the association or corporation or the full name of each trustee.

40 3. The principal business address of the applicant in this state and
41 elsewhere and the address where the applicant conducts the described
42 business.

43 4. The name of the statutory agent in this state for service of legal
44 notice.

45 5. The category of license for which the applicant is applying.

1 6. A statement of the facts, signed under penalty of perjury,
2 entitling the applicant to a license under the applicable category and
3 stating whether the applicant has ever had any license to handle citrus,
4 fruit or vegetables in any state denied, suspended or revoked.

5 7. If the applicant acts as a commission merchant, a schedule of
6 commissions and charges for services, which may not be altered during the
7 term of the license except by written agreement between the parties involved.

8 ~~F.~~ E. The supervisor shall issue to the applicant a license to
9 conduct the business described for a period of one year unless it is revoked
10 for cause.

11 ~~G.~~ F. An applicant who tenders a renewal application for a license
12 that is received by the supervisor after September 15 shall pay a penalty of
13 twenty-five dollars. An applicant who tenders a renewal application for a
14 license that is received after October 1 shall pay a penalty of fifty
15 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
16 trust fund.

17 Sec. 4. Section 3-496, Arizona Revised Statutes, is amended to read:
18 3-496. List of licensees; display of license

19 A. The supervisor may publish a pamphlet containing a list of all
20 licensed dealers, ~~AND~~ shippers ~~and packers~~ and the rules pertaining to the
21 enforcement of this article.

22 B. Each licensed dealer, ~~AND~~ shipper ~~and packer~~ shall keep the
23 license in ~~his~~ THE DEALER'S OR SHIPPER'S office or at ~~his~~ THE DEALER'S OR
24 SHIPPER'S principal place of business.

25 Sec. 5. Section 3-521, Arizona Revised Statutes, is amended to read:
26 3-521. Civil penalties; hearing

27 A. A person is subject to a civil penalty of not more than five
28 hundred dollars, ~~if~~ the person does either of the following:

- 29 1. Acts as a dealer, ~~OR~~ shipper ~~or packer~~ without a valid license.
30 2. Knowingly falsifies or causes to be falsified information in a
31 record intended to show proof of ownership.

32 B. A person shall be subject to a civil penalty of not more than three
33 hundred dollars, ~~if~~ the person does any of the following:

34 1. Makes a written or oral false, deceptive or misleading
35 representation or assertion concerning the quality, size, maturity or
36 condition of fruit or vegetables.

37 2. Alters, removes or destroys a warning notice from a lot or part of
38 a lot to which it was affixed except on written authorization of an
39 inspector, the supervisor or the director or by court order.

40 3. Alters a notice of noncompliance, notice of compliance or notice of
41 disposal that is issued by an inspector.

42 4. Refuses to submit any container or lot of fruit or vegetables
43 governed by this article to an inspection of a representative sample or
44 refuses to stop and permit inspection of a representative sample of any
45 commercial vehicle containing fruit and vegetables governed by this article.

1 C. A commission merchant is subject to a civil penalty of not more
2 than five hundred dollars; ~~if the commission merchant does any of the~~
3 following:

4 1. Knowingly makes a false or misleading statement as to the condition
5 of any fruit or vegetable.

6 2. Makes a fraudulent charge or return for handling or selling a fruit
7 or vegetable or for rendering any service in connection with handling or
8 selling a fruit or vegetable.

9 3. Reconsigns a consignment to receive, collect or charge more than
10 one commission without the consent of the consignor.

11 4. Sells a fruit or vegetable at less than market price to a person
12 with whom the consignment merchant has a direct or indirect financial
13 connection.

14 5. Makes a sale and directly or indirectly receives a portion of the
15 purchase price other than the commission specified in the contract.

16 D. A person who is charged with violating this article or rules
17 adopted pursuant to this article may request a hearing before an
18 administrative law judge pursuant to title 41, chapter 6, article 10. The
19 decision of the administrative law judge is subject to review by the director
20 as provided by title 41, chapter 6, article 10.

21 E. Civil penalties collected pursuant to this section shall be
22 deposited in the citrus, fruit and vegetable trust fund.

23 Sec. 6. Section 15-341, Arizona Revised Statutes, is amended to read:
24 15-341. General powers and duties; immunity; delegation

25 A. The governing board shall:

26 1. Prescribe and enforce policies and procedures for the governance of
27 the schools, not inconsistent with law or rules prescribed by the state board
28 of education.

29 2. Exclude from schools all books, publications, papers or audiovisual
30 materials of a sectarian, partisan or denominational character. This
31 paragraph shall not be construed to prohibit the elective course permitted by
32 section 15-717.01.

33 3. Manage and control the school property within its district.

34 4. Acquire school furniture, apparatus, equipment, library books and
35 supplies for the use of the schools.

36 5. Prescribe the curricula and criteria for the promotion and
37 graduation of pupils as provided in sections 15-701 and 15-701.01.

38 6. Furnish, repair and insure, at full insurable value, the school
39 property of the district.

40 7. Construct school buildings on approval by a vote of the district
41 electors.

42 8. Make in the name of the district conveyances of property belonging
43 to the district and sold by the board.

44 9. Purchase school sites when authorized by a vote of the district at
45 an election conducted as nearly as practicable in the same manner as the

1 election provided in section 15-481 and held on a date prescribed in section
2 15-491, subsection E, but such authorization shall not necessarily specify
3 the site to be purchased and such authorization shall not be necessary to
4 exchange unimproved property as provided in section 15-342, paragraph 23.

5 10. Construct, improve and furnish buildings used for school purposes
6 when such buildings or premises are leased from the national park service.

7 11. Purchase school sites or construct, improve and furnish school
8 buildings from the proceeds of the sale of school property only on approval
9 by a vote of the district electors.

10 12. Hold pupils to strict account for disorderly conduct on school
11 property.

12 13. Discipline students for disorderly conduct on the way to and from
13 school.

14 14. Except as provided in section 15-1224, deposit all monies received
15 by the district as gifts, grants and devises with the county treasurer who
16 shall credit the deposits as designated in the uniform system of financial
17 records. If not inconsistent with the terms of the gifts, grants and devises
18 given, any balance remaining after expenditures for the intended purpose of
19 the monies have been made shall be used for reduction of school district
20 taxes for the budget year, except that in the case of accommodation schools
21 the county treasurer shall carry the balance forward for use by the county
22 school superintendent for accommodation schools for the budget year.

23 15. Provide that, if a parent or legal guardian chooses not to accept a
24 decision of the teacher as provided in section 15-521, paragraph 4, the
25 parent or legal guardian may request in writing that the governing board
26 review the teacher's decision. This paragraph shall not be construed to
27 release school districts from any liability relating to a child's promotion
28 or retention.

29 16. Provide for adequate supervision over pupils in instructional and
30 noninstructional activities by certificated or noncertificated personnel.

31 17. Use school monies received from the state and county school
32 apportionment exclusively for payment of salaries of teachers and other
33 employees and contingent expenses of the district.

34 18. Make an annual report to the county school superintendent on or
35 before October 1 in the manner and form and on the blanks prescribed by the
36 superintendent of public instruction or county school superintendent. The
37 board shall also make reports directly to the county school superintendent or
38 the superintendent of public instruction whenever required.

39 19. Deposit all monies received by school districts other than student
40 activities monies or monies from auxiliary operations as provided in sections
41 15-1125 and 15-1126 with the county treasurer to the credit of the school
42 district except as provided in paragraph 20 of this subsection and sections
43 15-1223 and 15-1224, and the board shall expend the monies as provided by law
44 for other school funds.

1 20. Establish bank accounts in which the board during a month may
2 deposit miscellaneous monies received directly by the district. The board
3 shall remit monies deposited in the bank accounts at least monthly to the
4 county treasurer for deposit as provided in paragraph 19 of this subsection
5 and in accordance with the uniform system of financial records.

6 21. Prescribe and enforce policies and procedures for disciplinary
7 action against a teacher who engages in conduct that is a violation of the
8 policies of the governing board but that is not cause for dismissal of the
9 teacher or for revocation of the certificate of the teacher. Disciplinary
10 action may include suspension without pay for a period of time not to exceed
11 ten school days. Disciplinary action shall not include suspension with pay
12 or suspension without pay for a period of time longer than ten school days.
13 The procedures shall include notice, hearing and appeal provisions for
14 violations that are cause for disciplinary action. The governing board may
15 designate a person or persons to act on behalf of the board on these matters.

16 22. Prescribe and enforce policies and procedures for disciplinary
17 action against an administrator who engages in conduct that is a violation of
18 the policies of the governing board regarding duties of administrators but
19 that is not cause for dismissal of the administrator or for revocation of the
20 certificate of the administrator. Disciplinary action may include suspension
21 without pay for a period of time not to exceed ten school days. Disciplinary
22 action shall not include suspension with pay or suspension without pay for a
23 period of time longer than ten school days. The procedures shall include
24 notice, hearing and appeal provisions for violations that are cause for
25 disciplinary action. The governing board may designate a person or persons
26 to act on behalf of the board on these matters. For violations that are
27 cause for dismissal, the provisions of notice, hearing and appeal in chapter
28 5, article 3 of this title shall apply. The filing of a timely request for a
29 hearing suspends the imposition of a suspension without pay or a dismissal
30 pending completion of the hearing.

31 23. Notwithstanding sections 13-3108 and 13-3120, prescribe and enforce
32 policies and procedures that prohibit a person from carrying or possessing a
33 weapon on school grounds unless the person is a peace officer or has obtained
34 specific authorization from the school administrator.

35 24. Prescribe and enforce policies and procedures relating to the
36 health and safety of all pupils participating in district sponsored practice
37 sessions or games or other interscholastic athletic activities, including:

38 (a) The provision of water.

39 (b) Guidelines, information and forms, developed in consultation with
40 a statewide private entity that supervises interscholastic activities, to
41 inform and educate coaches, pupils and parents of the dangers of concussions
42 and head injuries and the risks of continued participation in athletic
43 activity after a concussion. The policies and procedures shall require that,
44 before a pupil participates in an athletic activity, the pupil and the
45 pupil's parent must sign an information form at least once each school year

1 that states that the parent is aware of the nature and risk of concussion.
 2 The policies and procedures shall require that a pupil who is suspected of
 3 sustaining a concussion in a practice session, game or other interscholastic
 4 athletic activity be immediately removed from the athletic activity. A coach
 5 from the pupil's team or an official or a licensed health care provider may
 6 remove a pupil from play. A team parent may also remove the parent's own
 7 child from play. A pupil may return to play on the same day if a health care
 8 provider rules out a suspected concussion at the time the pupil is removed
 9 from play. On a subsequent day, the pupil may return to play if the pupil
 10 has been evaluated by and received written clearance to resume participation
 11 in athletic activity from a health care provider who has been trained in the
 12 evaluation and management of concussions and head injuries. A health care
 13 provider who is a volunteer and who provides clearance to participate in
 14 athletic activity on the day of the suspected injury or on a subsequent day
 15 is immune from civil liability with respect to all decisions made and actions
 16 taken that are based on good faith implementation of the requirements of this
 17 subdivision, except in cases of gross negligence or wanton or wilful neglect.
 18 A school district, school district employee, team coach, official or team
 19 volunteer or a parent or guardian of a team member is not subject to civil
 20 liability for any act, omission or policy undertaken in good faith to comply
 21 with the requirements of this subdivision or for a decision made or an action
 22 taken by a health care provider. A group or organization that uses property
 23 or facilities owned or operated by a school district for athletic activities
 24 shall comply with the requirements of this subdivision. A school district
 25 and its employees and volunteers are not subject to civil liability for any
 26 other person or organization's failure or alleged failure to comply with the
 27 requirements of this subdivision. This subdivision does not apply to teams
 28 that are based in another state and that participate in an athletic activity
 29 in this state. For the purposes of this subdivision, athletic activity does
 30 not include dance, rhythmic gymnastics, competitions or exhibitions of
 31 academic skills or knowledge or other similar forms of physical noncontact
 32 activities, civic activities or academic activities, whether engaged in for
 33 the purposes of competition or recreation. For the purposes of this
 34 subdivision, "health care provider" means a physician who is licensed
 35 pursuant to title 32, chapter 13 or 17, ~~an athletic trainer who is licensed~~
 36 ~~pursuant to title 32, chapter 41,~~ a nurse practitioner who is licensed
 37 pursuant to title 32, chapter 15, and a physician assistant who is licensed
 38 pursuant to title 32, chapter 25.

39 25. Prescribe and enforce policies and procedures regarding the smoking
 40 of tobacco within school buildings. The policies and procedures shall be
 41 adopted in consultation with school district personnel and members of the
 42 community and shall state whether smoking is prohibited in school buildings.
 43 If smoking in school buildings is not prohibited, the policies and procedures
 44 shall clearly state the conditions and circumstances under which smoking is
 45 permitted, those areas in a school building that may be designated as smoking

1 areas and those areas in a school building that may not be designated as
2 smoking areas.

3 26. Establish an assessment, data gathering and reporting system as
4 prescribed in chapter 7, article 3 of this title.

5 27. Provide special education programs and related services pursuant to
6 section 15-764, subsection A to all children with disabilities as defined in
7 section 15-761.

8 28. Administer competency tests prescribed by the state board of
9 education for the graduation of pupils from high school.

10 29. Ensure that insurance coverage is secured for all construction
11 projects for purposes of general liability, property damage and workers'
12 compensation and secure performance and payment bonds for all construction
13 projects.

14 30. Keep on file the resumes of all current and former employees who
15 provide instruction to pupils at a school. Resumes shall include an
16 individual's educational and teaching background and experience in a
17 particular academic content subject area. A school district shall inform
18 parents and guardians of the availability of the resume information and shall
19 make the resume information available for inspection on request of parents
20 and guardians of pupils enrolled at a school. This paragraph shall not be
21 construed to require any school to release personally identifiable
22 information in relation to any teacher or employee, including the teacher's
23 or employee's address, salary, social security number or telephone number.

24 31. Report to local law enforcement agencies any suspected crime
25 against a person or property that is a serious offense as defined in section
26 13-706 or that involves a deadly weapon or dangerous instrument or serious
27 physical injury and any conduct that poses a threat of death or serious
28 physical injury to employees, students or anyone on the property of the
29 school. This paragraph does not limit or preclude the reporting by a school
30 district or an employee of a school district of suspected crimes other than
31 those required to be reported by this paragraph. For the purposes of this
32 paragraph, "dangerous instrument", "deadly weapon" and "serious physical
33 injury" have the same meanings prescribed in section 13-105.

34 32. In conjunction with local law enforcement agencies and local
35 medical facilities, develop an emergency response plan for each school in the
36 school district in accordance with minimum standards developed jointly by the
37 department of education and the division of emergency management within the
38 department of emergency and military affairs.

39 33. Provide written notice to the parents or guardians of all students
40 affected in the school district at least ten days prior to a public meeting
41 to discuss closing a school within the school district. The notice shall
42 include the reasons for the proposed closure and the time and place of the
43 meeting. The governing board shall fix a time for a public meeting on the
44 proposed closure no less than ten days before voting in a public meeting to
45 close the school. The school district governing board shall give notice of

1 the time and place of the meeting. At the time and place designated in the
2 notice, the school district governing board shall hear reasons for or against
3 closing the school. The school district governing board is exempt from this
4 paragraph if it is determined by the governing board that the school shall be
5 closed because it poses a danger to the health or safety of the pupils or
6 employees of the school. A governing board may consult with the school
7 facilities board for technical assistance and for information on the impact
8 of closing a school. The information provided from the school facilities
9 board shall not require the governing board to take or not take any action.

10 34. Incorporate instruction on Native American history into appropriate
11 existing curricula.

12 35. Prescribe and enforce policies and procedures:

13 (a) Allowing pupils who have been diagnosed with anaphylaxis by a
14 health care provider licensed pursuant to title 32, chapter 13, 14, 17 or 25
15 or by a registered nurse practitioner licensed and certified pursuant to
16 title 32, chapter 15 to carry and self-administer emergency medications,
17 including auto-injectable epinephrine, while at school and at
18 school-sponsored activities. The pupil's name on the prescription label on
19 the medication container or on the medication device and annual written
20 documentation from the pupil's parent or guardian to the school that
21 authorizes possession and self-administration is sufficient proof that the
22 pupil is entitled to the possession and self-administration of the
23 medication. The policies shall require a pupil who uses auto-injectable
24 epinephrine while at school and at school-sponsored activities to notify the
25 nurse or the designated school staff person of the use of the medication as
26 soon as practicable. A school district and its employees are immune from
27 civil liability with respect to all decisions made and actions taken that are
28 based on good faith implementation of the requirements of this subdivision,
29 except in cases of wanton or wilful neglect.

30 (b) For the emergency administration of auto-injectable epinephrine by
31 a trained employee of a school district pursuant to section 15-157.

32 36. Allow the possession and self-administration of prescription
33 medication for breathing disorders in handheld inhaler devices by pupils who
34 have been prescribed that medication by a health care professional licensed
35 pursuant to title 32. The pupil's name on the prescription label on the
36 medication container or on the handheld inhaler device and annual written
37 documentation from the pupil's parent or guardian to the school that
38 authorizes possession and self-administration shall be sufficient proof that
39 the pupil is entitled to the possession and self-administration of the
40 medication. A school district and its employees are immune from civil
41 liability with respect to all decisions made and actions taken that are based
42 on a good faith implementation of the requirements of this paragraph.

43 37. Prescribe and enforce policies and procedures to prohibit pupils
44 from harassing, intimidating and bullying other pupils on school grounds, on
45 school property, on school buses, at school bus stops, at school-sponsored

1 events and activities and through the use of electronic technology or
2 electronic communication on school computers, networks, forums and mailing
3 lists that include the following components:

4 (a) A procedure for pupils, parents and school district employees to
5 confidentially report to school officials incidents of harassment,
6 intimidation or bullying. The school shall make available written forms
7 designed to provide a full and detailed description of the incident and any
8 other relevant information about the incident.

9 (b) A requirement that school district employees report in writing
10 suspected incidents of harassment, intimidation or bullying to the
11 appropriate school official and a description of appropriate disciplinary
12 procedures for employees who fail to report suspected incidents that are
13 known to the employee.

14 (c) A requirement that, at the beginning of each school year, school
15 officials provide all pupils with a written copy of the rights, protections
16 and support services available to a pupil who is an alleged victim of an
17 incident reported pursuant to this paragraph.

18 (d) If an incident is reported pursuant to this paragraph, a
19 requirement that school officials provide a pupil who is an alleged victim of
20 the incident with a written copy of the rights, protections and support
21 services available to that pupil.

22 (e) A formal process for the documentation of reported incidents of
23 harassment, intimidation or bullying and for the confidentiality, maintenance
24 and disposition of this documentation. School districts shall maintain
25 documentation of all incidents reported pursuant to this paragraph for at
26 least six years. The school shall not use that documentation to impose
27 disciplinary action unless the appropriate school official has investigated
28 and determined that the reported incidents of harassment, intimidation or
29 bullying occurred. If a school provides documentation of reported incidents
30 to persons other than school officials or law enforcement, all individually
31 identifiable information shall be redacted.

32 (f) A formal process for the investigation by the appropriate school
33 officials of suspected incidents of harassment, intimidation or bullying,
34 including procedures for notifying the alleged victim on completion and
35 disposition of the investigation.

36 (g) Disciplinary procedures for pupils who have admitted or been found
37 to have committed incidents of harassment, intimidation or bullying.

38 (h) A procedure that sets forth consequences for submitting false
39 reports of incidents of harassment, intimidation or bullying.

40 (i) Procedures designed to protect the health and safety of pupils who
41 are physically harmed as the result of incidents of harassment, intimidation
42 and bullying, including, if appropriate, procedures to contact emergency
43 medical services or law enforcement agencies, or both.

44 (j) Definitions of harassment, intimidation and bullying.

1 38. Prescribe and enforce policies and procedures regarding changing or
2 adopting attendance boundaries that include the following components:

3 (a) A procedure for holding public meetings to discuss attendance
4 boundary changes or adoptions that allows public comments.

5 (b) A procedure to notify the parents or guardians of the students
6 affected.

7 (c) A procedure to notify the residents of the households affected by
8 the attendance boundary changes.

9 (d) A process for placing public meeting notices and proposed maps on
10 the school district's website for public review, if the school district
11 maintains a website.

12 (e) A formal process for presenting the attendance boundaries of the
13 affected area in public meetings that allows public comments.

14 (f) A formal process for notifying the residents and parents or
15 guardians of the affected area as to the decision of the governing board on
16 the school district's website, if the school district maintains a website.

17 (g) A formal process for updating attendance boundaries on the school
18 district's website within ninety days of an adopted boundary change. The
19 school district shall send a direct link to the school district's attendance
20 boundaries website to the department of real estate.

21 (h) If the land that a school was built on was donated within the past
22 five years, a formal process to notify the entity that donated the land
23 affected by the decision of the governing board.

24 39. If the state board of education determines that the school district
25 has committed an overexpenditure as defined in section 15-107, provide a copy
26 of the fiscal management report submitted pursuant to section 15-107,
27 subsection H on its website and make copies available to the public on
28 request. The school district shall comply with a request within five
29 business days after receipt.

30 40. Ensure that the contract for the superintendent is structured in a
31 manner in which up to twenty ~~per-cent~~ PERCENT of the total annual salary
32 included for the superintendent in the contract is classified as performance
33 pay. This paragraph shall not be construed to require school districts to
34 increase total compensation for superintendents. Unless the school district
35 governing board votes to implement an alternative procedure at a public
36 meeting called for this purpose, the performance pay portion of the
37 superintendent's total annual compensation shall be determined as follows:

38 (a) Twenty-five ~~per-cent~~ PERCENT of the performance pay shall be
39 determined based on the percentage of academic gain determined by the
40 department of education of pupils who are enrolled in the school district
41 compared to the academic gain achieved by the highest ranking of the fifty
42 largest school districts in this state. For the purposes of this
43 subdivision, the department of education shall determine academic gain by the
44 academic growth achieved by each pupil who has been enrolled at the same
45 school in a school district for at least five consecutive months measured

1 against that pupil's academic results in the 2008-2009 school year. For the
2 purposes of this subdivision, of the fifty largest school districts in this
3 state, the school district with pupils who demonstrate the highest statewide
4 percentage of overall academic gain measured against academic results for the
5 2008-2009 school year shall be assigned a score of 100 and the school
6 district with pupils who demonstrate the lowest statewide percentage of
7 overall academic gain measured against academic results for the 2008-2009
8 school year shall be assigned a score of 0.

9 (b) Twenty-five ~~per-cent~~ PERCENT of the performance pay shall be
10 determined by the percentage of parents of pupils who are enrolled at the
11 school district who assign a letter grade of "A" to the school on a survey of
12 parental satisfaction with the school district. The parental satisfaction
13 survey shall be administered and scored by an independent entity that is
14 selected by the governing board and that demonstrates sufficient expertise
15 and experience to accurately measure the results of the survey. The parental
16 satisfaction survey shall use standard random sampling procedures and provide
17 anonymity and confidentiality to each parent who participates in the
18 survey. The letter grade scale used on the parental satisfaction survey
19 shall direct parents to assign one of the following letter grades:

- 20 (i) A letter grade of "A" if the school district is excellent.
- 21 (ii) A letter grade of "B" if the school district is above average.
- 22 (iii) A letter grade of "C" if the school district is average.
- 23 (iv) A letter grade of "D" if the school district is below average.
- 24 (v) A letter grade of "F" if the school district is a failure.

25 (c) Twenty-five ~~per-cent~~ PERCENT of the performance pay shall be
26 determined by the percentage of teachers who are employed at the school
27 district and who assign a letter grade of "A" to the school on a survey of
28 teacher satisfaction with the school. The teacher satisfaction survey shall
29 be administered and scored by an independent entity that is selected by the
30 governing board and that demonstrates sufficient expertise and experience to
31 accurately measure the results of the survey. The teacher satisfaction
32 survey shall use standard random sampling procedures and provide anonymity
33 and confidentiality to each teacher who participates in the survey. The
34 letter grade scale used on the teacher satisfaction survey shall direct
35 teachers to assign one of the following letter grades:

- 36 (i) A letter grade of "A" if the school district is excellent.
- 37 (ii) A letter grade of "B" if the school district is above average.
- 38 (iii) A letter grade of "C" if the school district is average.
- 39 (iv) A letter grade of "D" if the school district is below average.
- 40 (v) A letter grade of "F" if the school district is a failure.

41 (d) Twenty-five ~~per-cent~~ PERCENT of the performance pay shall be
42 determined by other criteria selected by the governing board.

43 41. Maintain and store permanent public records of the school district
44 as required by law. Notwithstanding section 39-101, the standards adopted by
45 the Arizona state library, archives and public records for the maintenance

1 and storage of school district public records shall allow school districts to
2 elect to satisfy the requirements of this paragraph by maintaining and
3 storing these records either on paper or in an electronic format, or a
4 combination of a paper and electronic format.

5 42. Adopt in a public meeting and implement by school year 2013-2014
6 policies for principal evaluations. Before the adoption of principal
7 evaluation policies, the school district governing board shall provide
8 opportunities for public discussion on the proposed policies. The policies
9 shall describe:

10 (a) The principal evaluation instrument, including the four
11 performance classifications adopted by the governing board pursuant to
12 section 15-203, subsection A, paragraph 38.

13 (b) Alignment of professional development opportunities to the
14 principal evaluations.

15 (c) Incentives for principals in one of the two highest performance
16 classifications pursuant to section 15-203, subsection A, paragraph 38, which
17 may include:

18 (i) Multiyear contracts pursuant to section 15-503.

19 (ii) Incentives to work at schools that are assigned a letter grade of
20 D or F pursuant to section 15-241.

21 (d) Transfer and contract processes for principals designated in the
22 lowest performance classification pursuant to section 15-203, subsection A,
23 paragraph 38.

24 B. Notwithstanding subsection A, paragraphs 7, 9 and 11 of this
25 section, the county school superintendent may construct, improve and furnish
26 school buildings or purchase or sell school sites in the conduct of an
27 accommodation school.

28 C. If any school district acquires real or personal property, whether
29 by purchase, exchange, condemnation, gift or otherwise, the governing board
30 shall pay to the county treasurer any taxes on the property that were unpaid
31 as of the date of acquisition, including penalties and interest. The lien
32 for unpaid delinquent taxes, penalties and interest on property acquired by a
33 school district:

34 1. Is not abated, extinguished, discharged or merged in the title to
35 the property.

36 2. Is enforceable in the same manner as other delinquent tax liens.

37 D. The governing board may not locate a school on property that is
38 less than one-fourth mile from agricultural land regulated pursuant to
39 section 3-365, except that the owner of the agricultural land may agree to
40 comply with the buffer zone requirements of section 3-365. If the owner
41 agrees in writing to comply with the buffer zone requirements and records the
42 agreement in the office of the county recorder as a restrictive covenant
43 running with the title to the land, the school district may locate a school
44 within the affected buffer zone. The agreement may include any stipulations
45 regarding the school, including conditions for future expansion of the school

1 and changes in the operational status of the school that will result in a
2 breach of the agreement.

3 E. A school district, its governing board members, its school council
4 members and its employees are immune from civil liability for the
5 consequences of adoption and implementation of policies and procedures
6 pursuant to subsection A of this section and section 15-342. This waiver
7 does not apply if the school district, its governing board members, its
8 school council members or its employees are guilty of gross negligence or
9 intentional misconduct.

10 F. A governing board may delegate in writing to a superintendent,
11 principal or head teacher the authority to prescribe procedures that are
12 consistent with the governing board's policies.

13 G. Notwithstanding any other provision of this title, a school
14 district governing board shall not take any action that would result in a
15 reduction of pupil square footage unless the governing board notifies the
16 school facilities board established by section 15-2001 of the proposed action
17 and receives written approval from the school facilities board to take the
18 action. A reduction includes an increase in administrative space that
19 results in a reduction of pupil square footage or sale of school sites or
20 buildings, or both. A reduction includes a reconfiguration of grades that
21 results in a reduction of pupil square footage of any grade level. This
22 subsection does not apply to temporary reconfiguration of grades to
23 accommodate new school construction if the temporary reconfiguration does not
24 exceed one year. The sale of equipment that results in a reduction that
25 falls below the equipment requirements prescribed in section 15-2011,
26 subsection B is subject to commensurate withholding of school district
27 district additional assistance monies pursuant to the direction of the school
28 facilities board. Except as provided in section 15-342, paragraph 10,
29 proceeds from the sale of school sites, buildings or other equipment shall be
30 deposited in the school plant fund as provided in section 15-1102.

31 H. Subsections C through G of this section apply to a county board of
32 supervisors and a county school superintendent when operating and
33 administering an accommodation school.

34 Sec. 7. Section 20-3151, Arizona Revised Statutes, is amended to read:

35 20-3151. Definitions

36 For the purposes of this ~~section~~ CHAPTER:

37 1. "Enrollee" means an individual who is enrolled in a health care
38 plan provided by a health care insurer.

39 2. "Health care insurer" means a disability insurer, group disability
40 insurer, blanket disability insurer, health care services organization,
41 hospital service corporation, medical service corporation or hospital and
42 medical service corporation.

43 3. "Health care plan" means a policy, contract or evidence of coverage
44 issued to an enrollee. Health care plan does not include limited benefit
45 coverage as defined in section 20-1137.

1 4. "Health care professional" means a professional who is regulated
2 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19,
3 19.1, 25, 28, 29, 33, 34, 35, ~~OR 39 or 41~~, title 36, chapter 6, article 7 or
4 title 36, chapter 17.

5 Sec. 8. Section 27-102, Arizona Revised Statutes, is amended to read:
6 27-102. Arizona geological survey; state geologist; powers

7 A. The Arizona geological survey is established with offices located
8 in proximity to the university of Arizona in Tucson. The governor shall
9 appoint a state geologist, pursuant to section 38-211, to be the
10 administrative head of the Arizona geological survey and to serve at the
11 pleasure of the governor. The state geologist shall be ~~registered as a~~
12 ~~geologist by the state board of technical registration~~, a graduate of an
13 accredited institution and otherwise qualified by education and experience to
14 direct the research and information functions of the Arizona geological
15 survey.

16 B. The state geologist may organize the Arizona geological survey into
17 such administrative units, and, subject to title 41, chapter 4, article 4,
18 employ professional and support staff, as necessary to achieve the objectives
19 and promote the policies prescribed by this article.

20 C. The state geologist may:

21 1. Retain the services of faculty members or students, and shall have
22 reasonable access to the data and other resources, of the university of
23 Arizona or any other state university in this state to conduct or supervise
24 research, experimentation or other related work of the Arizona geological
25 survey.

26 2. Organize field expeditions to perform work for the Arizona
27 geological survey using university students who are sufficiently advanced in
28 their study of geology to be able to perform satisfactory work.

29 3. Establish and appoint an advisory board consisting of independent
30 practicing geologists, university or college faculty, mining geologists and
31 others who use and rely on data, information and other services of the
32 Arizona geological survey.

33 4. Employ volunteer staff as necessary.

34 D. The expenses of the Arizona geological survey shall be paid by
35 annual appropriation from the state general fund and as otherwise provided by
36 this article.

37 Sec. 9. Section 28-411, Arizona Revised Statutes, is amended to read:
38 28-411. Prompt payment; progress payment; consultants and

39 contractors; subconsultants and subcontractors;
40 design professional

41 A. The department shall make progress payments pursuant to the terms
42 of an agreement with a consultant or contractor on the basis of an invoice
43 for work already performed. All progress payments shall be paid on or before
44 the twenty-first day after the date the department receives the invoice

1 unless the department does not approve and certify the invoice pursuant to
2 subsection B of this section.

3 B. Any invoice from a consultant or contractor for progress payments
4 shall be deemed approved and certified by the department unless within seven
5 days from the date the department receives the invoice the department sends
6 the consultant or contractor written notice by first class mail or by
7 electronic means of those items that the department does not approve and
8 certify under the terms of the agreement.

9 C. On or before the seventh day after the date the department makes a
10 progress payment, if the consultant or contractor contracted with
11 subconsultants or subcontractors to perform the work for which the department
12 made the progress payment, the consultant or contractor shall pay the
13 subconsultants or subcontractors for the work performed to the extent of each
14 subconsultant's or subcontractor's contractual interest in the progress
15 payment. If any subconsultant or subcontractor contests the amount paid by a
16 consultant or contractor from a progress payment made under subsection A of
17 this section, the subconsultant or subcontractor shall notify the department
18 in writing within thirty days after receiving the payment from the consultant
19 or contractor. This subsection does not apply if the contract between the
20 consultant or contractor and the subconsultant or subcontractor expressly
21 provides that the prompt payment provisions of this subsection do not apply
22 to the agreement between the consultant or contractor and the subconsultant
23 or subcontractor.

24 D. If a consultant or contractor fails to pay a subconsultant or
25 subcontractor within seven days of receiving a progress payment from the
26 department, the consultant or contractor shall pay the subconsultant or
27 subcontractor interest on the unpaid balance, beginning on the eighth day at
28 the rate of one percent per month or fraction of a month. This subsection
29 does not apply if the contract between the consultant or contractor and the
30 subconsultant or subcontractor expressly provides that the prompt payment
31 provisions of this subsection do not apply to the agreement between the
32 consultant or contractor and the subconsultant or subcontractor.

33 E. A subconsultant or subcontractor may submit a written request to
34 the department asking the department to notify the subconsultant or
35 subcontractor of each subsequent progress payment made to the consultant or
36 contractor. If the department receives a written request under this
37 subsection, the department shall send the requesting party a written notice
38 by first class mail of each subsequent progress payment within five days of
39 making the progress payment.

40 F. Agreements with the department for consultant or contractor
41 services do not alter the rights of any consultant or contractor to receive
42 prompt and timely payment as provided under this section.

43 G. Subject to the requirements of this section, the department shall
44 pay the agreed or reasonable value of all labor, materials, work or services
45 furnished, installed or performed by a design professional pursuant to a

1 limited notice to proceed from the department's authorized agent before the
2 execution of a contract or contract modification applicable to the labor,
3 materials, work or services. The unit prices, contract sum, hourly rates or
4 other cost or pricing formula of the contract or contract modification
5 applicable to the labor, materials, work or services is the fair and
6 reasonable cost for purposes of this section unless the department and its
7 design professional otherwise agree in writing. If the parties fail to
8 successfully negotiate and sign a contract or contract modification, the
9 design professional shall be paid for costs incurred pursuant to the limited
10 notice to proceed and subject to the department's cost allowability
11 guidelines. For the purposes of this subsection, "design professional" means
12 A GEOLOGIST OR LANDSCAPE ARCHITECT OR an individual or firm registered
13 pursuant to title 32, chapter 1, article 1, to practice architecture,
14 engineering, ~~geology, landscape architecture~~ or land surveying or any
15 combination of those professions and persons employed by the registered
16 individual or firm.

17 H. To the extent that this section conflicts with section 28-6924,
18 section 28-6924 controls any agreement between the department and a
19 contractor for highway construction projects.

20 Sec. 10. Section 28-7361, Arizona Revised Statutes, is amended to
21 read:

22 28-7361. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Architect services" means those professional architect services
25 that are within the scope of architectural practice as provided in title 32,
26 chapter 1.

27 2. "Construction-manager-at-risk" means a project delivery method in
28 which:

29 (a) There is a contract for construction services that is separate
30 from the contract for design services, except that instead of a single
31 contract for construction services, the department may elect separate
32 contracts for preconstruction services during the design phase, for
33 construction during the construction phase and for any other construction
34 services.

35 (b) Design services are performed under a separate design services
36 contract, except that as to bridges and other transportation facilities the
37 department may perform with its own employees or force account preliminary
38 design and either:

39 (i) In the case of bridges only, all design services up to final
40 design.

41 (ii) In the case of other transportation facilities, up to twenty ~~per~~
42 ~~cent~~ PERCENT of the design work.

43 (c) The contract for construction services may be entered into at the
44 same time as the design services are commenced or at a later time.

45 (d) Design and construction of the project may be either:

- 1 (i) Sequential with the entire design complete before construction
2 commences.
- 3 (ii) Concurrent with the design produced in two or more phases and
4 construction of some phases commencing before the entire design is complete.
- 5 (e) Finance services, maintenance services, operations services,
6 preconstruction services and other related services may be included.
- 7 3. "Construction services" means either of the following for
8 construction-manager-at-risk and job-order-contracting project delivery
9 methods:
- 10 (a) Construction, excluding services, through the
11 construction-manager-at-risk or job-order-contracting project delivery
12 methods.
- 13 (b) A combination of construction and, as elected by the department,
14 one or more related services, such as finance services, maintenance services,
15 operations services, design services and preconstruction services, as those
16 services are authorized in the definition of construction-manager-at-risk or
17 job-order-contracting.
- 18 4. "Contract" means all types of department agreements, regardless of
19 what they are called, for procurements pursuant to this article.
- 20 5. "Contractor" means any person who has a contract with the
21 department.
- 22 6. "Design-build" means the process of entering into and managing a
23 contract between the department and another party in which the other party
24 agrees to both design and build a highway, a structure, a facility or other
25 items specified in the contract.
- 26 7. "Design-builder" means any individual, partnership, joint venture,
27 corporation or other legal entity that is appropriately licensed in this
28 state and that furnishes the necessary design services, in addition to
29 construction of the work, whether by itself or through subcontracts,
30 including subcontracts for architectural and engineering services.
- 31 8. "Design services" means architect services, engineer services or
32 landscape architect services.
- 33 9. "Emergency" means an immediate threat to public health, welfare or
34 safety caused by flood, earthquake, hurricane, tornado, explosion, fire or
35 other catastrophe such that compliance with normal bidding procedures for
36 repair or reconstruction of transportation facilities would be impracticable
37 or contrary to the public interest.
- 38 10. "Engineer services" means those professional engineer services that
39 are within the scope of engineering practice as provided in title 32,
40 chapter 1.
- 41 11. "Finance services" means financing for a construction services
42 project.

1 12. "Job-order-contracting" means a project delivery method in which:
2 (a) The contract is for indefinite quantities of construction and, at
3 the election of the department, may or may not include a guaranteed minimum
4 amount of work.
5 (b) The construction to be performed is specified in job orders issued
6 during the contract.
7 (c) Finance services, maintenance services, operations services,
8 preconstruction services, design services and other related services may be
9 included.

10 ~~13. "Landscape architect services" means those professional landscape~~
11 ~~architect services that are within the scope of landscape architectural~~
12 ~~practice as provided in title 32, chapter 1.~~

13 ~~14.~~ 13. "Maintenance services" means routine maintenance, repair and
14 replacement of existing facilities, structures, buildings or real property.

15 ~~15.~~ 14. "Operations services" means routine operation of existing
16 facilities, structures, buildings or real property.

17 ~~16.~~ 15. "Person" means any corporation, business, individual, union,
18 committee, club, other organization or group of individuals.

19 ~~17.~~ 16. "Preconstruction services" means services and other activities
20 during the design phase.

21 ~~18.~~ 17. "Specific single project" means a project that is constructed
22 at a single location, at a common location or for a common purpose.

23 ~~19.~~ 18. "Subcontractor" means a person who contracts to perform work
24 or render service to a contractor or to another subcontractor as a part of a
25 contract with the department.

26 Sec. 11. Heading change
27 The chapter heading of title 32, chapter 1, Arizona Revised Statutes,
28 is changed from "ARCHITECTS, ASSAYERS, ENGINEERS, GEOLOGISTS, HOME
29 INSPECTORS, LANDSCAPE ARCHITECTS AND SURVEYORS" to "ARCHITECTS, ENGINEERS,
30 HOME INSPECTORS AND SURVEYORS".

31 Sec. 12. Section 32-101, Arizona Revised Statutes, is amended to read:
32 32-101. Purpose; definitions
33 A. The purpose of this chapter is to provide for the safety, health
34 and welfare of the public through the promulgation and enforcement of
35 standards of qualification for those individuals WHO ARE registered or
36 certified and seeking registration or certification pursuant to this chapter.

37 B. In this chapter, unless the context otherwise requires:
38 1. "Advertising" includes business cards, signs or letterhead provided
39 by a person to the public.
40 2. "Alarm" or "alarm system":
41 (a) Means any mechanical or electrical device that is designed to emit
42 an audible alarm or transmit a signal or message if activated and that is
43 used to detect an unauthorized entry into a building or other facility or
44 alert other persons of the occurrence of a medical emergency or the

1 commission of an unlawful act against a person or in a building or other
2 facility.

3 (b) Includes a silent, panic, holdup, robbery, duress, burglary,
4 medical alert or proprietor alarm that requires emergency personnel to
5 respond.

6 (c) Does not include a telephone call diverter or a system that is
7 designed to report environmental and other occurrences and that is not
8 designed or used to alert or cause other persons to alert public safety
9 personnel.

10 3. "Alarm agent":

11 (a) Means a person, whether an employee, an independent contractor or
12 otherwise, who acts on behalf of an alarm business and who tests, maintains,
13 services, repairs, sells, rents, leases or installs alarm systems.

14 (b) Does not include any action by a person that:

15 (i) Is performed in connection with an alarm system located on the
16 person's own property or the property of the person's employer.

17 (ii) Is acting on behalf of an alarm business whose work duties do not
18 include visiting the location where an alarm system installation occurs.

19 4. "Alarm business":

20 (a) Means any person who, either alone or through a third party,
21 engages in the business of either of the following:

22 (i) Providing alarm monitoring services.

23 (ii) Selling, leasing, renting, maintaining, repairing or installing a
24 nonproprietor alarm system or service.

25 (b) Does not include any of the following:

26 (i) A person or company that purchases, rents or uses an alarm that is
27 affixed to a motor vehicle.

28 (ii) A person who owns or conducts a business of selling, leasing,
29 renting, installing, maintaining or monitoring an alarm that is affixed to a
30 motor vehicle.

31 (iii) A person who installs a nonmonitored proprietor alarm for a
32 business that the person owns, is employed by or manages.

33 (iv) The installation or monitoring of fire alarm systems.

34 (v) An alarm system that is operated by a city or town.

35 5. "Alarm subscriber" means any person who:

36 (a) Leases, rents or purchases any monitored alarm system or service
37 from an alarm business.

38 (b) Leases or rents an alarm system.

39 (c) Contracts with an alarm business for alarm monitoring,
40 installation, repair or maintenance services.

41 6. "Architect" means a person who, by reason of knowledge of the
42 mathematical and physical sciences and the principles of architecture and
43 architectural engineering acquired by professional education and practical
44 experience, is qualified to engage in the practice of architecture as
45 attested by registration as an architect.

1 7. "Architect-in-training" means a candidate for registration as a
2 professional architect who is a graduate of a school approved by the board or
3 who has five years or more of education or experience, or both, in
4 architectural work ~~which~~ THAT meets standards specified by the board in its
5 rules. In addition, the candidate shall have passed the architect-in-training
6 examination.

7 8. "Architectural practice" means any professional service or creative
8 work requiring architectural education, training and experience, and the
9 application of the mathematical and physical sciences and the principles of
10 architecture and architectural engineering to such professional services or
11 creative work as consultation, evaluation, design and review of construction
12 for conformance with contract documents and design, in connection with any
13 building, planning or site development. A person shall be deemed to practice
14 or offer to practice architecture who in any manner represents that the
15 person is an architect, ~~or is able to perform any architectural service or~~
16 ~~other services recognized by educational authorities as architecture.~~

17 ~~9. "Assayer" means a person who analyzes metals, ores, minerals, or~~
18 ~~alloys in order to ascertain the quantity of gold or silver or any other~~
19 ~~substance present in them. A person employed on a full-time basis as an~~
20 ~~assayer by an employer engaged in the business of developing, mining or~~
21 ~~treating ores or other minerals shall not be deemed to be engaged in assaying~~
22 ~~practice for the purposes of this chapter if the person engages in assaying~~
23 ~~practice exclusively for and as an employee of such employer and does not~~
24 ~~represent that the person is available and is not represented as being~~
25 ~~available to perform any assaying services for anyone other than the person's~~
26 ~~employer.~~

27 ~~10. "Assayer in training" means a candidate for registration as a~~
28 ~~professional assayer who is a graduate of a school and curriculum approved by~~
29 ~~the board or who has four years or more of education or experience, or both,~~
30 ~~in assaying work which meets standards specified by the board in its rules.~~
31 ~~In addition, the candidate shall have passed the assayer in training~~
32 ~~examination.~~

33 ~~11. "Assaying practice" means any professional service or work~~
34 ~~requiring assaying education, training and experience and the application of~~
35 ~~special knowledge of the mineral sciences to such service or work as~~
36 ~~consultation and the evaluation of minerals. A person is deemed to practice~~
37 ~~or offer to practice assaying who in any manner represents that the person is~~
38 ~~an assayer or is able to perform any assaying service or other services~~
39 ~~recognized by educational authorities as assaying.~~

40 ~~12.~~ 9. "Board" means the state board of technical registration.

41 ~~13.~~ 10. "Certified remediation specialist" means a person who has been
42 certified by the board to perform, supervise and review environmental
43 remediations if the use of a certified remediation specialist is specifically
44 authorized by title 49 and rules adopted pursuant to title 49.

45 ~~14.~~ 11. "Controlling person":

1 (a) Means a person who is designated by an alarm business.

2 (b) Does not include an alarm agent.

3 ~~15-~~ 12. "Drug laboratory site remediation firm" means a firm that is
4 licensed by the registrar of contractors pursuant to chapter 10 of this title
5 and that performs remediation of residual contamination from the manufacture
6 of methamphetamine, ecstasy or LSD or the storage of chemicals or equipment
7 used in manufacturing methamphetamine, ecstasy or LSD. For the purposes of
8 this paragraph:

9 (a) "Ecstasy" has the same meaning prescribed in section 13-3401,
10 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,
11 other substances or equipment used in the unlawful manufacture of the
12 dangerous drug.

13 (b) "LSD" has the same meaning prescribed in section 13-3401,
14 paragraph 6 and includes any of the precursor chemicals, regulated chemicals,
15 other substances or equipment used in the unlawful manufacture of the
16 dangerous drug.

17 (c) "Methamphetamine" has the same meaning prescribed in section
18 13-3401, paragraph 6 and includes any of the precursor chemicals, regulated
19 chemicals, other substances or equipment used in the unlawful manufacture of
20 the dangerous drug.

21 ~~16-~~ 13. "Engineer" means a person who, by reason of special knowledge
22 of the mathematical and physical sciences and the principles and methods of
23 engineering analysis and design acquired by professional education and
24 practical experience, is qualified to practice engineering as attested by
25 registration as a professional engineer.

26 ~~17-~~ 14. "Engineering practice" means any professional service or
27 creative work requiring engineering education, training and experience and
28 the application of special knowledge of the mathematical, physical and
29 engineering sciences to such professional services or creative work as
30 consultation, research investigation, evaluation, planning, surveying as
31 defined in paragraph ~~27~~ 21, subdivisions (d) and (e) of this subsection,
32 design, location, development, and review of construction for conformance
33 with contract documents and design, in connection with any public or private
34 utility, structure, building, machine, equipment, process, work or project.
35 Such services and work include plans and designs relating to the location,
36 development, mining and treatment of ore and other minerals. A person shall
37 be deemed to be practicing or offering to practice engineering if the person
38 practices any branch of the profession of engineering, or by verbal claim,
39 sign, advertisement, letterhead, card or any other manner represents that the
40 person is a professional engineer, or is able to perform or does perform any
41 engineering service or other service recognized by educational authorities as
42 engineering. A person employed on a full-time basis as an engineer by an
43 employer engaged in the business of developing, mining and treating ores and
44 other minerals shall not be deemed to be practicing engineering for the
45 purposes of this chapter if the person engages in the practice of engineering

1 exclusively for and as an employee of such employer and does not represent
2 that the person is available and is not represented as being available to
3 perform any engineering services for persons other than the person's
4 employer.

5 ~~18.~~ 15. "Engineer-in-training" means a candidate for registration as a
6 professional engineer who is a graduate in an approved engineering curriculum
7 of four years or more of a school approved by the board or who has ~~had~~ four
8 years or more of education or experience, or both, in engineering work ~~which~~
9 THAT meets standards specified by the board in its rules. In addition, the
10 candidate shall have passed the engineer-in-training examination.

11 ~~19.~~ 16. "Firm" means any individual or partnership, corporation or
12 other type of association, including the association of a nonregistrant and a
13 registrant who offers to the public professional services regulated by the
14 board.

15 ~~20. "Geological practice" means any professional service or work~~
16 ~~requiring geological education, training and experience, and the application~~
17 ~~of special knowledge of the earth sciences to such professional services as~~
18 ~~consultation, evaluation of mining properties, petroleum properties and~~
19 ~~groundwater resources, professional supervision of exploration for mineral~~
20 ~~natural resources including metallic and nonmetallic ores, petroleum and~~
21 ~~groundwater, and the geological phases of engineering investigations.~~

22 ~~21. "Geologist" means a person, not of necessity an engineer, who by~~
23 ~~reason of special knowledge of the earth sciences and the principles and~~
24 ~~methods of search for and appraisal of mineral or other natural resources~~
25 ~~acquired by professional education and practical experience is qualified to~~
26 ~~practice geology as attested by registration as a professional geologist. A~~
27 ~~person employed on a full time basis as a geologist by an employer engaged in~~
28 ~~the business of developing, mining or treating ores and other minerals shall~~
29 ~~not be deemed to be engaged in geological practice for the purposes of this~~
30 ~~chapter if the person engages in geological practice exclusively for and as~~
31 ~~an employee of such employer and does not represent that the person is~~
32 ~~available and is not represented as being available to perform any geological~~
33 ~~services for persons other than the person's employer.~~

34 ~~22. "Geologist-in-training" means a candidate for registration as a~~
35 ~~professional geologist who is a graduate of a school approved by the board or~~
36 ~~who has had four years or more of education or experience, or both, in~~
37 ~~geological work which meets standards specified by the board in its rules.~~
38 ~~In addition, the candidate shall have passed the geologist-in-training~~
39 ~~examination.~~

40 ~~23.~~ 17. "Home inspection" means a visual analysis for the purposes of
41 providing a professional opinion of the building, any reasonably accessible
42 installed components and the operation of the building's systems, including
43 the controls normally operated by the owner, for the following components of
44 a residential building of four units or less:

- 45 (a) Heating system.

- 1 (b) Cooling system.
- 2 (c) Plumbing system.
- 3 (d) Electrical system.
- 4 (e) Structural components.
- 5 (f) Foundation.
- 6 (g) Roof covering.
- 7 (h) Exterior and interior components.
- 8 (i) Site aspects as they affect the building.
- 9 (j) Pursuant to rules adopted by the board, swimming pool and spa.

10 ~~24-~~ 18. "Home inspection report" means a written report that is
11 prepared for compensation, that is issued after a home inspection and that
12 clearly describes and identifies the inspected systems, structures and
13 components of a completed dwelling and any visible major defects found to be
14 in need of immediate major repair and any recommendations for additional
15 evaluation by appropriate persons.

16 ~~25-~~ 19. "Home inspector" means an individual who is certified pursuant
17 to this chapter as a home inspector and who engages in the business of
18 performing home inspections and writing home inspection reports.

19 ~~26-~~ 20. "Home inspector-in-training" means a candidate for
20 certification as a home inspector who has completed a course of study
21 approved by the board and who is participating in a training program that
22 complies with standards recommended by the home inspector rules and standards
23 committee and approved by the board.

24 ~~27-~~ 21. "Land surveying practice" means the performance of one or more
25 of the following professional services:

26 (a) Measurement of land to determine the position of any monument or
27 reference point ~~which~~ THAT marks a property line, boundary or corner for the
28 purpose of determining the area or description of the land.

29 (b) Location, relocation, establishment, reestablishment, setting,
30 resetting or replacing of corner monuments or reference points which identify
31 land boundaries, rights-of-way or easements.

32 (c) Platting or plotting of lands for the purpose of subdividing.

33 (d) Measurement by angles, distances and elevations of natural or
34 artificial features in the air, on the surface and immediate subsurface of
35 the earth, within underground workings and on the surface or within bodies of
36 water for the purpose of determining or establishing their location, size,
37 shape, topography, grades, contours or water surface and depths, and the
38 preparation and perpetuation of field note records and maps depicting these
39 features.

40 (e) Setting, resetting or replacing of points to guide the location of
41 new construction.

42 ~~28-~~ 22. "Land surveyor" means a person who by reason of knowledge of
43 the mathematical and physical sciences, principles of land surveying and
44 evidence gathering acquired by professional education or practical
45 experience, or both, is qualified to practice land surveying as attested by

1 registration as a land surveyor. A person employed on a full-time basis as a
2 land surveyor by an employer engaged in the business of developing, mining or
3 treating ores or other minerals shall not be deemed to be engaged in land
4 surveying practice for purposes of this chapter if the person engages in land
5 surveying practice exclusively for and as an employee of such employer and
6 does not represent that the person is available and is not represented as
7 being available to perform any land surveying services for persons other than
8 the person's employer.

9 ~~29.~~ 23. "Land surveyor-in-training" means a candidate for registration
10 as a professional land surveyor who is a graduate of a school and curriculum
11 approved by the board, ~~or who has four years or more of education or~~
12 ~~experience, or both, in land surveying work which~~ THAT meets standards
13 specified by the board in its rules. In addition, the candidate shall have
14 passed the land surveyor-in-training examination.

15 ~~30. "Landscape architect" means a person who, by reason of professional~~
16 ~~education or practical experience, or both, is qualified to engage in the~~
17 ~~practice of landscape architecture as attested by registration as a landscape~~
18 ~~architect.~~

19 ~~31. "Landscape architect-in-training" means a candidate for~~
20 ~~registration as a professional landscape architect who is a graduate of a~~
21 ~~school approved by the board or who has had four years or more of education~~
22 ~~or experience, or both, in landscape architectural work which meets standards~~
23 ~~specified by the board in its rules. In addition, the candidate shall have~~
24 ~~passed the landscape architect-in-training examination.~~

25 ~~32. "Landscape architectural practice" means the performance of~~
26 ~~professional services such as consultations, investigation, reconnaissance,~~
27 ~~research, planning, design or responsible supervision in connection with the~~
28 ~~development of land and incidental water areas where, and to the extent that,~~
29 ~~the dominant purpose of such services is the preservation, enhancement or~~
30 ~~determination of proper land uses, natural land features, ground cover and~~
31 ~~planting, naturalistic and aesthetic values, the settings of and approaches~~
32 ~~to buildings, structures, facilities or other improvements, natural drainage~~
33 ~~and the consideration and the determination of inherent problems of the land~~
34 ~~relating to erosion, wear and tear, light or other hazards. This practice~~
35 ~~shall include the location and arrangement of such tangible objects and~~
36 ~~features as are incidental and necessary to the purposes outlined in this~~
37 ~~paragraph but shall not include the making of cadastral surveys or final land~~
38 ~~plats for official recording or approval, nor mandatorily include planning~~
39 ~~for governmental subdivisions.~~

40 ~~33.~~ 24. "Monitored alarm" means a device that is designed for the
41 detection of an entry on any premises and that if activated generates a
42 notification signal.

43 ~~34.~~ 25. "On-site supervisor" means the employee of a drug laboratory
44 site remediation firm who is authorized to oversee on-site workers in the
45 performance of their duties.

1 ~~35-~~ 26. "On-site worker" means an employee of a drug laboratory site
2 remediation firm who has on-site duties or who handles contaminated
3 materials, chemicals or contaminated equipment.

4 ~~36-~~ 27. "Person" means any individual, firm, partnership, corporation,
5 association or other organization.

6 ~~37-~~ 28. "Principal" means an individual who is an officer of the
7 corporation or is designated by a firm as having full authority and
8 responsible charge of the services offered by the firm.

9 ~~38-~~ 29. "Proprietor alarm" means any alarm or alarm system that is
10 owned by an alarm subscriber who has not contracted with an alarm business.

11 ~~39-~~ 30. "Registrant" means a person registered or certified by the
12 board.

13 ~~40-~~ 31. "Registration" means a registration or certification issued by
14 the board.

15 Sec. 13. Section 32-102, Arizona Revised Statutes, is amended to read:

16 ~~32-102.~~ State board of technical registration; vacancies; terms

17 A. ~~A-~~ THE state board of technical registration is established
18 consisting of members WHO ARE appointed by the governor as follows:

19 1. Two architects.

20 2. Three professional engineers, two of whom are representatives of
21 branches of engineering other than civil engineering and are registered in
22 those branches pursuant to this chapter.

23 3. ~~One~~ THREE public ~~member~~ MEMBERS.

24 ~~4. One landscape architect.~~

25 ~~5. One geologist or assayer.~~

26 ~~6-~~ 4. One land surveyor.

27 B. ~~Upon~~ ON the expiration of any of the terms, a successor, ~~WHO IS~~
28 qualified pursuant to subsection A, ~~OF THIS SECTION~~ shall be appointed for a
29 full term of three years. The governor may remove a member of the board for
30 misconduct, incapacity or neglect of duty. Appointment to fill a vacancy
31 caused other than by expiration of term shall be for the unexpired portion of
32 the term.

33 C. No member may serve more than two consecutive terms.

34 Sec. 14. Section 32-103, Arizona Revised Statutes, is amended to read:

35 ~~32-103.~~ Qualifications of members

36 A. Each professional member of the board shall:

37 1. Be at least twenty-five years of age.

38 2. Have been a resident of ~~the~~ THIS state for at least three years
39 immediately preceding appointment as a member.

40 B. Each member who is an architect, ~~geologist, an assayer, a landscape~~
41 ~~architect,~~ a professional engineer or a land surveyor shall have ~~had~~ at least
42 five years' active professional experience as attested by registration under
43 this chapter.

1 Sec. 15. Section 32-112, Arizona Revised Statutes, is amended to read:

2 32-112. Environmental remediation rules and standards committee

3 A. An environmental remediation rules and standards committee of the
4 board is established and consists of:

5 1. One industrial hygienist or toxicologist who is experienced in
6 sampling and monitoring and indoor air quality issues and who is appointed by
7 the board.

8 2. One person who is experienced in operating a drug laboratory
9 remediation firm and who is appointed by the board.

10 3. One representative from the department of health services **WHO IS**
11 experienced in indoor air quality who is appointed by the director of the
12 department of health services.

13 4. One registered engineer or **PROFESSIONAL** geologist who is
14 experienced in environmental remediation and who is appointed by the board.

15 5. One member of the board who is an engineer ~~or a geologist~~.

16 B. The initial members shall assign themselves by lot to terms of one,
17 two and three years in office. All subsequent members serve ~~three-year~~
18 **THREE-YEAR** terms of office. The board by a majority vote may remove any
19 member for misconduct, incapacity or neglect of duty.

20 C. The committee may participate in the investigation and review of
21 drug laboratory remediation complaints as authorized by the board.

22 D. The committee is responsible for drafting and recommending to the
23 board best practices and standards for remediation of residual contamination
24 found on real property from the manufacture of methamphetamine, ecstasy or
25 LSD or the storage of chemicals or equipment used in manufacturing
26 methamphetamine, ecstasy or LSD.

27 Sec. 16. Section 32-122, Arizona Revised Statutes, is amended to read:

28 32-122. Qualifications for in-training registration

29 A. An applicant for in-training registration as an architect, **OR**
30 engineer, ~~geologist or landscape architect~~ shall:

31 1. Be of good moral character and repute.

32 2. Be a graduate of a school approved by the board or have four years
33 or more, or if an applicant for in-training registration as an architect,
34 five years or more, of education or experience, or both, in work in the
35 profession in which registration is sought that meets standards specified by
36 the board in its rules.

37 3. Unless exempt under section 32-126, subsection D, pass the
38 in-training examination in the profession in which registration is sought.

39 B. An applicant for in-training registration as ~~an assayer or~~ **A** land
40 surveyor shall:

41 ~~1. Be of good moral character and repute.~~

42 ~~2.~~ 1. Be a graduate of a school and curriculum approved by the board,
43 or have four years or more of education or experience, or both, in work in
44 the profession in which registration is sought that meets standards specified
45 by the board in its rules.

1 ~~3-~~ 2. Unless exempt under section 32-126, subsection D, pass the
2 in-training examination in the profession in which registration is sought.
3 C. An applicant for in-training registration as a home
4 inspector-in-training shall:
5 1. Be of good moral character and repute.
6 2. Meet the requirements of section 32-122.02, subsection A,
7 paragraphs 1 through 7.
8 Sec. 17. Section 32-122.01, Arizona Revised Statutes, is amended to
9 read:
10 32-122.01. Qualifications for professional registration
11 A. An applicant for professional registration as an architect, ~~OR~~
12 engineer, ~~geologist or landscape architect~~ shall:
13 1. Be of good moral character and repute.
14 2. Be actively engaged in education or experience, or both, in the
15 profession for which registration is sought for at least eight years.
16 3. Unless exempt under section 32-126, pass the in-training and
17 professional examinations in the profession in which registration is sought.
18 B. An applicant for professional registration as ~~an assayer or~~ A land
19 surveyor shall:
20 1. Be of good moral character and repute.
21 2. Be actively engaged in education or experience, or both, in the
22 profession for which registration is sought for at least six years.
23 3. Unless exempt under section 32-126, pass the in-training and
24 professional examinations in the profession in which registration is sought.
25 C. In computing the period of active engagement required under this
26 section:
27 1. Each year of study satisfactorily completed in an architectural, ~~OR~~
28 ~~OR~~ engineering, ~~geological or landscape architectural~~ school approved by the
29 board is equivalent to one year of active engagement up to a maximum of five
30 years. One year or more of teaching architectural, ~~OR~~ engineering, ~~OR~~
31 ~~geological or landscape architectural~~ subjects in a school approved by the
32 board is equivalent to one year of active engagement.
33 2. Each year of study satisfactorily completed in ~~an assaying or~~ A
34 land surveying curriculum and school approved by the board is considered
35 equivalent to one year of active engagement up to a maximum of four years.
36 One year or more of teaching ~~assaying or~~ land surveying or other courses
37 approved by the board as pertinent to the profession in which registration is
38 sought in a school approved by the board is equivalent to one year of active
39 engagement.
40 D. Except as provided in subsection E of this section, experience
41 credited by the board under this section and sections 32-101, 32-122 and
42 32-126 must be attained under the direct supervision of a professional who is
43 satisfactory to the board and registered in this state, another state or a
44 foreign country in the profession in which the applicant is seeking
45 registration, except that up to one year's experience may be attained under

1 the direct supervision of a professional who is satisfactory to the board and
2 registered in another profession regulated under this chapter in this state,
3 another state or a foreign country.

4 E. By two-thirds majority vote the board may allow an applicant except
5 for an architect applicant to meet the requirements of subsection D of this
6 section by crediting comparable experience satisfactory to the board that the
7 applicant attained without direct supervision of a registered professional.

8 Sec. 18. Section 32-142, Arizona Revised Statutes, is amended to read:
9 32-142. Public works

10 A. Drawings, plans, specifications, estimates and construction
11 observation for public works of ~~the~~ THIS state or a political subdivision
12 ~~thereof~~ OF THIS STATE involving architecture, engineering, ~~assaying, geology,~~
13 ~~landscape architecture~~ or land surveying shall be prepared by or under the
14 direct supervision of a registrant within the category involved.

15 B. Surveys, ~~OR~~ maps ~~or assays~~ required in connection with public land
16 surveying ~~or assaying~~ shall be made by or under the personal direction of a
17 qualified registrant.

18 C. Drawings, plans, design specifications and construction observation
19 of public works facilities of the state or a political subdivision ~~thereof~~ OF
20 THIS STATE for the use or storage of hazardous materials shall be made by or
21 under the direct supervision of a qualified registrant in the appropriate
22 field.

23 Sec. 19. Section 32-143, Arizona Revised Statutes, is amended to read:
24 32-143. Exceptions

25 An architect, ~~geologist, OR~~ engineer ~~or landscape architect~~ registered
26 under this chapter may engage in practice in another category regulated
27 pursuant to this chapter only to the extent that the person is qualified and
28 to the extent that the work may be necessary and incidental to the work of
29 the registrant's profession on a specific project. This exception does not
30 apply to public works projects.

31 Sec. 20. Title 32, chapter 1, article 3, Arizona Revised Statutes, is
32 amended by adding section 32-153, to read:

33 32-153. Use of titles; restrictions; definitions

34 A. A PERSON OR AN EMPLOYEE, AGENT OR REPRESENTATIVE OF THE PERSON MAY
35 NOT USE IN CONNECTION WITH THAT PERSON'S NAME OR BUSINESS ACTIVITY THE WORDS
36 "PROFESSIONAL GEOLOGIST" OR "PROFESSIONAL GEOLOGICAL SERVICES" OR ANY OTHER
37 WORDS, ABBREVIATIONS OR INSIGNIA INDICATING OR IMPLYING DIRECTLY OR
38 INDIRECTLY THAT PROFESSIONAL GEOLOGICAL SERVICES ARE BEING PROVIDED OR
39 SUPPLIED UNLESS THE SERVICES ARE PROVIDED BY A PROFESSIONAL GEOLOGIST.

40 B. A PERSON OR AN EMPLOYEE, AGENT OR REPRESENTATIVE OF THE PERSON MAY
41 NOT USE IN CONNECTION WITH THAT PERSON'S NAME OR BUSINESS ACTIVITY THE WORDS
42 "PROFESSIONAL LANDSCAPE ARCHITECT" OR "PROFESSIONAL LANDSCAPE ARCHITECTURAL
43 SERVICES" OR ANY OTHER WORDS, ABBREVIATIONS OR INSIGNIA INDICATING OR
44 IMPLYING DIRECTLY OR INDIRECTLY THAT LANDSCAPE ARCHITECTURE SERVICES ARE

1 BEING PROVIDED OR SUPPLIED UNLESS THE SERVICES ARE PROVIDED BY A PROFESSIONAL
2 LANDSCAPE ARCHITECT.

3 C. FOR THE PURPOSES OF THIS SECTION, "PROFESSIONAL GEOLOGIST" AND
4 "PROFESSIONAL LANDSCAPE ARCHITECT" MEAN A PERSON WHO HAS EITHER OF THE
5 FOLLOWING:

6 1. A VALID CERTIFICATE OF QUALIFICATION IN THAT PERSON'S FIELD OF
7 APPLICATION THAT IS ISSUED BY A NATIONAL BUREAU OF REGISTRATION OR
8 CERTIFICATION.

9 2. A DEGREE OR CERTIFICATE FROM AN ACCREDITED EDUCATIONAL INSTITUTION
10 IN THAT PERSON'S FIELD.

11 Sec. 21. Section 32-1301, Arizona Revised Statutes, is amended to
12 read:

13 32-1301. Definitions

14 In this chapter, unless the context otherwise requires:

15 1. "Accredited" means recognized or authorized by the American board
16 of funeral service education.

17 2. "Administrative costs and expenses" means the cost of copies,
18 transcripts, court reporter and witness fees, reimbursement for mileage and
19 office of administrative hearings costs.

20 3. "Alternative container" means any unfinished wood box or other
21 nonmetal receptacle or enclosure, without ornamentation or a fixed interior
22 lining, that is designed for the encasement of human remains.

23 4. "Authorizing agent" means a person who is legally entitled to order
24 the cremation, disinterment or embalming of human remains pursuant to section
25 32-1365.02.

26 5. "Beneficiary" means a person whose future funeral arrangements will
27 be handled by a funeral establishment pursuant to a prearranged funeral
28 agreement.

29 6. "Board" means the state board of funeral directors and embalmers.

30 7. "Business entity" includes any corporation, association, limited
31 liability company, professional corporation, partnership, limited
32 partnership, sole proprietorship, business trust, trust, joint venture and
33 other business entity.

34 8. "Casket" means a rigid container that is designed for the permanent
35 encasement of human remains and that is usually constructed of wood, metal or
36 synthetic substances and ornamented and lined with fabric.

37 9. "Change of ownership" means a transfer of a controlling legal or
38 equitable interest in a licensed funeral establishment or crematory resulting
39 from a sale or merger. If the establishment or crematory is operated by a
40 business entity, any transfer of the ownership of ten ~~per cent~~ PERCENT or
41 more of the entity constitutes a change of ownership.

42 10. "Conviction" means a criminal adjudication or conviction by any
43 state or federal court of competent jurisdiction, including a judgment based
44 on a no contest plea, without regard to whether civil rights have been
45 restored.

1 11. "Cremated remains" means the remaining bone fragments after
2 cremation.

3 12. "Cremation" means the heating process that reduces human remains to
4 bone fragments by combustion and evaporation.

5 13. "Cremation container" means a leak and spill resistant, rigid,
6 combustible, closed receptacle into which human remains are placed before
7 cremation.

8 ~~14. "Cremationist" means a person who operates a crematory retort, who~~
9 ~~performs the actual cremation of human remains and who is licensed pursuant~~
10 ~~to article 6 of this chapter.~~

11 ~~15.~~ 14. "Crematory" means a building or portion of a building that is
12 licensed pursuant to article 6 of this chapter and that houses a retort in
13 which only human remains are cremated.

14 ~~16.~~ 15. "Disciplinary action" means action taken by the board to
15 revoke or suspend a license or registration, to impose probationary
16 requirements or civil penalties or to issue a letter of censure or reprimand
17 to any person who is subject to this chapter and who violates any provision
18 of this chapter or rules adopted by the board.

19 ~~17.~~ 16. "Embalmer" means a person who is licensed pursuant to this
20 chapter and who is engaged in embalming.

21 ~~18.~~ 17. "Embalmer's assistant" means a person who is registered
22 pursuant to this chapter and who is engaged in embalming without the
23 supervision of a licensed embalmer.

24 ~~19.~~ 18. "Embalming" means the implementation of reconstructive
25 procedures and the process of disinfecting and preserving a dead human body
26 to retard organic decomposition by treating the body to reduce the presence
27 and growth of organisms.

28 ~~20.~~ 19. "Financial institution" means a bank, savings and loan
29 association, trust company or credit union that is lawfully doing business in
30 this state and that is not affiliated with a funeral establishment.

31 ~~21.~~ 20. "Fixed price prearranged funeral agreement funded by trust"
32 means any agreement or combination of agreements that establishes a fixed
33 price for funeral goods and services, that requires a funeral establishment
34 to provide those funeral goods and services at the price levels in effect at
35 the time of the execution of the agreement and that requires the purchaser to
36 convey all or a portion of the accrued interest to the funeral establishment
37 at the time that the funeral goods and services are actually provided.

38 ~~22.~~ 21. "Funded by insurance" means that monies for a prearranged
39 funeral agreement are paid directly to an insurance company licensed pursuant
40 to title 20 on behalf of the beneficiary of the agreement.

41 ~~23.~~ 22. "Funeral directing" means arranging, directing or providing a
42 service in the disposition of dead human bodies for compensation, **INCLUDING**
43 **OPERATING A CREMATORY RETORT AND PERFORMING THE ACTUAL CREMATION OF HUMAN**
44 **REMAINS.**

1 ~~24.~~ 23. "Funeral director" means a person who is licensed pursuant to
2 this chapter and who is engaged in funeral directing.

3 ~~25.~~ 24. "Funeral establishment" means a business at a specific
4 location that is licensed pursuant to this chapter and that is devoted to the
5 care, storage or preparation for final disposition or transportation of dead
6 human bodies.

7 ~~26.~~ 25. "Funeral goods and services" means any personal property or
8 services typically sold or provided in connection with the final disposition
9 of human remains, including caskets, alternative containers, outer burial
10 containers, cremation containers, transportation containers, funeral clothing
11 or accessories, monuments, grave markers, urns, embalming services, funeral
12 directing services and similar funeral or burial items. Funeral goods and
13 services do not include goods and services sold by cemeteries.

14 ~~27.~~ 26. "Good moral character" means that a person:

15 (a) Has not been convicted of a class 1 or 2 felony by a court of
16 competent jurisdiction.

17 (b) Has not, within five years of application for licensure or
18 registration, been convicted of a felony or misdemeanor if the offense has a
19 reasonable relationship to the person's proposed area of licensure or
20 registration.

21 (c) Has not, within five years of application for licensure or
22 registration, committed any act involving dishonesty, fraud,
23 misrepresentation, breach of fiduciary duty, gross negligence or incompetence
24 if the act has a reasonable relationship to the person's proposed area of
25 licensure or registration.

26 (d) Is not currently incarcerated in or on community supervision after
27 a period of imprisonment in a local, state or federal penal institution or on
28 criminal probation.

29 (e) Has not engaged in fraud or misrepresentation in connection with
30 an application for licensure or registration under this chapter or an
31 examination required for licensure or registration.

32 (f) Has not, within five years of application for licensure or
33 registration, had a license, registration or endorsement revoked or suspended
34 by the board or by the funeral services licensing authority of any other
35 jurisdiction.

36 (g) Has not surrendered a license, registration or endorsement to the
37 board or the funeral licensing authority of any other jurisdiction in lieu of
38 disciplinary action.

39 (h) Has not practiced funeral directing or embalming without a license
40 in this state or any other jurisdiction that requires licensure to perform
41 these activities.

42 ~~28.~~ 27. "Holding facility" means a designated area for the retention
43 of human remains.

44 ~~29.~~ 28. "Human remains" means a lifeless human body or parts of a
45 human body that permit a reasonable inference that death occurred.

1 ~~30.~~ 29. "Intern" means a person who is licensed pursuant to this
2 chapter and who is engaged in embalming under the supervision of a licensed
3 embalmer.

4 ~~31.~~ 30. "Intern trainee" means a person who intends to enter training
5 as an intern and who is temporarily employed by a funeral establishment.

6 ~~32.~~ 31. "License" means a written authorization that is issued by the
7 board and that entitles a person to act as a funeral director, embalmer or
8 intern or to operate a funeral establishment or crematory in this state.

9 ~~33.~~ 32. "Licensee" means a person to whom the board has issued a
10 license to act as a funeral director, embalmer or intern or to operate a
11 funeral establishment or crematory in this state.

12 ~~34.~~ 33. "Manage" means ~~+~~
13 ~~(a) for~~ THAT a responsible funeral director ~~to exercise~~ EXERCISES
14 control and oversight over all employees of BOTH OF THE FOLLOWING:
15 (a) A funeral establishment and over funeral transactions, including
16 the care of dead human bodies, funeral services and activities and the
17 documentation and retention of records.
18 (b) ~~For a responsible cremationist to exercise control and oversight~~
19 ~~over all employees of~~ A crematory and crematory operations.

20 ~~35.~~ 34. "National board examination" means the test or tests given by
21 the conference of funeral service examining boards to determine the entry
22 level knowledge and skills of a person regarding funeral directing and
23 embalming.

24 ~~36.~~ 35. "Net interest" means interest earned on a prearranged funeral
25 trust account less applicable taxes, reasonable and necessary charges made by
26 the financial institution and the annual service fee permitted to be deducted
27 by the funeral establishment according to section 32-1391.06, subsection B.

28 ~~37.~~ 36. "Outer burial container" means a container that is designed
29 for placement in a grave around a casket, including burial vaults, grave
30 boxes and grave liners.

31 ~~38.~~ 37. "Owner" means a person who owns ten ~~per cent~~ PERCENT or more
32 of a business entity. Owner does not include shareholders of companies who
33 have a class of common equity stock listed or authorized to be listed on the
34 New York stock exchange or the American stock exchange or listed on the
35 NASDAQ stock market.

36 ~~39.~~ 38. "Person legally responsible" means the person responsible for
37 burying a dead body as determined in section 36-831.

38 ~~40.~~ 39. "Prearranged funeral agreement" means any agreement or
39 combination of agreements under which a payment is made before the death of
40 the intended beneficiary for funeral goods and services to be delivered or
41 performed after the death of the beneficiary.

42 ~~41.~~ 40. "Prearranged funeral trust account" means a trust account that
43 is established at a financial institution and into which all monies paid on
44 behalf of a beneficiary pursuant to a prearranged funeral agreement are
45 deposited.

1 ~~42.~~ 41. "Preparation" means washing, shaving, dressing or arranging
2 hair on, applying cosmetics to or positioning bodily features on a dead human
3 body and placing a dead human body in a casket.

4 ~~43.~~ 42. "Processed cremated remains" means cremated remains after they
5 are pulverized and cleaned, leaving primarily small bone fragments.

6 ~~44.~~ 43. "Provisionally accredited" means granted candidacy status by
7 the American board of funeral service education.

8 ~~45.~~ 44. "Registration" means a written authorization that is issued by
9 the board and that entitles a person to act as an assistant funeral director,
10 an embalmer's assistant or a prearranged funeral salesperson in this state.

11 ~~46. "Responsible cremationist" means a licensed cremationist who~~
12 ~~manages a crematory.~~

13 ~~47.~~ 45. "Responsible funeral director" means a person who is licensed
14 pursuant to this chapter, who is engaged in funeral directing, ~~and~~ who
15 manages and is accountable for a funeral establishment **AND WHO MANAGES A**
16 **CREMATORY.**

17 ~~48.~~ 46. "Retort" means an enclosed space within which cremation takes
18 place.

19 ~~49.~~ 47. "State equivalent examination" means the test or tests
20 provided by the conference of funeral service examining boards and offered by
21 the board to determine the entry level knowledge and skills of a person
22 regarding funeral directing and embalming.

23 ~~50.~~ 48. "Supervise" or "supervision" means a licensed embalmer has
24 responsibility for and is within sight and sound of a licensed intern who is
25 embalming a dead human body or a student who is assisting in embalming a dead
26 human body.

27 ~~51.~~ 49. "Temporary container" means a receptacle that is usually made
28 of cardboard, rigid plastic or another similar material and that is designed
29 to hold processed cremated remains until they are placed in an urn or another
30 permanent container.

31 ~~52.~~ 50. "Trust funds" means all monies deposited on behalf of a
32 beneficiary of a prearranged funeral agreement funded by trust and all
33 accrued net interest. Trust funds shall be considered an account kept in
34 suspense until distributed to the beneficiary, the funeral establishment or
35 the estate of the beneficiary in accordance with this article.

36 ~~53.~~ 51. "Universal precautions" means the universal blood and fluid
37 precautions recommended by the centers for disease control of the United
38 States public health service to prevent the transmission of ~~blood-borne~~
39 **BLOODBORNE** and bodily fluid-borne infectious diseases.

40 ~~54.~~ 52. "Unprofessional conduct" includes the following acts, whether
41 occurring in this state or elsewhere:

42 (a) Commission of a class 1 or 2 felony.

43 (b) Commission of a felony or misdemeanor if the offense has a
44 reasonable relationship to funeral directing or embalming. Conviction by any

1 court of competent jurisdiction or a plea of no contest is conclusive
2 evidence of the commission.

3 (c) Providing false, misleading or deceptive information on an
4 application for licensure or registration pursuant to this chapter or on an
5 examination required for licensure or registration.

6 (d) Bribing or offering to bribe, directly or indirectly, a member of
7 the board to influence the member's actions in the performance of the
8 member's duties.

9 (e) Wilfully interfering with an embalmer, ~~OR funeral director or~~
10 ~~cremationist~~ who has lawful custody of a dead human body in the performance
11 of the embalmer's, ~~OR funeral director's or cremationist's~~ duty to embalm or
12 prepare the body for burial, transportation or cremation.

13 (f) Paying or causing money or other valuable consideration to be paid
14 to a person, other than an employee of a funeral establishment, to secure
15 business regulated pursuant to this chapter from or through the person.

16 (g) Violating any law of this state or any rule adopted by the
17 department of health services that relates to the embalming or preparation of
18 dead human bodies.

19 (h) Certifying falsely to having embalmed or prepared a dead human
20 body that was embalmed by a person other than a licensed embalmer making the
21 certification or an intern under the supervision of a licensed embalmer
22 making the certification.

23 (i) Falsely advertising or labeling any service or merchandise with
24 the intention of deceiving the public.

25 (j) Shipping or delivering any merchandise or supplies that are not
26 the substantial equivalent of or superior in quality to merchandise or
27 supplies previously presented to the purchaser as samples.

28 (k) Committing any act involving dishonesty, fraud, misrepresentation,
29 breach of fiduciary duty, gross negligence or incompetence if the act has a
30 reasonable relationship to funeral directing or embalming.

31 (l) Engaging in any conduct or practice that is reasonably related to
32 funeral directing or embalming and that is or may be harmful or dangerous to
33 the health, safety or welfare of the public.

34 (m) Within a period of five years, having a license, registration or
35 endorsement suspended or revoked by the board or by the funeral services
36 licensing authority of any other jurisdiction or surrendering a license,
37 registration or endorsement in lieu of disciplinary action.

38 ~~55-~~ 53. "Urn" means a receptacle into which processed cremated remains
39 are placed for disposition.

40 Sec. 22. Section 32-1309, Arizona Revised Statutes, is amended to
41 read:

42 32-1309. Fees

43 A. The board shall establish and collect the following application
44 fees:

- 45 1. For a funeral director license, eighty-five dollars.

- 1 2. For an embalmer license, eighty-five dollars.
- 2 3. For an embalmer's assistant registration, eighty-five dollars.
- 3 4. For an intern license, eighty-five dollars.
- 4 5. For a funeral director or embalmer license for a person who does
- 5 not reside in this state, eighty-five dollars.
- 6 6. For a prearranged funeral salesperson registration, eighty-five
- 7 dollars.
- 8 7. For a funeral establishment license:
- 9 (a) For a new establishment, new owner or new location, five hundred
- 10 dollars.
- 11 (b) For a change of name, one hundred seventy-five dollars.
- 12 8. For a prearranged funeral sales establishment endorsement, one
- 13 hundred eighty-five dollars.
- 14 9. For a crematory license:
- 15 (a) For a new crematory, new owner or new location, one hundred
- 16 dollars per retort.
- 17 (b) For a change of name, one hundred seventy-five dollars.
- 18 ~~10. For a cremationist license, eighty-five dollars.~~
- 19 B. The board shall establish and collect the following examination
- 20 fees:
- 21 1. For the funeral director state laws and rules examination, eighty
- 22 dollars.
- 23 2. For the embalmer state laws and rules examination, eighty dollars.
- 24 3. For the prearranged funeral salesperson state laws and rules
- 25 examination, eighty dollars.
- 26 4. For the funeral service science section of the state equivalent
- 27 examination, one hundred fifty dollars.
- 28 5. For the funeral service arts section of the state equivalent
- 29 examination, one hundred fifty dollars.
- 30 C. The board shall establish and collect the following license and
- 31 registration issuance fees:
- 32 1. For a funeral director license, eighty-five dollars.
- 33 2. For an embalmer license, eighty-five dollars.
- 34 3. For an embalmer's assistant registration, eighty-five dollars.
- 35 4. For an intern license, eighty-five dollars.
- 36 5. For a prearranged funeral salesperson registration, eighty-five
- 37 dollars.
- 38 ~~6. For a cremationist license, eighty-five dollars.~~
- 39 D. The board shall establish and collect the following renewal fees:
- 40 1. For a funeral director license, eighty-five dollars.
- 41 2. For an embalmer license, eighty-five dollars.
- 42 3. For an embalmer's assistant registration, eighty-five dollars.
- 43 4. For an intern license, eighty-five dollars.
- 44 5. For an assistant funeral director registration, eighty-five
- 45 dollars.

- 1 6. For a prearranged funeral salesperson registration, eighty-five
2 dollars.
- 3 7. For an establishment license, four dollars for each disposition
4 performed by the establishment during the immediately preceding calendar
5 year. For the purposes of this paragraph, a funeral establishment performs a
6 disposition each time the establishment files a death certificate pursuant to
7 section 36-325.
- 8 8. For a prearranged funeral sales establishment endorsement, one
9 hundred eighty-five dollars.
- 10 9. For a crematory license, two hundred dollars per retort.
- 11 ~~10. For a cremationist license, eighty-five dollars.~~
- 12 E. The board shall establish and collect the following fees:
- 13 1. For a duplicate license or registration, twenty-five dollars.
- 14 2. For a reexamination:
- 15 (a) For a state laws and rules examination, fifty dollars.
- 16 (b) For the funeral service science section or the funeral service
17 arts section of the state equivalent examination, sixty-five dollars.
- 18 3. For late renewal of a licensee or registration, thirty-five
19 dollars.
- 20 4. For late renewal of an establishment license or endorsement, sixty
21 dollars.
- 22 5. For inactive licensure or registration, twenty-five dollars.
- 23 6. For reinstatement of an inactive license, fifty dollars.
- 24 7. For reinstatement of an inactive registration, one hundred thirty
25 dollars.
- 26 8. For an interim funeral establishment permit, twenty-five dollars.
- 27 9. For filing an annual trust report, a fee of not more than two
28 hundred dollars.
- 29 10. For filing a late or incomplete annual trust report, a penalty of
30 not more than two hundred dollars.
- 31 F. The board may establish and collect a fee for intern trainees in an
32 amount to be determined by the board.
- 33 Sec. 23. Section 32-1334, Arizona Revised Statutes, is amended to
34 read:
- 35 32-1334. Inactive status
- 36 A. A licensed embalmer, ~~OR~~ funeral director ~~or cremationist~~ who
37 retires from practicing embalming, ~~or~~ funeral directing or ~~cremating~~
38 ~~CREMATION AND~~ who is not currently practicing embalming, ~~or~~ funeral directing
39 ~~OR CREMATION~~ in this state may request that the board place the person's
40 license on inactive status. The person shall submit the request on a form
41 prescribed by the board and shall pay the applicable fee pursuant to section
42 32-1309.
- 43 B. A person who holds an inactive license shall not practice
44 embalming, funeral directing or cremation in this state.

1 C. A person who holds an inactive license may request that the board
2 reactivate the person's license. If an inactive licensee desires to
3 reactivate a license, the inactive licensee shall submit a completed
4 application on a form prescribed by the board, the applicable fee pursuant to
5 section 32-1309, a completed fingerprint card and the prescribed fingerprint
6 background check fee. The person shall demonstrate that ~~he~~ THE PERSON is of
7 good moral character and shall pass the applicable state laws and rules
8 examination.

9 Sec. 24. Section 32-1394, Arizona Revised Statutes, is amended to
10 read:

11 32-1394. Crematory requirements

12 A crematory THAT IS licensed pursuant to this article shall:

13 1. Maintain a retort that is operated at all times in a sanitary and
14 professional manner, that conforms to local building and environmental codes
15 and that provides protection for the health and safety of persons in
16 attendance at a cremation and employees of the crematory.

17 2. Maintain a holding facility that is secure from access by anyone
18 other than employees of the crematory and public officials in the performance
19 of their official duties, that complies with applicable public health laws,
20 that protects the health and safety of employees of the crematory and that
21 preserves the dignity of human remains in the facility.

22 3. Possess all equipment and supplies that are necessary to conduct
23 cremations in a manner that provides protection for the health and safety of
24 persons in attendance at a cremation and employees of the crematory.

25 ~~4. Employ and designate a responsible cremationist who is licensed~~
26 ~~pursuant to this article and who is trained in crematory operations to manage~~
27 ~~the daily operation of the crematory. The responsible cremationist is~~
28 ~~responsible for the crematory complying with the laws of this state and the~~
29 ~~rules of the board or the rules of the department of real estate, as~~
30 ~~applicable. The crematory or the responsible cremationist shall designate a~~
31 ~~licensed cremationist to act as an interim responsible cremationist.~~

32 Sec. 25. Repeal

33 Sections 32-1394.01 and 32-1394.02, Arizona Revised Statutes, are
34 repealed.

35 Sec. 26. Section 32-1395, Arizona Revised Statutes, is amended to
36 read:

37 32-1395. Application; qualifications for licensure

38 A. An applicant for a crematory license shall submit a completed
39 application on a form prescribed by the board. If the applicant is a
40 business entity, the entity shall direct a natural person who is an owner of
41 the entity to submit its application. The application shall be subscribed
42 under oath, shall contain the name of the responsible ~~cremationist~~ FUNERAL
43 DIRECTOR and shall be accompanied by the applicable fee pursuant to section
44 32-1309 and any additional information that the board deems necessary. A
45 business entity that applies for a license pursuant to this article shall

1 submit to the board with its application for licensure a copy of its
2 partnership agreement, its articles of incorporation or organization or any
3 other organizational documents required to be filed with the corporation
4 commission.

5 B. A person who applies for a license pursuant to this article, or if
6 the applicant is a business entity, the owners, partners, officers, directors
7 and trust beneficiaries of the entity, shall:

8 1. Be of good moral character.

9 2. Submit a completed fingerprint card, criminal history background
10 information and a fingerprint background check fee to the board.

11 C. The board or the board's designee shall inspect the premises of a
12 crematory and investigate the character and other qualifications of all
13 applicants for licensure pursuant to this article to determine whether the
14 crematory and the applicants are in compliance with the requirements of this
15 article and rules adopted by the board.

16 D. If the board finds that the applicant meets the criteria for
17 licensure under this article and rules adopted by the board, the board shall
18 issue a crematory license.

19 Sec. 27. Section 32-1396.01, Arizona Revised Statutes, is amended to
20 read:

21 32-1396.01. Display of license

22 A crematory shall display its license and the responsible
23 ~~cremationist's~~ FUNERAL DIRECTOR'S license at the crematory to which the
24 license was issued in a location that enables any member of the public who
25 enters the crematory to observe and read the license.

26 Sec. 28. Section 32-1399, Arizona Revised Statutes, is amended to
27 read:

28 32-1399. Crematories; standards of practice

29 The board shall adopt rules that establish standards equivalent to
30 section 32-1307, subsection A, paragraph 5 for the regulation of crematories
31 and cremation and that include the following:

32 1. A crematory shall develop, implement and maintain a written
33 procedure for the identification of human remains that ensures that remains
34 can be identified from the time that a crematory accepts the delivery of the
35 remains until the cremated remains are released to the authorizing agent.
36 The identification procedures shall require the crematory to comply with the
37 requirements of this section. The crematory shall not open a container
38 containing human remains, except under the personal supervision of a ~~licensed~~
39 funeral director, ~~or embalmer, or a responsible cremationist~~ WHO IS licensed
40 pursuant to this ~~article~~ CHAPTER and trained in crematory operations to
41 manage the daily operation of the crematory. After taking custody of human
42 remains, a crematory shall immediately verify the identification attached to
43 the casket or cremation container and assign an identification number. The
44 crematory shall not accept unidentified caskets or cremation containers. The
45 identification shall include the name and address of the deceased, the name

1 and relationship of the authorizing agent, the name of the person or entity
2 engaging the crematory services, a valid cremation permit issued by a
3 government agency and a metal cremation disk containing the identification
4 number. The disk shall be placed with the deceased during cremation.

5 2. If a crematory is unable to cremate the human remains immediately
6 after taking custody, the crematory shall store the remains in a holding
7 facility that is secure from access by anyone other than employees of the
8 crematory and public officials in the performance of their duty and that
9 complies with applicable public health laws, preserves the dignity of the
10 human remains and protects the health of employees of the crematory.

11 3. A crematory shall not accept a casket or cremation container from
12 which there is evidence of leakage of body fluids from the human remains and
13 shall not hold human remains for cremation unless they are contained in an
14 individual, closed casket or rigid cremation container of combustible
15 material that preserves the dignity of the human remains and that protects
16 the health of employees of the crematory. Human remains that are not
17 embalmed shall be held by the crematory in a refrigerated holding facility or
18 in compliance with applicable public health laws.

19 4. All body prostheses, bridgework or similar items removed from the
20 cremated remains shall be disposed of by the crematory unless an alternative
21 disposition is agreed to in the authorization to cremate.

22 5. After cremation, the crematory as far as practicable shall remove
23 visible parts of the residual of the cremation process from the retort, shall
24 not combine the cremated or processed remains with other cremated or
25 processed remains and shall attach the identification of the cremated or
26 processed remains to the temporary container or urn into which the remains
27 are placed.

28 6. The crematory shall place cremated or processed remains in a
29 temporary container or urn. Extra space may be filled with clean packing
30 material that will not combine with the cremated or processed remains. The
31 lid or top shall be securely closed. Any cremated or processed remains that
32 do not fit in the temporary container or urn shall be returned in a separate
33 container or, with permission of the authorizing agent, disposed of by the
34 crematory.

35 7. A crematory may dispose of cremated or processed remains in any
36 legal manner directed by a document prepared pursuant to section 32-1365.01
37 or agreed to by the authorizing agent. If the authorizing agent agrees to
38 take possession and does not take possession of the remains within thirty
39 days after cremation or on an agreed date, the crematory shall send written
40 notice to the last known address of the authorizing agent to take
41 possession. Ninety days after the notification is sent or delivered, the
42 crematory may dispose of the cremated or processed remains in any legal
43 manner.

44 8. Unless the deceased has prepared a document pursuant to section
45 32-1365.01, the crematory shall obtain an authorization to cremate from the

1 authorizing agent that shall contain a provision holding the crematory
2 harmless for the disposition of unclaimed cremated or processed remains.

3 9. All employees of the crematory who handle dead human bodies shall
4 use universal precautions and shall otherwise exercise reasonable care to
5 minimize the risk of transmitting any communicable disease from a dead human
6 body.

7 10. Unless the deceased has prepared a document pursuant to section
8 32-1365.01, employees of the crematory shall not remove a dead human body
9 from the container in which it is delivered to the crematory without the
10 express written consent of the authorizing agent. If, after accepting a dead
11 human body for cremation, employees of a crematory discover that a mechanical
12 or radioactive device is implanted in the body, an embalmer licensed pursuant
13 to article 2 of this chapter shall remove the device from the body before
14 cremation takes place.

15 11. A crematory shall keep an accurate record of all cremations
16 performed, including dispositions of cremated and processed remains, for not
17 fewer than five years after the cremation.

18 Sec. 29. Section 32-1921, Arizona Revised Statutes, is amended to
19 read:

20 32-1921. Exempted acts; exemption from registration fees;
21 definition

22 A. This chapter does not prevent:

23 1. The prescription and dispensing of drugs or prescription
24 medications by a registered nurse practitioner pursuant to rules adopted by
25 the ARIZONA STATE board of nursing in consultation with the Arizona medical
26 board, the board of osteopathic examiners in medicine and surgery and the
27 board of pharmacy.

28 2. The sale of nonprescription drugs that are sold at retail in
29 original packages by a person holding a permit issued by the board under this
30 chapter.

31 3. The sale of drugs at wholesale by a wholesaler or manufacturer that
32 holds the required permit issued by the board to a person who holds the
33 required permit issued under this chapter.

34 4. The manufacturing of drugs by a person who is not a pharmacist and
35 who holds the required permit issued by the board under this chapter.

36 5. The following health professionals from dispensing or personally
37 administering drugs or devices to a patient for a condition being treated by
38 the health professional:

39 (a) A doctor of medicine licensed pursuant to chapter 13 of this
40 title.

41 (b) An osteopathic physician licensed pursuant to chapter 17 of this
42 title.

43 (c) A homeopathic physician licensed pursuant to chapter 29 of this
44 title.

45 (d) A podiatrist licensed pursuant to chapter 7 of this title.

1 (e) A dentist licensed pursuant to chapter 11 of this title.

2 (f) A doctor of naturopathic medicine who is authorized to prescribe
3 natural substances, drugs or devices and who is licensed pursuant to chapter
4 14 of this title.

5 (g) An optometrist who is licensed pursuant to chapter 16 of this
6 title and who is certified for topical or oral pharmaceutical agents.

7 6. A veterinarian licensed pursuant to chapter 21 of this title from
8 dispensing or administering drugs to an animal or from dispensing or
9 administering devices to an animal being treated by the veterinarian.

10 7. The use of any pesticide chemical, soil or plant nutrient or other
11 agricultural chemical that is a color additive solely because of its effect
12 in aiding, retarding or otherwise affecting directly or indirectly the growth
13 or other natural physiological process of produce of the soil and thereby
14 affecting its color whether before or after harvest.

15 8. A licensed practical or registered nurse employed by a person
16 licensed pursuant to chapter 7, 11, 13, 14, 17 or 29 of this title from
17 assisting in the delivery of drugs and devices to patients, in accordance
18 with chapter 7, 11, 13, 14, 17 or 29 of this title.

19 9. The use of any mechanical device or vending machine in connection
20 with the sale of any nonprescription drug, including proprietary and patent
21 medicine. The board may adopt rules to prescribe conditions under which
22 nonprescription drugs may be dispensed pursuant to this paragraph.

23 B. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or
24 29 of this title and who employs a licensed practical or registered nurse who
25 in the course of employment assists in the delivery of drugs and devices is
26 responsible for the dispensing process.

27 C. Pursuant to a prescription order written by a physician for the
28 physician's patients and dispensed by a licensed pharmacist, a physical
29 therapist licensed pursuant to chapter 19 of this title, ~~OR an occupational~~
30 ~~therapist licensed pursuant to chapter 34 of this title~~ ~~or an athletic~~
31 ~~trainer licensed pursuant to chapter 41 of this title~~ may procure, store and
32 administer nonscheduled legend and topical anti-inflammatories and topical
33 anesthetics for use in phonophoresis and iontophoresis procedures and within
34 the scope of practice of physical or occupational therapy or athletic
35 training.

36 D. A public health facility operated by this state or a county and a
37 qualifying community health center may dispense medication or devices to
38 patients at no cost without providing a written prescription if the public
39 health facility or the qualifying community health center meets all storage,
40 labeling, safety and record keeping rules adopted by the board of pharmacy.

41 E. A person who is licensed pursuant to chapter 7, 11, 13, 14, 17 or
42 29 of this title, who is practicing at a public health facility or a
43 qualifying community health center and who is involved in the dispensing of
44 medication or devices only at a facility or center, whether for a charge or

1 at no cost, shall register to dispense with the appropriate licensing board
2 but is exempt from paying registration fees.

3 F. For the purposes of this section, "qualifying community health
4 center" means a primary care clinic that is recognized as nonprofit under
5 section 501(c)(3) of the United States internal revenue code and whose board
6 of directors includes patients of the center and residents of the center's
7 service area.

8 Sec. 30. Section 32-2352, Arizona Revised Statutes, is amended to
9 read:

10 32-2352. Enforcement; contract with private entity

11 A. The director, subject to title 41, chapter 6, shall adopt such
12 rules concerning the administration and enforcement of this chapter as are
13 necessary to carry out the intent of this chapter and to protect the public.
14 The director or the director's authorized representative shall inspect the
15 school facilities and equipment used by applicants and licensees under this
16 chapter ~~and examine applicants for instructor's licenses.~~

17 B. The director shall administer and enforce this chapter.

18 C. The director may contract with a private entity to conduct
19 inspections pursuant to this section and to administer any rules adopted
20 pursuant to this section that relate to the licensure and administration of
21 professional driver training schools pursuant to this chapter. The term of
22 any contract entered into pursuant to this subsection shall not exceed five
23 years with a right to renew for an additional five years. The private entity
24 that contracts with the director pursuant to this subsection:

25 1. Shall not provide professional driver training school courses.

26 2. May charge a fee to each person who enrolls in a professional
27 driver training school.

28 Sec. 31. Repeal

29 Section 32-2372, Arizona Revised Statutes, is repealed.

30 Sec. 32. Section 32-2373, Arizona Revised Statutes, is amended to
31 read:

32 32-2373. Refusal to issue or renew license of school or agent

33 A. The director may refuse to issue or renew the license for a school
34 or an agent ~~or instructor~~ in any case ~~where~~ **IN WHICH** the director determines
35 that the licensee or applicant has not complied with, or has knowingly
36 violated, any provision of this chapter or any rule adopted pursuant to this
37 chapter by the director.

38 B. An applicant or licensee who is aggrieved by the director's
39 decision may make a written request to the department for a hearing within
40 thirty days after service of notice of the refusal. If the applicant or
41 licensee does not request a hearing within thirty days, the decision is
42 final. If the applicant or licensee requests a hearing, the director shall
43 give written notice to the applicant or licensee to appear at the hearing and
44 show cause why the refusal to issue or renew the license should not be
45 upheld. After consideration of the evidence presented at the hearing, the

1 director shall serve notice in writing to the applicant or licensee of the
2 director's findings and order.

3 Sec. 33. Section 32-2374, Arizona Revised Statutes, is amended to
4 read:

5 32-2374. Fees

6 Except as provided in section 32-4301, all licenses expire on the last
7 day of the calendar year and may be renewed ~~upon~~ ON application to the
8 director as prescribed by rule. Each application for an original or renewal
9 license to operate a professional driver training school shall be accompanied
10 by a fee of two hundred dollars. Each application for an original or renewal
11 agent's ~~or-instructor's~~ license shall be accompanied by a fee of ten
12 dollars. An application for a branch license shall be accompanied by a fee
13 of fifty dollars. No license fee may be refunded in the event a license is
14 suspended or revoked.

15 Sec. 34. Section 32-2391, Arizona Revised Statutes, is amended to
16 read:

17 32-2391. Suspension and revocation of license; determination;
18 appeal

19 The director, after conducting a hearing for the licensee, may cancel,
20 suspend or revoke the license of a school, ~~OR~~ agent ~~or-instructor~~
21 in any case ~~where~~ IN WHICH the director finds that the licensee has not complied
22 with, or has knowingly violated, this chapter or any rule adopted under this
23 chapter. Each cancelled, suspended or revoked license shall be returned to
24 the director by the licensee. Decisions of the director shall be subject to
25 judicial review pursuant to title 12, chapter 7, article 6.

26 Sec. 35. Section 32-3101, Arizona Revised Statutes, is amended to
27 read:

28 32-3101. Definitions

29 In this chapter, unless the context otherwise requires:

30 1. "Applicant group" means any health professional group or
31 organization, any individual or any other interested party that proposes that
32 any health professional group not presently regulated be regulated or that
33 proposes to increase the scope of practice of a health profession.

34 2. "Certification" means a voluntary process by which a regulatory
35 entity grants recognition to an individual who has met certain prerequisite
36 qualifications specified by that regulatory entity and who may assume or use
37 the word "certified" in a title or designation to perform prescribed health
38 professional tasks.

39 3. "Grandfather clause" means a provision applicable to practitioners
40 actively engaged in the regulated health profession before the effective date
41 of a law that exempts the practitioners from meeting the prerequisite
42 qualifications set forth in the law to perform prescribed occupational tasks.

43 4. "Health professions" means professions regulated pursuant to
44 chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33,

1 34, 35, ~~OR 39 or 41~~ of this title, title 36, chapter 6, article 7 or title
2 36, chapter 17.

3 5. "Increase the scope of practice" means to engage in conduct beyond
4 the authority granted to a health profession by law.

5 6. "Inspection" means the periodic examination of practitioners by a
6 state agency in order to ascertain whether the practitioners' occupation is
7 being carried out in a fashion consistent with the public health, safety and
8 welfare.

9 7. "Legislative committees of reference" means joint subcommittees
10 composed of the members of the appropriate standing committees of the house
11 of representatives and senate appointed pursuant to section 41-2954.

12 8. "Licensure" or "license" means an individual, nontransferable
13 authorization to carry on a health activity that would otherwise be unlawful
14 in this state in the absence of the permission, and that is based on
15 qualifications that include graduation from an accredited or approved program
16 and acceptable performance on a qualifying examination or a series of
17 examinations.

18 9. "Practitioner" means an individual who has achieved knowledge and
19 skill by practice and who is actively engaged in a specified health
20 profession.

21 10. "Public member" means an individual who is not and never has been a
22 member or spouse of a member of the health profession being regulated and who
23 does not have and never has had a material financial interest in either the
24 rendering of the health professional service being regulated or an activity
25 directly related to the profession being regulated.

26 11. "Registration" means the formal notification that, before rendering
27 services, a practitioner shall submit to a state agency setting forth the
28 name and address of the practitioner, the location, nature and operation of
29 the health activity to be practiced and, if required by a regulatory entity,
30 a description of the service to be provided.

31 12. "Regulatory entity" means any board, commission, agency or
32 department of this state that regulates one or more health professions in
33 this state.

34 13. "State agency" means any department, board, commission or agency of
35 this state.

36 Sec. 36. Section 32-3201, Arizona Revised Statutes, is amended to
37 read:

38 32-3201. Definitions

39 In this chapter, unless the context otherwise requires:

40 1. "Health profession regulatory board" means any board that regulates
41 one or more health professionals in this state.

42 2. "Health professional" means a person who is certified or licensed
43 pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25,
44 28, 29, 33, 34, 35, 39, ~~41~~ or 42 of this title, title 36, chapter 4, article
45 6, title 36, chapter 6, article 7 or title 36, chapter 17.

1 recreational activities or physical fitness activities, regardless of the
2 circumstances under which the injury was sustained.

3 ~~3. "Athletic trainer" means a person who is licensed pursuant to this~~
4 ~~chapter.~~

5 ~~4.~~ 3. "Athletic training" includes the following performed under the
6 direction of a licensed physician and for which the athletic trainer has
7 received appropriate education and training ~~as prescribed by the board:~~

8 (a) The prevention, recognition, examination, evaluation,
9 rehabilitation and management of athletic injuries.

10 (b) The prevention, evaluation, immediate care and monitoring of
11 athletic illnesses.

12 (c) The referral of a person receiving athletic training services to
13 appropriate health care professionals, as necessary.

14 (d) The use of heat, cold, water, light, sound, electricity, passive
15 or active exercise, massage, mechanical devices or any other therapeutic
16 modality to prevent, treat, rehabilitate or recondition athletic injuries.

17 (e) The planning, administration, evaluation, ~~and~~ modification of
18 methods for prevention and risk management of athletic injuries and athletic
19 illnesses.

20 (f) Education and counseling related to all aspects of the practice of
21 athletic training.

22 (g) The use of topical pharmacological agents in conjunction with the
23 administration of therapeutic modalities and pursuant to a prescription
24 issued pursuant to the laws of this state and for which an athletic trainer
25 has received appropriate education and training.

26 ~~5. "Athletic training student" means a student who is currently~~
27 ~~enrolled in an athletic training education program that is accredited by an~~
28 ~~accrediting agency recognized by the board.~~

29 ~~6. "Board" means the board of athletic training.~~

30 ~~7. "Direct supervision" means that the supervising athletic trainer is~~
31 ~~present in the facility or on the campus where athletic training students are~~
32 ~~performing services, is immediately available to assist the person being~~
33 ~~supervised in the services being performed and maintains continued~~
34 ~~involvement in appropriate aspects of the services being performed.~~

35 ~~8. "Direction of a licensed physician" means direction as prescribed~~
36 ~~by the board by rule pursuant to section 32-4103.~~

37 ~~9. "Licensed physician" means a person who is licensed pursuant to~~
38 ~~chapter 13 or 17 of this title.~~

39 ~~10. "Restricted license" means a license on which the board places~~
40 ~~restrictions or conditions, or both, as to the scope of practice, place of~~
41 ~~practice, supervision of practice, duration of license status or type or~~
42 ~~condition of a person to whom the licensee may provide services.~~

43 Sec. 39. Repeal

44 Sections 32-4102, 32-4103 and 32-4104, Arizona Revised Statutes, are
45 repealed.

1 Sec. 40. Title 32, chapter 41, article 1, Arizona Revised Statutes, is
2 amended by adding a new section 32-4102, to read:

3 32-4102. Regulation

4 A PERSON MAY PRACTICE ATHLETIC TRAINING IN THIS STATE IF BOTH OF THE
5 FOLLOWING APPLY:

6 1. THE PERSON OPERATES UNDER THE SUPERVISION OF A PHYSICIAN WHO IS
7 LICENSED PURSUANT TO CHAPTER 13 OR 17 OF THIS TITLE.

8 2. THE PERSON IS CERTIFIED BY A NATIONAL ACCREDITED ATHLETIC TRAINING
9 PROGRAM.

10 Sec. 41. Repeal; transfer of monies

11 A. Section 32-4105, Arizona Revised Statutes, is repealed.

12 B. All unexpended and unencumbered monies remaining in the athletic
13 training fund established by section 32-4105, Arizona Revised Statutes, as
14 repealed by subsection A of this section, are transferred to the state
15 general fund on the effective date of this section.

16 Sec. 42. Repeal

17 Title 32, chapter 41, articles 2 and 3, Arizona Revised Statutes, are
18 repealed.

19 Sec. 43. Section 34-101, Arizona Revised Statutes, is amended to read:

20 34-101. Definitions

21 In this title, unless the context otherwise requires:

22 1. "Agent":

23 (a) Means any county, city or town, or officer, board or commission of
24 any county, city or town, and irrigation, power, electrical, drainage, flood
25 protection and flood control districts, tax levying public improvement
26 districts and county or city improvement districts.

27 (b) Includes any county board of supervisors and any representative
28 authorized by an agent to act as an agent for the purpose of authorizing
29 necessary change orders to previously awarded contracts in accordance with
30 guidelines established by rule of the agent, including the board of
31 supervisors.

32 2. "Architect services" means those professional architect services
33 that are within the scope of architectural practice as provided in title 32,
34 chapter 1.

35 3. "Construction":

36 (a) Means the process of building, altering, repairing, improving or
37 demolishing any public structure or building or other public improvements of
38 any kind to any public real property.

39 (b) Does not include the routine operation, routine repair or routine
40 maintenance of existing facilities, structures, buildings or real property.

41 4. "Construction-manager-at-risk" means a project delivery method in
42 which:

43 (a) There is a separate contract for design services and a separate
44 contract for construction services, except that instead of a single contract
45 for construction services, the agent may elect separate contracts for

1 preconstruction services during the design phase, for construction during the
2 construction phase and for any other construction services.

3 (b) The contract for construction services may be entered into at the
4 same time as the contract for design services or at a later time.

5 (c) Design and construction of the project may be either:

6 (i) Sequential with the entire design complete before construction
7 commences.

8 (ii) Concurrent with the design produced in two or more phases and
9 construction of some phases commencing before the entire design is complete.

10 (d) Finance services, maintenance services, operations services,
11 preconstruction services and other related services may be included.

12 5. "Construction services" means either of the following for
13 construction-manager-at-risk, design-build and job-order-contracting project
14 delivery methods:

15 (a) Construction, excluding services, through the
16 construction-manager-at-risk or job-order-contracting project delivery
17 methods.

18 (b) A combination of construction and, as elected by the agent, one or
19 more related services, such as finance services, maintenance services,
20 operations services, design services and preconstruction services, as those
21 services are authorized in the definitions of construction-manager-at-risk,
22 design-build or job-order-contracting in this section.

23 6. "Contract" means all types of agent agreements, regardless of what
24 they are called, for the procurement of services pursuant to this title.

25 7. "Contractor" means any person who has a contract with an agent.

26 8. "Design-bid-build" means a project delivery method in which:

27 (a) There is a sequential award of two separate contracts.

28 (b) The first contract is for design services.

29 (c) The second contract is for construction.

30 (d) Design and construction of the project are in sequential phases.

31 (e) Finance services, maintenance services and operations services are
32 not included.

33 9. "Design-build" means a project delivery method in which:

34 (a) There is a single contract for design services and construction
35 services, except that instead of a single contract for design services and
36 construction services, the agent may elect separate contracts for
37 preconstruction services and design services during the design phase, for
38 construction and design services during the construction phase and for any
39 other construction services.

40 (b) Design and construction of the project may be either:

41 (i) Sequential with the entire design complete before construction
42 commences.

43 (ii) Concurrent with the design produced in two or more phases and
44 construction of some phases commencing before the entire design is complete.

1 (c) Finance services, maintenance services, operations services,
2 preconstruction services and other related services may be included.

3 10. "Design professional" means A GEOLOGIST OR LANDSCAPE ARCHITECT OR
4 an individual or firm that is registered by the state board of technical
5 registration pursuant to title 32, chapter 1 to practice architecture,
6 engineering, ~~geology, landscape architecture~~ or land surveying or any
7 combination of those professions and persons employed by the registered
8 individual or firm.

9 11. "Design requirements":

10 (a) Means at a minimum the agent's written description of the project
11 or service to be procured, including:

12 (i) The required features, functions, characteristics, qualities and
13 properties.

14 (ii) The anticipated schedule, including start, duration and
15 completion.

16 (iii) The estimated budgets applicable to the specific procurement for
17 design and construction and, if applicable, for operation and maintenance.

18 (b) May include:

19 (i) Drawings and other documents illustrating the scale and
20 relationship of the features, functions and characteristics of the project,
21 which shall all be prepared by a design professional who is registered
22 pursuant to section 32-121.

23 (ii) Additional design information or documents that the agent elects
24 to include.

25 12. "Design services" means architect services, engineer services or
26 landscape architect services.

27 13. "Direct selection" means the selection of a technical registrant
28 without the requirement of advertising or the use of a current register.

29 14. "Engineer services" means those professional engineer services that
30 are within the scope of engineering practice as provided in title 32,
31 chapter 1.

32 15. "Finance services" means financing for a construction services
33 project.

34 16. "Horizontal construction" means construction of highways, roads,
35 streets, bridges, canals, floodways, earthen dams, landfills, light rail and
36 airport runways, taxiways and aprons. For the purposes of this paragraph,
37 light rail does not include any related rail stations, maintenance facilities
38 or parking facilities.

39 17. "Job-order-contracting" means a project delivery method in which:

40 (a) The contract is a requirements contract for indefinite quantities
41 of construction.

42 (b) The construction to be performed is specified in job orders issued
43 during the contract.

1 (c) Finance services, maintenance services, operations services,
2 preconstruction services, design services and other related services may be
3 included.

4 ~~18. "Landscape architect services" means those professional landscape~~
5 ~~architect services that are within the scope of landscape architectural~~
6 ~~practice as provided in title 32, chapter 1.~~

7 ~~19.~~ 18. "Maintenance services" means routine maintenance, repair and
8 replacement of existing facilities, structures, buildings or real property.

9 ~~20.~~ 19. "Materials":

10 (a) Means all property, including equipment, supplies, printing,
11 insurance and leases of property.

12 (b) Does not include land, a permanent interest in land or real
13 property or leasing space.

14 ~~21.~~ 20. "Operations services" means routine operation of existing
15 facilities, structures, buildings or real property.

16 ~~22.~~ 21. "Person" means any corporation, business, individual, union,
17 committee, club, other organization or group of individuals.

18 ~~23.~~ 22. "Preconstruction services" means services and other activities
19 during the design phase.

20 ~~24.~~ 23. "Procurement":

21 (a) Means buying, purchasing, renting, leasing or otherwise acquiring
22 any materials, services, construction or construction services.

23 (b) Includes all functions that pertain to obtaining any materials,
24 services, construction or construction services, including description of
25 requirements, selection and solicitation of sources, preparation and award of
26 contract and all phases of contract administration.

27 ~~25.~~ 24. "Public competition" means a competitive procurement process
28 pursuant to section 34-103, subsection G that includes advertising in a
29 public newspaper and a qualification-based selection process.

30 ~~26.~~ 25. "Services":

31 (a) Means the furnishing of labor, time or effort by a contractor or
32 subcontractor that does not involve the delivery of a specific end product
33 other than required reports and performance.

34 (b) Does not include employment agreements or collective bargaining
35 agreements.

36 ~~27.~~ 26. "Subcontractor" means a person who contracts to perform work
37 or render service to a contractor or to another subcontractor as a part of a
38 contract with an agent.

39 ~~28.~~ 27. "Technical registrant" means a person who provides any of the
40 professional services listed in title 32, chapter 1.

1 Sec. 44. Subject to the requirements of article IV, part 1, section 1,
2 Constitution of Arizona, section 36-601.01, Arizona Revised Statutes, is
3 amended to read:

4 36-601.01. Smoke-free Arizona act

5 A. Definitions. The following words and phrases, whenever used in this
6 section, shall be construed as defined in this section:

7 1. "Employee" means any person who performs any service on a
8 full-time, part-time or contracted basis whether or not the person is
9 denominated an employee, independent contractor or otherwise and whether or
10 not the person is compensated or is a volunteer.

11 2. "Employer" means a person, business, partnership, association, the
12 state of Arizona and its political subdivisions, corporations, including a
13 municipal corporations, trust, or non-profit entity that employs the services
14 of one or more individual persons.

15 3. "Enclosed area" means all space between a floor and ceiling that is
16 enclosed on all sides by permanent or temporary walls or windows (exclusive
17 of doorways), which extend from the floor to the ceiling. Enclosed area
18 includes a reasonable distance from any entrances, windows and ventilation
19 systems so that persons entering or leaving the building or facility shall
20 not be subjected to breathing tobacco smoke and so that tobacco smoke does
21 not enter the building or facility through entrances, windows, ventilation
22 systems or any other means.

23 4. "Health care facility" means any enclosed area utilized by any
24 health care institution licensed according to title 36 chapter 4, chapter 6
25 article 7, or chapter 17, or any health care professional licensed according
26 to title 32 chapters 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21,
27 25, 28, 29, 33, 34, 35, 39, ~~41~~, or 42.

28 5. "Person" means an individual, partnership, corporation, limited
29 liability company, entity, association, governmental subdivision or unit of a
30 governmental subdivision, or a public or private organization of any
31 character.

32 6. "Physically separated" means all space between a floor and ceiling
33 which is enclosed on all sides by solid walls or windows (exclusive of door
34 or passageway) and independently ventilated from smoke-free areas, so that
35 air within permitted smoking areas does not drift or get vented into
36 smoke-free areas.

37 7. "Places of employment" means an enclosed area under the control of
38 a public or private employer that employees normally frequent during the
39 course of employment, including office buildings, work areas, auditoriums,
40 employee lounges, restrooms, conference rooms, meeting rooms, classrooms,
41 cafeterias, hallways, stairs, elevators, health care facilities, private
42 offices and vehicles owned and operated by the employer during working hours
43 when the vehicle is occupied by more than one person. A private residence is
44 not a ~~"place of employment"~~ unless it is used as a child care, adult day
45 care, ~~or~~ or health care facility.

1 8. "Veteran and fraternal clubs" means a club as defined in ~~A.R.S.~~
2 ~~4-101(7)(a)(b) or (c)~~ SECTION 4-101, PARAGRAPH 7, SUBDIVISION (a), (b) OR
3 (c).

4 9. "Public place" means any enclosed area to which the public is
5 invited or in which the public is permitted, including airports, banks, bars,
6 common areas of apartment buildings, condominiums or other multifamily
7 housing facilities, educational facilities, entertainment facilities or
8 venues, health care facilities, hotel and motel common areas, laundromats,
9 public transportation facilities, reception areas, restaurants, retail food
10 production and marketing establishments, retail service establishments,
11 retail stores, shopping malls, sports facilities, theaters, ~~and~~ waiting
12 rooms. A private residence is not a ~~"public place"~~ unless it is used as a
13 child care, adult day care, or health care facility.

14 10. "Retail tobacco store" means a retail store that derives the
15 majority of its sales from tobacco products and accessories.

16 11. "Smoking" means inhaling, exhaling, burning, ~~or~~ carrying or
17 possessing any lighted tobacco product, including cigars, cigarettes, pipe
18 tobacco and any other lighted tobacco product.

19 12. "Sports facilities" means enclosed areas of sports pavilions,
20 stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and
21 ice rinks, billiard halls, bowling alleys, and other similar places where
22 members of the general public assemble to engage in physical exercise,
23 participate in athletic competition, or witness sporting events.

24 B. Smoking is prohibited in all public places and places of employment
25 within the state of Arizona, except the following:

26 1. Private residences, except when used as a licensed child care,
27 adult day care, ~~or~~ health care facility.

28 2. Hotel and motel rooms that are rented to guests and are designated
29 as smoking rooms; provided, however, that not more than fifty percent of
30 rooms rented to guests in a hotel or motel are so designated.

31 3. Retail tobacco stores that are physically separated so that smoke
32 from retail tobacco stores does not infiltrate into areas where smoking is
33 prohibited under ~~the provisions of~~ this section.

34 4. Veterans and fraternal clubs when they are not open to the general
35 public.

36 5. Smoking when associated with a religious ceremony practiced
37 pursuant to the American Indian religious freedom act of 1978.

38 6. Outdoor patios so long as tobacco smoke does not enter areas where
39 smoking is prohibited through entrances, windows, ventilation systems, or
40 other means.

41 7. A theatrical performance ~~upon~~ ON a stage or in the course of a film
42 or television production if the smoking is part of the performance or
43 production.

1 C. The prohibition on smoking in places of employment shall be
2 communicated to all existing employees by the effective date of this section
3 and to all prospective employees ~~upon~~ ON their application for employment.

4 D. Notwithstanding any other provision of this section, an owner,
5 operator, manager, ~~or~~ or other person or entity in control of an establishment,
6 facility, or outdoor area may declare that entire establishment, facility, ~~or~~
7 or outdoor area as a nonsmoking place.

8 E. Posting of signs and ashtray removal.

9 1. "No smoking" signs or the international "no smoking" symbol
10 (consisting of a pictorial representation of a burning cigarette enclosed in
11 a red circle with a red bar across it) shall be clearly and conspicuously
12 posted by the owner, operator, manager, or other person in control of that
13 place identifying where smoking is prohibited by this section and where
14 complaints regarding violations may be registered.

15 2. Every public place and place of employment where smoking is
16 prohibited by this section shall have posted at every entrance a conspicuous
17 sign clearly stating that smoking is prohibited.

18 3. All ashtrays shall be removed from any area where smoking is
19 prohibited by this section by the owner, operator, manager, ~~or~~ or other person
20 having control of the area.

21 F. No employer may discharge or retaliate against an employee because
22 that employee exercises any rights afforded by this section or reports or
23 attempts to prosecute a violation of this section.

24 G. The law shall be implemented and enforced by the department of
25 health services as follows:

26 1. The department shall design and implement a program, including the
27 establishment of an internet website, to educate the public regarding ~~the~~
28 ~~provisions of~~ this law SECTION.

29 2. The department shall inform persons who own, manage, operate or
30 otherwise control a public place or place of employment of the requirements
31 of this law SECTION and how to comply with its provisions, including making
32 information available and providing a toll-free telephone number and e-mail
33 address to be used exclusively for this purpose.

34 3. Any member of the public may report a violation of this law SECTION
35 to the department. The department shall accept oral and written reports of
36 violation and establish an e-mail address(es) and toll-free telephone
37 number(s) to be used exclusively for the purpose of reporting violations. A
38 person shall not be required to disclose the person's identity when reporting
39 a violation.

40 4. If the department has reason to believe a violation of this law
41 exists, the department may enter ~~upon~~ ON and into any public place or place
42 of employment for purposes of determining compliance with this law. However,
43 the department may inspect public places where food or alcohol is served at
44 any time to determine compliance with this law.

1 5. If the department determines that a violation of this law exists at
2 a public place or place of employment, the department shall issue a notice of
3 violation to the person who owns, manages, operates or otherwise controls the
4 public place or place of employment. The notice shall include the nature of
5 each violation, date and time each violation occurred, and department contact
6 person.

7 6. The department shall impose a civil penalty on the person in an
8 amount of not less than \$100, but not more than \$500 for each violation. In
9 considering whether to impose a fine and the amount of the fine, the
10 department may consider whether the person has been cited previously and what
11 efforts the person has taken to prevent or cure the violation including
12 reporting the violation or taking action under subsection J **OF THIS SECTION**.
13 Each day that a violation occurs constitutes a separate violation. The
14 director may issue a notice that includes the proposed amount of the civil
15 penalty assessment. A person may appeal the assessment of a civil penalty by
16 requesting a hearing. If a person requests a hearing to appeal an
17 assessment, the director shall not take further action to enforce and collect
18 the assessment until the hearing process is complete. The director shall
19 impose a civil penalty only for those days on which the violation has been
20 documented by the department.

21 7. If a civil penalty imposed by this section is not paid, the
22 attorney general or a county attorney shall file an action to collect the
23 civil penalty in a justice court or the superior court in the county in which
24 the violation occurred.

25 8. The department may apply for injunctive relief to enforce these
26 provisions in the superior court in the county in which the violation
27 occurred. The court may impose appropriate injunctive relief and impose a
28 penalty of not less than \$100 but not more than \$500 for each
29 violation. Each day that a violation occurs constitutes a separate
30 violation. If the superior court finds the violations are willful or
31 evidence a pattern of noncompliance, the court may impose a fine up to \$5000
32 per violation.

33 9. The department may contract with a third party to determine
34 compliance with this law.

35 10. The department may delegate to a state agency or political
36 subdivision of this state any functions, powers or duties under this law.

37 11. The director of the department may promulgate rules for the
38 implementation and enforcement of this law. The department is exempt from
39 the rulemaking procedures in ~~A.R.S. §~~ title 41, chapter 6 except the
40 department shall publish draft rules and thereafter take public input
41 including hold at least two public hearings prior to implementing the
42 rules. This exemption expires May 1, 2007.

43 H. Beginning on June 1, 2008 and every other June 1 thereafter, the
44 director of the Arizona department of health services shall issue a report
45 analyzing its activities to enforce this law, including the activities of all

1 of the state agencies or political subdivisions to whom the department has
2 delegated responsibility under this law.

3 I. An owner, manager, operator or employee of A place regulated by
4 this law shall inform any person who is smoking in violation of this law that
5 smoking is illegal and request that the illegal smoking stop immediately.

6 J. This law does not create any new private right of action nor does
7 it extinguish any existing common law causes of action.

8 K. A person who smokes where smoking is prohibited is guilty of a
9 petty offense with a fine of not less than fifty dollars and not more than
10 three hundred dollars.

11 L. Smoke-free Arizona fund.

12 1. The smoke-free Arizona fund is established consisting of all
13 revenues deposited in the fund pursuant to ~~§42-3251.02~~ SECTION 42-3251.02 and
14 interest earned on those monies. The ~~Arizona~~ department of health services
15 shall administer the fund. On notice from the department, the state
16 treasurer shall invest and divest monies in the fund as provided by ~~§35-313~~
17 SECTION 35-313, and monies earned from investment shall be credited to the
18 fund.

19 2. All money in the smoke-free Arizona fund shall be used to enforce
20 the provisions of this section provided however that if there is money
21 remaining after the department has met its enforcement obligations, that
22 remaining money shall be deposited in the tobacco products tax fund and used
23 for education programs to reduce and eliminate tobacco use and for no other
24 purpose.

25 3. Monies in this fund are continuously appropriated, are not subject
26 to further approval, do not revert to the general fund and are exempt from
27 the provisions of ~~§36-190~~ SECTION 35-190 relating to the lapsing of
28 appropriations.

29 M. This section does not prevent a political subdivision of the state
30 from adopting ordinances or regulations that are more restrictive than this
31 section nor does this section repeal any existing ordinance or regulation
32 that is more restrictive than this section.

33 N. Tribal sovereignty - this section has no application on Indian
34 reservations as defined in ~~ARS 42-3301(2)~~ SECTION 42-3301.

35 Sec. 45. Section 41-619.51, Arizona Revised Statutes, is amended to
36 read:

37 41-619.51. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Agency" means the supreme court, the department of economic
40 security, the department of child safety, the department of education, the
41 department of health services, the department of juvenile corrections, the
42 department of emergency and military affairs, the department of
43 transportation, the state real estate department, the ~~state board of~~
44 ~~appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the Arizona game and fish
45 department, ~~or~~ the board of examiners of nursing care institution

1 administrators and assisted living facility managers OR THE STATE BOARD OF
2 DENTAL EXAMINERS.

3 2. "Board" means the board of fingerprinting.

4 3. "Central registry exception" means notification to the department
5 of economic security, the department of child safety or the department of
6 health services, as appropriate, pursuant to section 41-619.57 that the
7 person is not disqualified because of a central registry check conducted
8 pursuant to section 8-804.

9 4. "Expedited review" means an examination, in accordance with board
10 rule, of the documents an applicant submits by the board or its hearing
11 officer without the applicant being present.

12 5. "Good cause exception" means the issuance of a fingerprint
13 clearance card to an employee pursuant to section 41-619.55.

14 6. "Person" means a person who is required to be fingerprinted
15 pursuant to this article or who is subject to a central registry check and
16 any of the following:

- 17 (a) Section 8-105.
- 18 (b) Section 8-322.
- 19 (c) Section 8-463.
- 20 (d) Section 8-509.
- 21 (e) Section 8-802.
- 22 (f) Section 8-804.
- 23 (g) Section 15-183.
- 24 (h) Section 15-503.
- 25 (i) Section 15-512.
- 26 (j) Section 15-534.
- 27 (k) Section 15-763.01.
- 28 (l) Section 15-782.02.
- 29 (m) Section 15-1330.
- 30 (n) Section 15-1881.
- 31 (o) Section 17-215.
- 32 (p) Section 28-3413.
- 33 (q) Section 32-1232.
- 34 (r) SECTION 32-1284.
- 35 (s) SECTION 32-1297.01.
- 36 ~~(r)~~ (t) Section 32-2108.01.
- 37 ~~(s)~~ (u) Section 32-2123.
- 38 ~~(t)~~ (v) Section 32-2371.
- 39 ~~(u)~~ ~~Section 32-2372.~~
- 40 ~~(v)~~ (w) Section 32-3620.
- 41 ~~(w)~~ (x) Section 32-3668.
- 42 ~~(x)~~ (y) Section 32-3669.
- 43 ~~(y)~~ (z) Section 36-207.
- 44 ~~(z)~~ (aa) Section 36-411.
- 45 ~~(aa)~~ (bb) Section 36-425.03.

- 1 ~~(bb)~~ (cc) Section 36-446.04.
- 2 ~~(cc)~~ (dd) Section 36-594.01.
- 3 ~~(dd)~~ (ee) Section 36-594.02.
- 4 ~~(ee)~~ (ff) Section 36-882.
- 5 ~~(ff)~~ (gg) Section 36-883.02.
- 6 ~~(gg)~~ (hh) Section 36-897.01.
- 7 ~~(hh)~~ (ii) Section 36-897.03.
- 8 ~~(ii)~~ (jj) Section 36-3008.
- 9 ~~(jj)~~ (kk) Section 41-619.53.
- 10 ~~(kk)~~ (ll) Section 41-1964.
- 11 ~~(ll)~~ (mm) Section 41-1967.01.
- 12 ~~(mm)~~ (nn) Section 41-1968.
- 13 ~~(nn)~~ (oo) Section 41-1969.
- 14 ~~(oo)~~ (pp) Section 41-2814.
- 15 ~~(pp)~~ (qq) Section 46-141, subsection A.
- 16 ~~(qq)~~ (rr) Section 46-321.

17 Sec. 46. Section 41-1092, Arizona Revised Statutes, is amended to
18 read:

19 41-1092. Definitions

20 In this article, unless the context otherwise requires:

21 1. "Administrative law judge" means an individual or an agency head,
22 board or commission that sits as an administrative law judge, that conducts
23 administrative hearings in a contested case or an appealable agency action
24 and that makes decisions regarding the contested case or appealable agency
25 action.

26 2. "Administrative law judge decision" means the findings of fact,
27 conclusions of law and recommendations or decisions issued by an
28 administrative law judge.

29 3. "Appealable agency action" means an action that determines the
30 legal rights, duties or privileges of a party and that is not a contested
31 case. Appealable agency actions do not include interim orders by
32 self-supporting regulatory boards, rules, orders, standards or statements of
33 policy of general application issued by an administrative agency to
34 implement, interpret or make specific the legislation enforced or
35 administered by it or clarifications of interpretation, nor does it mean or
36 include rules concerning the internal management of the agency that do not
37 affect private rights or interests. For the purposes of this paragraph,
38 administrative hearing does not include a public hearing held for the purpose
39 of receiving public comment on a proposed agency action.

40 4. "Director" means the director of the office of administrative
41 hearings.

42 5. "Final administrative decision" means a decision by an agency that
43 is subject to judicial review pursuant to title 12, chapter 7, article 6.

44 6. "Office" means the office of administrative hearings.

45 7. "Self-supporting regulatory board" means any one of the following:

- 1 (a) The Arizona state board of accountancy.
- 2 (b) The state board of appraisal.
- 3 (c) The board of barbers.
- 4 (d) The board of behavioral health examiners.
- 5 (e) The Arizona state boxing and mixed martial arts commission.
- 6 (f) The state board of chiropractic examiners.
- 7 (g) The board of cosmetology.
- 8 (h) The state board of dental examiners.
- 9 (i) The state board of funeral directors and embalmers.
- 10 (j) The Arizona game and fish commission.
- 11 (k) The board of homeopathic and integrated medicine examiners.
- 12 (l) The Arizona medical board.
- 13 (m) The naturopathic physicians medical board.
- 14 (n) The state board of nursing.
- 15 (o) The board of examiners of nursing care institution administrators
- 16 and adult care home managers.
- 17 (p) The board of occupational therapy examiners.
- 18 (q) The state board of dispensing opticians.
- 19 (r) The state board of optometry.
- 20 (s) The Arizona board of osteopathic examiners in medicine and
- 21 surgery.
- 22 (t) The Arizona peace officer standards and training board.
- 23 (u) The Arizona state board of pharmacy.
- 24 (v) The board of physical therapy.
- 25 (w) The state board of podiatry examiners.
- 26 (x) The state board for private postsecondary education.
- 27 (y) The state board of psychologist examiners.
- 28 (z) The board of respiratory care examiners.
- 29 (aa) The office of pest management.
- 30 (bb) The state board of technical registration.
- 31 (cc) The Arizona state veterinary medical examining board.
- 32 (dd) The acupuncture board of examiners.
- 33 (ee) The Arizona regulatory board of physician assistants.

34 ~~(ff) The board of athletic training.~~

35 ~~(gg)~~ (ff) The board of massage therapy.

36 Sec. 47. Section 41-1758, Arizona Revised Statutes, is amended to
37 read:

38 41-1758. Definitions

39 In this article, unless the context otherwise requires:

40 1. "Agency" means the supreme court, the department of economic
41 security, the department of child safety, the department of education, the
42 department of health services, the department of juvenile corrections, the
43 department of emergency and military affairs, the department of
44 transportation, the state real estate department, the ~~state board of~~
45 ~~appraisal~~ DEPARTMENT OF FINANCIAL INSTITUTIONS, the board of fingerprinting,

1 the Arizona game and fish department, ~~or~~ the board of examiners of nursing
2 care institution administrators and assisted living facility managers **OR THE**
3 **STATE BOARD OF DENTAL EXAMINERS.**

4 2. "Division" means the fingerprinting division in the department of
5 public safety.

6 3. "Electronic or internet-based fingerprinting services" means a
7 secure system for digitizing applicant fingerprints and transmitting the
8 applicant data and fingerprints of a person or entity submitting fingerprints
9 to the department of public safety for any authorized purpose under this
10 title. For the purposes of this paragraph, "secure system" means a system
11 that complies with the information technology security policy approved by the
12 department of public safety.

13 4. "Good cause exception" means the issuance of a fingerprint
14 clearance card to an applicant pursuant to section 41-619.55.

15 5. "Person" means a person who is required to be fingerprinted
16 pursuant to any of the following:

- 17 (a) Section 8-105.
- 18 (b) Section 8-322.
- 19 (c) Section 8-463.
- 20 (d) Section 8-509.
- 21 (e) Section 8-802.
- 22 (f) Section 15-183.
- 23 (g) Section 15-503.
- 24 (h) Section 15-512.
- 25 (i) Section 15-534.
- 26 (j) Section 15-763.01.
- 27 (k) Section 15-782.02.
- 28 (l) Section 15-1330.
- 29 (m) Section 15-1881.
- 30 (n) Section 17-215.
- 31 (o) Section 28-3413.
- 32 (p) Section 32-1232.
- 33 (q) **SECTION 32-1284.**
- 34 (r) **SECTION 32-1297.01.**
- 35 ~~(q)~~ (s) Section 32-2108.01.
- 36 ~~(r)~~ (t) Section 32-2123.
- 37 ~~(s)~~ (u) Section 32-2371.
- 38 ~~(t)~~ ~~Section 32-2372.~~
- 39 ~~(u)~~ (v) Section 32-3620.
- 40 ~~(v)~~ (w) Section 32-3668.
- 41 ~~(w)~~ (x) Section 32-3669.
- 42 ~~(x)~~ (y) Section 36-207.
- 43 ~~(y)~~ (z) Section 36-411.
- 44 ~~(z)~~ (aa) Section 36-425.03.
- 45 ~~(aa)~~ (bb) Section 36-446.04.

1 ~~(bb)~~ (cc) Section 36-594.01.
2 ~~(cc)~~ (dd) Section 36-594.02.
3 ~~(dd)~~ (ee) Section 36-882.
4 ~~(ee)~~ (ff) Section 36-883.02.
5 ~~(ff)~~ (gg) Section 36-897.01.
6 ~~(gg)~~ (hh) Section 36-897.03.
7 ~~(hh)~~ (ii) Section 36-3008.
8 ~~(ii)~~ (jj) Section 41-619.52.
9 ~~(jj)~~ (kk) Section 41-619.53.
10 ~~(kk)~~ (ll) Section 41-1964.
11 ~~(ll)~~ (mm) Section 41-1967.01.
12 ~~(mm)~~ (nn) Section 41-1968.
13 ~~(nn)~~ (oo) Section 41-1969.
14 ~~(oo)~~ (pp) Section 41-2814.
15 ~~(pp)~~ (qq) Section 46-141, subsection A.
16 ~~(qq)~~ (rr) Section 46-321.
17 6. "Vulnerable adult" has the same meaning prescribed in section
18 13-3623.
19 Sec. 48. Section 41-1758.01, Arizona Revised Statutes, is amended to
20 read:
21 41-1758.01. Fingerprinting division; powers and duties
22 A. The fingerprinting division is established in the department of
23 public safety and shall:
24 1. Conduct fingerprint background checks for persons and applicants
25 who are seeking licenses from state agencies, employment with licensees,
26 contract providers and state agencies or employment or educational
27 opportunities with agencies that require fingerprint background checks
28 pursuant to sections 8-105, 8-322, 8-463, 8-509, 8-802, 15-183, 15-503,
29 15-512, 15-534, 15-763.01, 15-782.02, 15-1330, 15-1881, 17-215, 28-3413,
30 32-1232, 32-1284, 32-1297.01, 32-2108.01, 32-2123, 32-2371, ~~32-2372~~, 32-3620,
31 32-3668, 32-3669, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02,
32 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53,
33 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection
34 A and section 46-321.
35 2. Issue fingerprint clearance cards. On issuance, a fingerprint
36 clearance card becomes the personal property of the cardholder and the
37 cardholder shall retain possession of the fingerprint clearance card.
38 3. On submission of an application for a fingerprint clearance card,
39 collect the fees established by the board of fingerprinting pursuant to
40 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
41 monies collected in the board of fingerprinting fund.
42 4. Inform in writing each person who submits fingerprints for a
43 fingerprint background check of the right to petition the board of
44 fingerprinting for a good cause exception pursuant to section 41-1758.03,
45 41-1758.04 or 41-1758.07.

1 5. If after conducting a state and federal criminal history records
2 check the division determines that it is not authorized to issue a
3 fingerprint clearance card to a person, inform the person in writing that the
4 division is not authorized to issue a fingerprint clearance card. The notice
5 shall include the criminal history information on which the denial was
6 based. This criminal history information is subject to dissemination
7 restrictions pursuant to section 41-1750 and Public Law 92-544.

8 6. Notify the person in writing if the division suspends, revokes or
9 places a driving restriction notation on a fingerprint clearance card
10 pursuant to section 41-1758.04. The notice shall include the criminal
11 history information on which the suspension, revocation or placement of the
12 driving restriction notation was based. This criminal history information is
13 subject to dissemination restrictions pursuant to section 41-1750 and Public
14 Law 92-544.

15 7. Administer and enforce this article.

16 B. The fingerprinting division may contract for electronic or
17 internet-based fingerprinting services through an entity or entities for the
18 acquisition and transmission of applicant fingerprint and data submissions to
19 the department, including identity verified fingerprints pursuant to section
20 15-106. The entity or entities contracted by the department of public safety
21 may charge the applicant a fee for services provided pursuant to this
22 article. The entity or entities contracted by the department of public
23 safety shall comply with:

24 1. All information privacy and security measures and submission
25 standards established by the department of public safety.

26 2. The information technology security policy approved by the
27 department of public safety.

28 Sec. 49. Section 41-2503, Arizona Revised Statutes, is amended to
29 read:

30 41-2503. Definitions

31 In this chapter, unless the context otherwise requires:

32 1. "Architect services" means those professional architect services
33 that are within the scope of architectural practice as provided in title 32,
34 chapter 1.

35 2. "Business" means any corporation, partnership, individual, sole
36 proprietorship, joint stock company, joint venture or other private legal
37 entity.

38 3. "Change order" means a written order that is signed by a
39 procurement officer and that directs the contractor to make changes that the
40 changes clause of the contract authorizes the procurement officer to order.

41 4. "Construction":

42 (a) Means the process of building, altering, repairing, improving or
43 demolishing any public structure or building or other public improvements of
44 any kind to any public real property.

45 (b) Does not include:

- 1 (i) The routine operation, routine repair or routine maintenance of
2 existing facilities, structures, buildings or real property.
- 3 (ii) The investigation, characterization, restoration or remediation
4 due to an environmental issue of existing facilities, structures, buildings
5 or real property.
- 6 5. "Construction-manager-at-risk" means a project delivery method in
7 which:
- 8 (a) There is a separate contract for design services and a separate
9 contract for construction services, except that instead of a single contract
10 for construction services, the purchasing agency may elect separate contracts
11 for preconstruction services during the design phase, for construction during
12 the construction phase and for any other construction services.
- 13 (b) The contract for construction services may be entered into at the
14 same time as the contract for design services or at a later time.
- 15 (c) Design and construction of the project may be either:
- 16 (i) Sequential with the entire design complete before construction
17 commences.
- 18 (ii) Concurrent with the design produced in two or more phases and
19 construction of some phases commencing before the entire design is complete.
- 20 (d) Finance services, maintenance services, operations services,
21 preconstruction services and other related services may be included.
- 22 6. "Construction services" means either of the following for
23 construction-manager-at-risk, design-build and job-order-contracting project
24 delivery methods:
- 25 (a) Construction, excluding services, through the
26 construction-manager-at-risk or job-order-contracting project delivery
27 methods.
- 28 (b) A combination of construction and, as elected by the purchasing
29 agency, one or more related services, such as finance services, maintenance
30 services, operations services, design services and preconstruction services,
31 as those services are authorized in the definitions of
32 construction-manager-at-risk, design-build or job-order-contracting in this
33 section.
- 34 7. "Contract" means all types of state agreements, regardless of what
35 they may be called, for the procurement of materials, services, construction,
36 construction services or the disposal of materials.
- 37 8. "Contract modification" means any written alteration in the terms
38 and conditions of any contract accomplished by mutual action of the parties
39 to the contract.
- 40 9. "Contractor" means any person who has a contract with a state
41 governmental unit.
- 42 10. "Data" means documented information, regardless of form or
43 characteristic.
- 44 11. "Department" means the department of administration.
- 45 12. "Design-bid-build" means a project delivery method in which:

- 1 (a) There is a sequential award of two separate contracts.
2 (b) The first contract is for design services.
3 (c) The second contract is for construction.
4 (d) Design and construction of the project are in sequential phases.
5 (e) Finance services, maintenance services and operations services are
6 not included.
- 7 13. "Design-build" means a project delivery method in which:
8 (a) There is a single contract for design services and construction
9 services, except that instead of a single contract for design services and
10 construction services, the purchasing agency may elect separate contracts for
11 preconstruction services and design services during the design phase, for
12 construction and design services during the construction phase and for any
13 other construction services.
14 (b) Design and construction of the project may be either:
15 (i) Sequential with the entire design complete before construction
16 commences.
17 (ii) Concurrent with the design produced in two or more phases and
18 construction of some phases commencing before the entire design is complete.
19 (c) Finance services, maintenance services, operations services,
20 preconstruction services and other related services may be included.
- 21 14. "Design professional" means **A GEOLOGIST OR LANDSCAPE ARCHITECT OR**
22 an individual or firm that is registered by the state board of technical
23 registration pursuant to title 32, chapter 1 to practice architecture,
24 engineering, ~~geology, landscape architecture~~ or land surveying or any
25 combination of those professions and any person employed by the registered
26 individual or firm.
- 27 15. "Design requirements":
28 (a) Means at a minimum the purchasing agency's written description of
29 the project or service to be procured, including:
30 (i) The required features, functions, characteristics, qualities and
31 properties.
32 (ii) The anticipated schedule, including start, duration and
33 completion.
34 (iii) The estimated budgets applicable to the specific procurement for
35 design and construction and, if applicable, for operation and maintenance.
36 (b) May include:
37 (i) Drawings and other documents illustrating the scale and
38 relationship of the features, functions and characteristics of the project,
39 which shall all be prepared by a design professional who is registered
40 pursuant to section 32-121.
41 (ii) Additional design information or documents that the purchasing
42 agency elects to include.
- 43 16. "Design services" means architect services, engineer services or
44 landscape architect services.
- 45 17. "Designee" means a duly authorized representative of the director.

- 1 18. "Director" means the director of the department of administration.
2 19. "Employee" means an individual drawing a salary from a state
3 governmental unit, whether elected or not, and any noncompensated individual
4 performing personal services for any state governmental unit.
5 20. "Engineer services" means those professional engineer services that
6 are within the scope of engineering practice as provided in title 32,
7 chapter 1.
8 21. "Finance services" means financing for a construction services
9 project.
10 22. "General services administration contract" means contracts awarded
11 by the United States government general services administration.
12 23. "Grant" means the furnishing of financial or other assistance,
13 including state funds or federal grant funds, by any state governmental unit
14 to any person for the purpose of supporting or stimulating educational,
15 cultural, social or economic quality of life.
16 24. "Job-order-contracting" means a project delivery method in which:
17 (a) The contract is a requirements contract for indefinite quantities
18 of construction.
19 (b) The construction to be performed is specified in job orders issued
20 during the contract.
21 (c) Finance services, maintenance services, operations services,
22 preconstruction services, design services and other related services may be
23 included.
24 ~~25. "Landscape architect services" means those professional landscape~~
25 ~~architect services that are within the scope of landscape architectural~~
26 ~~practice as provided in title 32, chapter 1.~~
27 ~~26.~~ 25. "Maintenance services" means routine maintenance, repair and
28 replacement of existing facilities, structures, buildings or real property.
29 ~~27.~~ 26. "Materials":
30 (a) Means all property, including equipment, supplies, printing,
31 insurance and leases of property.
32 (b) Does not include land, a permanent interest in land or real
33 property or leasing space.
34 ~~28.~~ 27. "Operations services" means routine operation of existing
35 facilities, structures, buildings or real property.
36 ~~29.~~ 28. "Owner" means a state purchasing agency or state governmental
37 unit.
38 ~~30.~~ 29. "Person" means any corporation, business, individual, union,
39 committee, club, other organization or group of individuals.
40 ~~31.~~ 30. "Preconstruction services" means services and other activities
41 during the design phase.
42 ~~32.~~ 31. "Procurement":
43 (a) Means buying, purchasing, renting, leasing or otherwise acquiring
44 any materials, services, construction or construction services.

1 (b) Includes all functions that pertain to obtaining any materials,
2 services, construction or construction services, including description of
3 requirements, selection and solicitation of sources, preparation and award of
4 contract, and all phases of contract administration.

5 ~~33.~~ 32. "Procurement officer":

6 (a) Means any person duly authorized to enter into and administer
7 contracts and make written determinations with respect to the contracts.

8 (b) Includes an authorized representative acting within the limits of
9 the authorized representative's authority.

10 ~~34.~~ 33. "Purchasing agency" means any state governmental unit that is
11 authorized by this chapter or rules adopted pursuant to this chapter, or by
12 way of delegation from the director, to enter into contracts.

13 ~~35.~~ 34. "Services":

14 (a) Means the furnishing of labor, time or effort by a contractor or
15 subcontractor that does not involve the delivery of a specific end product
16 other than required reports and performance.

17 (b) Does not include employment agreements or collective bargaining
18 agreements.

19 ~~36.~~ 35. "Significant procurement role":

20 (a) Means any role that includes any of the following duties:

21 (i) Participating in the development of a procurement.

22 (ii) Participating in the development of an evaluation tool.

23 (iii) Approving a procurement or an evaluation tool.

24 (iv) Soliciting quotes greater than ten thousand dollars for the
25 provision of materials, services or construction.

26 (v) Serving as a technical advisor or an evaluator who evaluates a
27 procurement.

28 (vi) Recommending or selecting a vendor that will provide materials,
29 services or construction to this state.

30 (vii) Serving as a ~~decision-maker~~ DECISION-MAKER or designee on a
31 protest or an appeal by a party regarding an agency procurement selection or
32 decision.

33 (b) Does not include making decisions on developing specifications and
34 the scope of work for a procurement if the decision is based on the
35 application of commonly accepted industry standards or known published
36 standards of the agency as applied to the project, services, goods or
37 materials.

38 ~~37.~~ 36. "State governmental unit" means any department, commission,
39 council, board, bureau, committee, institution, agency, government
40 corporation or other establishment or official of the executive branch or
41 corporation commission of this state.

42 ~~38.~~ 37. "Subcontractor" means a person who contracts to perform work
43 or render service to a contractor or to another subcontractor as a part of a
44 contract with a state governmental unit.

1 ~~39.~~ 38. "Using agency" means any state governmental unit that uses any
2 materials, services or construction procured under this chapter.

3 Sec. 50. Section 41-2571, Arizona Revised Statutes, is amended to
4 read:

5 41-2571. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Architect services", "engineer services", ~~AND "land surveying~~
8 ~~services", "assayer services", "geologist services" and "landscape architect~~
9 ~~services"~~ means those professional services within the scope of the practice
10 of those services as provided in title 32, chapter 1, article 1.

11 2. "Cost" means the aggregate cost of all materials and services,
12 including labor performed by force account.

13 3. "Design professional service contract" means a written agreement
14 relating to the planning, design, construction administration, study,
15 evaluation, consulting, inspection, surveying, mapping, material sampling,
16 testing or other professional, scientific or technical services furnished in
17 connection with any actual or proposed study, planning, survey, environmental
18 remediation, construction, improvement, alteration, repair, maintenance,
19 relocation, moving, demolition or excavation of a structure, street or
20 roadway, appurtenance, facility or development or other improvement to land.

21 4. "Design professional services" means architect services, engineer
22 services, land surveying services, geologist services or landscape architect
23 services or any combination of those services performed by or under the
24 supervision of a design professional or employees or subconsultants of the
25 design professional.

26 5. "Subconsultant" means any person, firm, partnership, corporation,
27 association or other organization, or a combination of any of them, that has
28 a direct contract with a design professional or another subconsultant to
29 perform a portion of the work under a design professional service contract.

30 Sec. 51. Repeal

31 Section 41-3020.07, Arizona Revised Statutes, is repealed.

32 Sec. 52. Section 42-5075, Arizona Revised Statutes, is amended to
33 read:

34 42-5075. Prime contracting classification; exemptions;
35 definitions

36 A. The prime contracting classification is comprised of the business
37 of prime contracting and the business of manufactured building dealer. Sales
38 for resale to another manufactured building dealer are not subject to
39 tax. Sales for resale do not include sales to a lessor of manufactured
40 buildings. The sale of a used manufactured building is not taxable under
41 this chapter.

42 B. The tax base for the prime contracting classification is sixty-five
43 percent of the gross proceeds of sales or gross income derived from the
44 business. The following amounts shall be deducted from the gross proceeds of
45 sales or gross income before computing the tax base:

- 1 1. The sales price of land, which shall not exceed the fair market
2 value.
- 3 2. Sales and installation of groundwater measuring devices required
4 under section 45-604 and groundwater monitoring wells required by law,
5 including monitoring wells installed for acquiring information for a permit
6 required by law.
- 7 3. The sales price of furniture, furnishings, fixtures, appliances and
8 attachments that are not incorporated as component parts of or attached to a
9 manufactured building or the setup site. The sale of such items may be
10 subject to the taxes imposed by article 1 of this chapter separately and
11 distinctly from the sale of the manufactured building.
- 12 4. The gross proceeds of sales or gross income received from a
13 contract entered into for the modification of any building, highway, road,
14 railroad, excavation, manufactured building or other structure, project,
15 development or improvement located in a military reuse zone for providing
16 aviation or aerospace services or for a manufacturer, assembler or fabricator
17 of aviation or aerospace products within an active military reuse zone after
18 the zone is initially established or renewed under section 41-1531. To be
19 eligible to qualify for this deduction, before beginning work under the
20 contract, the prime contractor must have applied for a letter of
21 qualification from the department of revenue.
- 22 5. The gross proceeds of sales or gross income derived from a contract
23 to construct a qualified environmental technology manufacturing, producing or
24 processing facility, as described in section 41-1514.02, and from subsequent
25 construction and installation contracts that begin within ten years after the
26 start of initial construction. To qualify for this deduction, before
27 beginning work under the contract, the prime contractor must obtain a letter
28 of qualification from the department of revenue. This paragraph shall apply
29 for ten full consecutive calendar or fiscal years after the start of initial
30 construction.
- 31 6. The gross proceeds of sales or gross income from a contract to
32 provide for one or more of the following actions, or a contract for site
33 preparation, constructing, furnishing or installing machinery, equipment or
34 other tangible personal property, including structures necessary to protect
35 exempt incorporated materials or installed machinery or equipment, and
36 tangible personal property incorporated into the project, to perform one or
37 more of the following actions in response to a release or suspected release
38 of a hazardous substance, pollutant or contaminant from a facility to the
39 environment, unless the release was authorized by a permit issued by a
40 governmental authority:
- 41 (a) Actions to monitor, assess and evaluate such a release or a
42 suspected release.
- 43 (b) Excavation, removal and transportation of contaminated soil and
44 its treatment or disposal.

1 (c) Treatment of contaminated soil by vapor extraction, chemical or
2 physical stabilization, soil washing or biological treatment to reduce the
3 concentration, toxicity or mobility of a contaminant.

4 (d) Pumping and treatment or in situ treatment of contaminated
5 groundwater or surface water to reduce the concentration or toxicity of a
6 contaminant.

7 (e) The installation of structures, such as cutoff walls or caps, to
8 contain contaminants present in groundwater or soil and prevent them from
9 reaching a location where they could threaten human health or welfare or the
10 environment.

11 This paragraph does not include asbestos removal or the construction or use
12 of ancillary structures such as maintenance sheds, offices or storage
13 facilities for unattached equipment, pollution control equipment, facilities
14 or other control items required or to be used by a person to prevent or
15 control contamination before it reaches the environment.

16 7. The gross proceeds of sales or gross income that is derived from a
17 contract for the installation, assembly, repair or maintenance of machinery,
18 equipment or other tangible personal property that is either deducted from
19 the tax base of the retail classification under section 42-5061, subsection B
20 or that is exempt from use tax under section 42-5159, subsection B and that
21 has independent functional utility, pursuant to the following provisions:

22 (a) The deduction provided in this paragraph includes the gross
23 proceeds of sales or gross income derived from all of the following:

24 (i) Any activity performed on machinery, equipment or other tangible
25 personal property with independent functional utility.

26 (ii) Any activity performed on any tangible personal property relating
27 to machinery, equipment or other tangible personal property with independent
28 functional utility in furtherance of any of the purposes provided for under
29 subdivision (d) of this paragraph.

30 (iii) Any activity that is related to the activities described in
31 items (i) and (ii) of this subdivision, including inspecting the installation
32 of or testing the machinery, equipment or other tangible personal property.

33 (b) The deduction provided in this paragraph does not include gross
34 proceeds of sales or gross income from the portion of any contracting
35 activity that consists of the development of, or modification to, real
36 property in order to facilitate the installation, assembly, repair,
37 maintenance or removal of machinery, equipment or other tangible personal
38 property that is either deducted from the tax base of the retail
39 classification under section 42-5061, subsection B or exempt from use tax
40 under section 42-5159, subsection B.

41 (c) The deduction provided in this paragraph shall be determined
42 without regard to the size or useful life of the machinery, equipment or
43 other tangible personal property.

44 (d) For the purposes of this paragraph, "independent functional
45 utility" means that the machinery, equipment or other tangible personal

1 property can independently perform its function without attachment to real
2 property, other than attachment for any of the following purposes:

3 (i) Assembling the machinery, equipment or other tangible personal
4 property.

5 (ii) Connecting items of machinery, equipment or other tangible
6 personal property to each other.

7 (iii) Connecting the machinery, equipment or other tangible personal
8 property, whether as an individual item or as a system of items, to water,
9 power, gas, communication or other services.

10 (iv) Stabilizing or protecting the machinery, equipment or other
11 tangible personal property during operation by bolting, burying or performing
12 other similar nonpermanent connections to either real property or real
13 property improvements.

14 8. The gross proceeds of sales or gross income attributable to the
15 purchase of machinery, equipment or other tangible personal property that is
16 exempt from or deductible from transaction privilege and use tax under:

17 (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

18 (b) Section 42-5061, subsection B.

19 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
20 (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

21 (d) Section 42-5159, subsection B.

22 9. The gross proceeds of sales or gross income received from a
23 contract for the construction of an environmentally controlled facility for
24 the raising of poultry for the production of eggs and the sorting, cooling
25 and packaging of eggs.

26 10. The gross proceeds of sales or gross income that is derived from a
27 contract entered into with a person who is engaged in the commercial
28 production of livestock, livestock products or agricultural, horticultural,
29 viticultural or floricultural crops or products in this state for the
30 modification of any building, highway, road, excavation, manufactured
31 building or other structure, project, development or improvement used
32 directly and primarily to prevent, monitor, control or reduce air, water or
33 land pollution.

34 11. The gross proceeds of sales or gross income that is derived from
35 the installation, assembly, repair or maintenance of clean rooms that are
36 deducted from the tax base of the retail classification pursuant to section
37 42-5061, subsection B, paragraph 16.

38 12. For taxable periods beginning from and after June 30, 2001, the
39 gross proceeds of sales or gross income derived from a contract entered into
40 for the construction of a residential apartment housing facility that
41 qualifies for a federal housing subsidy for low income persons over sixty-two
42 years of age and that is owned by a nonprofit charitable organization that
43 has qualified under section 501(c)(3) of the internal revenue code.

44 13. For taxable periods beginning from and after December 31, 1996 and
45 ending before January 1, 2017, the gross proceeds of sales or gross income

1 derived from a contract to provide and install a solar energy device. The
2 contractor shall register with the department as a solar energy contractor.
3 By registering, the contractor acknowledges that it will make its books and
4 records relating to sales of solar energy devices available to the department
5 for examination.

6 14. The gross proceeds of sales or gross income derived from a
7 contract entered into for the construction of a launch site, as defined in 14
8 Code of Federal Regulations section 401.5.

9 15. The gross proceeds of sales or gross income derived from a
10 contract entered into for the construction of a domestic violence shelter
11 that is owned and operated by a nonprofit charitable organization that has
12 qualified under section 501(c)(3) of the internal revenue code.

13 16. The gross proceeds of sales or gross income derived from contracts
14 to perform postconstruction treatment of real property for termite and
15 general pest control, including wood destroying organisms.

16 17. The gross proceeds of sales or gross income received from
17 contracts entered into before July 1, 2006 for constructing a state
18 university research infrastructure project if the project has been reviewed
19 by the joint committee on capital review before the university enters into
20 the construction contract for the project. For the purposes of this
21 paragraph, "research infrastructure" has the same meaning prescribed in
22 section 15-1670.

23 18. The gross proceeds of sales or gross income received from a
24 contract for the construction of any building, or other structure, project,
25 development or improvement owned by a qualified business under section
26 41-1516 for harvesting or processing qualifying forest products removed from
27 qualifying projects as defined in section 41-1516 if actual construction
28 begins before January 1, 2024. To qualify for this deduction, the prime
29 contractor must obtain a letter of qualification from the Arizona commerce
30 authority before beginning work under the contract.

31 19. Any amount of the gross proceeds of sales or gross income
32 attributable to development fees that are incurred in relation to a contract
33 for construction, development or improvement of real property and that are
34 paid by a prime contractor or subcontractor. For the purposes of this
35 paragraph:

36 (a) The attributable amount shall not exceed the value of the
37 development fees actually imposed.

38 (b) The attributable amount is equal to the total amount of
39 development fees paid by the prime contractor or subcontractor, and the total
40 development fees credited in exchange for the construction of, contribution
41 to or dedication of real property for providing public infrastructure, public
42 safety or other public services necessary to the development. The real
43 property must be the subject of the development fees.

44 (c) "Development fees" means fees imposed to offset capital costs of
45 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or
2 title 48 regardless of the jurisdiction to which the fees are paid.

3 20. The gross proceeds of sales or gross income derived from a
4 contract entered into for the construction of a mixed waste processing
5 facility that is located on a municipal solid waste landfill and that is
6 constructed for the purpose of recycling solid waste or producing renewable
7 energy from landfill waste. For the purposes of this paragraph:

8 (a) "Mixed waste processing facility" means a solid waste facility
9 that is owned, operated or used for the treatment, processing or disposal of
10 solid waste, recyclable solid waste, conditionally exempt small quantity
11 generator waste or household hazardous waste. For the purposes of
12 this subdivision, "conditionally exempt small quantity generator waste",
13 "household hazardous waste" and "solid waste facility" have the same meanings
14 prescribed in section 49-701, except that solid waste facility does include a
15 site that stores, treats or processes paper, glass, wood, cardboard,
16 household textiles, scrap metal, plastic, vegetative waste, aluminum, steel
17 or other recyclable material.

18 (b) "Municipal solid waste landfill" has the same meaning prescribed
19 in section 49-701.

20 (c) "Recycling" means collecting, separating, cleansing, treating and
21 reconstituting recyclable solid waste that would otherwise become solid
22 waste, but does not include incineration or other similar processes.

23 (d) "Renewable energy" has the same meaning prescribed in section
24 41-1511.

25 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
26 of this section is subject to the following provisions:

27 1. A prime contractor may establish entitlement to the deduction by
28 both:

29 (a) Marking the invoice for the transaction to indicate that the gross
30 proceeds of sales or gross income derived from the transaction was deducted
31 from the base.

32 (b) Obtaining a certificate executed by the purchaser indicating the
33 name and address of the purchaser, the precise nature of the business of the
34 purchaser, the purpose for which the purchase was made, the necessary facts
35 to establish the deductibility of the property under section 42-5061,
36 subsection B, and a certification that the person executing the certificate
37 is authorized to do so on behalf of the purchaser. The certificate may be
38 disregarded if the prime contractor has reason to believe that the
39 information contained in the certificate is not accurate or complete.

40 2. A person who does not comply with paragraph 1 of this subsection
41 may establish entitlement to the deduction by presenting facts necessary to
42 support the entitlement, but the burden of proof is on that person.

43 3. The department may prescribe a form for the certificate described
44 in paragraph 1, subdivision (b) of this subsection. The department may also
45 adopt rules that describe the transactions with respect to which a person is

1 not entitled to rely solely on the information contained in the certificate
2 provided in paragraph 1, subdivision (b) of this subsection but must instead
3 obtain such additional information as required in order to be entitled to the
4 deduction.

5 4. If a prime contractor is entitled to a deduction by complying with
6 paragraph 1 of this subsection, the department may require the purchaser who
7 caused the execution of the certificate to establish the accuracy and
8 completeness of the information required to be contained in the certificate
9 that would entitle the prime contractor to the deduction. If the purchaser
10 cannot establish the accuracy and completeness of the information, the
11 purchaser is liable in an amount equal to any tax, penalty and interest that
12 the prime contractor would have been required to pay under article 1 of this
13 chapter if the prime contractor had not complied with paragraph 1 of this
14 subsection. Payment of the amount under this paragraph exempts the purchaser
15 from liability for any tax imposed under article 4 of this chapter. The
16 amount shall be treated as a transaction privilege tax to the purchaser and
17 as tax revenues collected from the prime contractor in order to designate the
18 distribution base for purposes of section 42-5029.

19 D. Subcontractors or others who perform modification activities are
20 not subject to tax if they can demonstrate that the job was within the
21 control of a prime contractor or contractors or a dealership of manufactured
22 buildings and that the prime contractor or dealership is liable for the tax
23 on the gross income, gross proceeds of sales or gross receipts attributable
24 to the job and from which the subcontractors or others were paid.

25 E. Amounts received by a contractor for a project are excluded from
26 the contractor's gross proceeds of sales or gross income derived from the
27 business if the person who hired the contractor executes and provides a
28 certificate to the contractor stating that the person providing the
29 certificate is a prime contractor and is liable for the tax under article 1
30 of this chapter. The department shall prescribe the form of the certificate.
31 If the contractor has reason to believe that the information contained on the
32 certificate is erroneous or incomplete, the department may disregard the
33 certificate. If the person who provides the certificate is not liable for
34 the tax as a prime contractor, that person is nevertheless deemed to be the
35 prime contractor in lieu of the contractor and is subject to the tax under
36 this section on the gross receipts or gross proceeds received by the
37 contractor.

38 F. Every person engaging or continuing in this state in the business
39 of prime contracting or dealership of manufactured buildings shall present to
40 the purchaser of such prime contracting or manufactured building a written
41 receipt of the gross income or gross proceeds of sales from such activity and
42 shall separately state the taxes to be paid pursuant to this section.

43 G. For the purposes of section 42-5032.01, the department shall
44 separately account for revenues collected under the prime contracting
45 classification from any prime contractor engaged in the preparation or

1 construction of a multipurpose facility, and related infrastructure, that is
2 owned, operated or leased by the tourism and sports authority pursuant to
3 title 5, chapter 8.

4 H. For the purposes of section 42-5032.02, from and after
5 September 30, 2013, the department shall separately account for revenues
6 reported and collected under the prime contracting classification from any
7 prime contractor engaged in the construction of any buildings and associated
8 improvements that are for the benefit of a manufacturing facility. For the
9 purposes of this subsection, "associated improvements" and "manufacturing
10 facility" have the same meanings prescribed in section 42-5032.02.

11 I. The gross proceeds of sales or gross income derived from a contract
12 for lawn maintenance services are not subject to tax under this section if
13 the contract does not include landscaping activities. Lawn maintenance
14 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
15 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
16 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
17 lawn de-thatching, seeding winter lawns, leaf and debris collection and
18 removal, tree or shrub pruning or clipping, garden and gravel raking and
19 applying pesticides, as defined in section 3-361, and fertilizer materials,
20 as defined in section 3-262.

21 J. Except as provided in subsection 0 of this section, the gross
22 proceeds of sales or gross income derived from landscaping activities are
23 subject to tax under this section. Landscaping includes installing lawns,
24 grading or leveling ground, installing gravel or boulders, planting trees and
25 other plants, felling trees, removing or mulching tree stumps, removing other
26 imbedded plants, building irrigation berms, installing railroad ties and
27 installing underground sprinkler or watering systems.

28 K. The portion of gross proceeds of sales or gross income attributable
29 to the actual direct costs of providing architectural or engineering services
30 that are incorporated in a contract is not subject to tax under this section.
31 For the purposes of this subsection, "direct costs" means the portion of the
32 actual costs that are directly expended in providing architectural or
33 engineering services.

34 L. Operating a landfill or a solid waste disposal facility is not
35 subject to taxation under this section, including filling, compacting and
36 creating vehicle access to and from cell sites within the landfill.
37 Constructing roads to a landfill or solid waste disposal facility and
38 constructing cells within a landfill or solid waste disposal facility may be
39 deemed prime contracting under this section.

40 M. The following apply in determining the taxable situs of sales of
41 manufactured buildings:

42 1. For sales in this state where the manufactured building dealer
43 contracts to deliver the building to a setup site or to perform the setup in
44 this state, the taxable situs is the setup site.

1 2. For sales in this state where the manufactured building dealer does
2 not contract to deliver the building to a setup site or does not perform the
3 setup, the taxable situs is the location of the dealership where the building
4 is delivered to the buyer.

5 3. For sales in this state where the manufactured building dealer
6 contracts to deliver the building to a setup site that is outside this state,
7 the situs is outside this state and the transaction is excluded from tax.

8 N. The gross proceeds of sales or gross income attributable to a
9 written contract for design phase services or professional services, executed
10 before modification begins and with terms, conditions and pricing of all of
11 these services separately stated in the contract from those for construction
12 phase services, is not subject to tax under this section, regardless of
13 whether the services are provided sequential to or concurrent with prime
14 contracting activities that are subject to tax under this section. This
15 subsection does not include the gross proceeds of sales or gross income
16 attributable to construction phase services. For the purposes of this
17 subsection:

18 1. "Construction phase services" means services for the execution and
19 completion of any modification, including the following:

20 (a) Administration or supervision of any modification performed on the
21 project, including team management and coordination, scheduling, cost
22 controls, submittal process management, field management, safety program,
23 close-out process and warranty period services.

24 (b) Administration or supervision of any modification performed
25 pursuant to a punch list. For the purposes of this subdivision, "punch list"
26 means minor items of modification work performed after substantial completion
27 and before final completion of the project.

28 (c) Administration or supervision of any modification performed
29 pursuant to change orders. For the purposes of this subdivision, "change
30 order" means a written instrument issued after execution of a contract for
31 modification work, providing for all of the following:

32 (i) The scope of a change in the modification work, contract for
33 modification work or other contract documents.

34 (ii) The amount of an adjustment, if any, to the guaranteed maximum
35 price as set in the contract for modification work. For the purposes of this
36 item, "guaranteed maximum price" means the amount guaranteed to be the
37 maximum amount due to a prime contractor for the performance of all
38 modification work for the project.

39 (iii) The extent of an adjustment, if any, to the contract time of
40 performance set forth in the contract.

41 (d) Administration or supervision of any modification performed
42 pursuant to change directives. For the purposes of this subdivision, "change
43 directive" means a written order directing a change in modification work
44 before agreement on an adjustment of the guaranteed maximum price or contract
45 time.

- 1 (e) Inspection to determine the dates of substantial completion or
2 final completion.
- 3 (f) Preparation of any manuals, warranties, as-built drawings, spares
4 or other items the prime contractor must furnish pursuant to the contract for
5 modification work. For the purposes of this subdivision, "as-built drawing"
6 means a drawing that indicates field changes made to adapt to field
7 conditions, field changes resulting from change orders or buried and
8 concealed installation of piping, conduit and utility services.
- 9 (g) Preparation of status reports after modification work has begun
10 detailing the progress of work performed, including preparation of any of the
11 following:
- 12 (i) Master schedule updates.
13 (ii) Modification work cash flow projection updates.
14 (iii) Site reports made on a periodic basis.
15 (iv) Identification of discrepancies, conflicts or ambiguities in
16 modification work documents that require resolution.
17 (v) Identification of any health and safety issues that have arisen in
18 connection with the modification work.
- 19 (h) Preparation of daily logs of modification work, including
20 documentation of personnel, weather conditions and on-site occurrences.
- 21 (i) Preparation of any submittals or shop drawings used by the prime
22 contractor to illustrate details of the modification work performed.
- 23 (j) Administration or supervision of any other activities for which a
24 prime contractor receives a certificate for payment or certificate for final
25 payment based on the progress of modification work performed on the project.
- 26 2. "Design phase services" means services for developing and
27 completing a design for a project that are not construction phase services,
28 including the following:
- 29 (a) Evaluating surveys, reports, test results or any other information
30 on-site conditions for the project, including physical characteristics, legal
31 limitations and utility locations for the site.
- 32 (b) Evaluating any criteria or programming objectives for the project
33 to ascertain requirements for the project, such as physical requirements
34 affecting cost or projected utilization of the project.
- 35 (c) Preparing drawings and specifications for architectural program
36 documents, schematic design documents, design development documents,
37 modification work documents or documents that identify the scope of or
38 materials for the project.
- 39 (d) Preparing an initial schedule for the project, excluding the
40 preparation of updates to the master schedule after modification work has
41 begun.
- 42 (e) Preparing preliminary estimates of costs of modification work
43 before completion of the final design of the project, including an estimate
44 or schedule of values for any of the following:

- 1 (i) Labor, materials, machinery and equipment, tools, water, heat,
2 utilities, transportation and other facilities and services used in the
3 execution and completion of modification work, regardless of whether they are
4 temporary or permanent or whether they are incorporated in the modifications.
- 5 (ii) The cost of labor and materials to be furnished by the owner of
6 the real property.
- 7 (iii) The cost of any equipment of the owner of the real property to
8 be assigned by the owner to the prime contractor.
- 9 (iv) The cost of any labor for installation of equipment separately
10 provided by the owner of the real property that has been designed, specified,
11 selected or specifically provided for in any design document for the project.
- 12 (v) Any fee paid by the owner of the real property to the prime
13 contractor pursuant to the contract for modification work.
- 14 (vi) Any bond and insurance premiums.
- 15 (vii) Any applicable taxes.
- 16 (viii) Any contingency fees for the prime contractor that may be used
17 before final completion of the project.
- 18 (f) Reviewing and evaluating cost estimates and project documents to
19 prepare recommendations on site use, site improvements, selection of
20 materials, building systems and equipment, modification feasibility,
21 availability of materials and labor, local modification activity as related
22 to schedules and time requirements for modification work.
- 23 (g) Preparing the plan and procedures for selection of subcontractors,
24 including any prequalification of subcontractor candidates.
- 25 3. "Professional services" means architect services, ~~assayer services,~~
26 engineer services, ~~geologist services,~~ OR land surveying services ~~or~~
27 ~~landscape architect services~~ that are within the scope of those services as
28 provided in title 32, chapter 1 and for which gross proceeds of sales or
29 gross income has not otherwise been deducted under subsection K of this
30 section.
- 31 0. The gross proceeds of sales or gross income derived from a contract
32 with the owner of real property or improvements to real property for the
33 maintenance, repair, replacement or alteration of existing property is not
34 subject to tax under this section if the contract does not include
35 modification activities, except as specified in this subsection. The gross
36 proceeds of sales or gross income derived from a de minimis amount of
37 modification activity does not subject the contract or any part of the
38 contract to tax under this section. For the purposes of this subsection:
- 39 1. Tangible personal property that is incorporated or fabricated into
40 a project described in this subsection may be subject to the amount
41 prescribed in section 42-5008.01.
- 42 2. Each contract is independent of any other contract, except that any
43 change order that directly relates to the scope of work of the original
44 contract shall be treated the same as the original contract under this
45 chapter, regardless of the amount of modification activities included in the

1 change order. If a change order does not directly relate to the scope of
2 work of the original contract, the change order shall be treated as a new
3 contract, with the tax treatment of any subsequent change order to follow the
4 tax treatment of the contract to which the scope of work of the subsequent
5 change order directly relates.

6 P. Notwithstanding subsection O of this section, a contract that
7 primarily involves surface or subsurface improvements to land and that is
8 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
9 taxable under this section, even if the contract also includes vertical
10 improvements. Agencies that are subject to procurement processes under those
11 provisions shall include in the request for proposals a notice to bidders
12 when those projects are subject to this section. This subsection does not
13 apply to contracts with:

14 1. Community facilities districts, fire districts, county television
15 improvement districts, community park maintenance districts, cotton pest
16 control districts, hospital districts, pest abatement districts, health
17 service districts, agricultural improvement districts, county free library
18 districts, county jail districts, county stadium districts, special health
19 care districts, public health services districts, theme park districts,
20 regional attraction districts or revitalization districts.

21 2. Any special taxing district not specified in paragraph 1 of this
22 subsection if the district does not substantially engage in the modification,
23 maintenance, repair, replacement or alteration of surface or subsurface
24 improvements to land.

25 Q. Notwithstanding subsection R, paragraph 10 of this section, a
26 person owning real property who enters into a contract for sale of the real
27 property, who is responsible to the new owner of the property for
28 modifications made to the property in the period subsequent to the transfer
29 of title and who receives a consideration for the modifications is considered
30 a prime contractor solely for purposes of taxing the gross proceeds of sale
31 or gross income received for the modifications made subsequent to the
32 transfer of title. The original owner's gross proceeds of sale or gross
33 income received for the modifications shall be determined according to the
34 following methodology:

35 1. If any part of the contract for sale of the property specifies
36 amounts to be paid to the original owner for the modifications to be made in
37 the period subsequent to the transfer of title, the amounts are included in
38 the original owner's gross proceeds of sale or gross income under this
39 section. Proceeds from the sale of the property that are received after
40 transfer of title and that are unrelated to the modifications made subsequent
41 to the transfer of title are not considered gross proceeds of sale or gross
42 income from the modifications.

43 2. If the original owner enters into an agreement separate from the
44 contract for sale of the real property providing for amounts to be paid to
45 the original owner for the modifications to be made in the period subsequent

1 to the transfer of title to the property, the amounts are included in the
2 original owner's gross proceeds of sale or gross income received for the
3 modifications made subsequent to the transfer of title.

4 3. If the original owner is responsible to the new owner for
5 modifications made to the property in the period subsequent to the transfer
6 of title and derives any gross proceeds of sale or gross income from the
7 project subsequent to the transfer of title other than a delayed disbursement
8 from escrow unrelated to the modifications, it is presumed that the amounts
9 are received for the modifications made subsequent to the transfer of title
10 unless the contrary is established by the owner through its books, records
11 and papers kept in the regular course of business.

12 4. The tax base of the original owner is computed in the same manner
13 as a prime contractor under this section.

14 R. For the purposes of this section:

15 1. "Alteration" means an activity or action that causes a direct
16 physical change to existing property. For the purposes of this paragraph:

17 (a) For existing property that is properly classified as class two
18 property under section 42-12002, paragraph 1, subdivision (c) or paragraph 2,
19 subdivision (c) and that is used for residential purposes, class three
20 property under section 42-12003 or class four property under 42-12004, this
21 paragraph does not apply if the contract amount is more than twenty-five
22 percent of the most recent full cash value established under chapter 13,
23 article 2 of this title as of the date of any bid for the work or the date of
24 the contract, whichever value is higher.

25 (b) For all existing property other than existing property described
26 in subdivision (a) of this paragraph, this paragraph does not apply if any of
27 the following is true:

28 (i) The contract amount is more than seven hundred fifty thousand
29 dollars.

30 (ii) The scope of work directly relates to more than forty percent of
31 the existing square footage of the existing property.

32 (iii) The scope of work involves expanding the square footage of more
33 than ten percent of the existing property.

34 (c) Project elements may not be artificially separated from a contract
35 to cause a project to qualify as an alteration. The department has the
36 burden of proof that project elements have been artificially separated from a
37 contract.

38 (d) If a project for which the owner and the person performing the
39 work reasonably believed, at the inception of the contract, would be treated
40 as an alteration under this paragraph and, on completion of the project, the
41 project exceeded the applicable threshold described in either subdivision (a)
42 or (b) of this paragraph by no more than twenty-five percent of the
43 applicable threshold for any reason, the work performed under the contract
44 qualifies as an alteration.

1 (e) A change order that directly relates to the scope of work of the
2 original contract shall be treated as part of the original contract, and the
3 contract amount shall include any amount attributable to a change order that
4 directly relates to the scope of work of the original contract.

5 (f) Alteration does not include maintenance, repair or replacement.

6 2. "Contracting" means engaging in business as a contractor.

7 3. "Contractor" is synonymous with the term "builder" and means any
8 person or organization that undertakes to or offers to undertake to, or
9 purports to have the capacity to undertake to, or submits a bid to, or does
10 personally or by or through others, modify any building, highway, road,
11 railroad, excavation, manufactured building or other structure, project,
12 development or improvement, or to do any part of such a project, including
13 the erection of scaffolding or other structure or works in connection with
14 such a project, and includes subcontractors and specialty contractors. For
15 all purposes of taxation or deduction, this definition shall govern without
16 regard to whether or not such contractor is acting in fulfillment of a
17 contract.

18 4. "Manufactured building" means a manufactured home, mobile home or
19 factory-built building, as defined in section 41-2142.

20 5. "Manufactured building dealer" means a dealer who either:

21 (a) Is licensed pursuant to title 41, chapter 16 and who sells
22 manufactured buildings to the final consumer.

23 (b) Supervises, performs or coordinates the excavation and completion
24 of site improvements or the setup or moving of a manufactured building,
25 including the contracting, if any, with any subcontractor or specialty
26 contractor for the completion of the contract.

27 6. "Modification" means construction, grading and leveling ground,
28 wreckage or demolition. Modification does not include:

29 (a) Any project described in subsection 0 of this section.

30 (b) Any wreckage or demolition of existing property, or any other
31 activity that is a necessary component of a project described in subsection 0
32 of this section.

33 (c) Any mobilization or demobilization related to a project described
34 in subsection 0 of this section, such as the erection or removal of temporary
35 facilities to be used by those persons working on the project.

36 7. "Modify" means to make a modification or cause a modification to be
37 made.

38 8. "Owner" means the person that holds title to the real property or
39 improvements to real property that is the subject of the work, as well as an
40 agent of the title holder and any person with the authority to perform or
41 authorize work on the real property or improvements, including a tenant and a
42 property manager. For the purposes of subsection 0 of this section, a person
43 who is hired by a general contractor that is hired by an owner, or a
44 subcontractor of a general contractor that is hired by an owner, is
45 considered to be hired by the owner.

1 9. "Prime contracting" means engaging in business as a prime
2 contractor.

3 10. "Prime contractor" means a contractor who supervises, performs or
4 coordinates the modification of any building, highway, road, railroad,
5 excavation, manufactured building or other structure, project, development or
6 improvement, including the contracting, if any, with any subcontractors or
7 specialty contractors and who is responsible for the completion of the
8 contract. Except as provided in subsections E and Q of this section, a
9 person who owns real property, who engages one or more contractors to modify
10 that real property and who does not itself modify that real property is not a
11 prime contractor within the meaning of this paragraph regardless of the
12 existence of a contract for sale or the subsequent sale of that real
13 property.

14 11. "Replacement" means the removal from service of one component or
15 system of existing property or tangible personal property installed in
16 existing property, including machinery or equipment, and the installation of
17 a new component or system or new tangible personal property, including
18 machinery or equipment, that provides the same similar or upgraded design or
19 functionality, regardless of the contract amount and regardless of whether
20 the existing component or system or existing tangible personal property is
21 physically removed from the existing property.

22 12. "Sale of a used manufactured building" does not include a lease of
23 a used manufactured building.

24 Sec. 53. Section 45-454, Arizona Revised Statutes, is amended to read:
25 45-454. Exemption of small non-irrigation wells; definitions

26 A. Withdrawals of groundwater for non-irrigation uses from wells
27 having a pump with a maximum capacity of not more than thirty-five gallons
28 per minute which were drilled before April 28, 1983 or which were drilled
29 after April 28, 1983 pursuant to a notice of intention to drill which was on
30 file with the department on such date are exempt from this chapter, except
31 that:

32 1. Wells drilled before June 12, 1980 which are not abandoned or
33 capped or wells which were not completed on June 12, 1980 but for which a
34 notice of intention to drill was on file with the Arizona water commission on
35 such date are subject to subsections J, K and L of this section and must be
36 registered pursuant to section 45-593. If two or more wells in an active
37 management area are exempt under this paragraph and are used to serve the
38 same non-irrigation use at the same location, the aggregate quantity of
39 groundwater withdrawn from the wells shall not exceed fifty-six acre-feet per
40 year.

41 2. Wells drilled between June 12, 1980 and April 28, 1983, except as
42 provided in paragraph 1 of this subsection, and wells drilled after April 28,
43 1983 pursuant to a notice of intention to drill which was on file with the
44 department on April 28, 1983, are subject to subsections G, I, J and K of
45 this section.

1 B. Withdrawals of groundwater for non-irrigation uses from wells
2 having a pump with a maximum capacity of not more than thirty-five gallons
3 per minute drilled on or after April 28, 1983, except wells drilled after
4 April 28, 1983 pursuant to a notice of intention to drill which was on file
5 with the department on such date, are exempt from this chapter, except that:

6 1. Such wells are subject to subsections G through K of this section.

7 2. In an active management area, other than a subsequent active
8 management area designated for a portion of a groundwater basin in the
9 regional aquifer systems of northern Arizona, withdrawals of groundwater from
10 such wells for non-irrigation uses other than domestic purposes and stock
11 watering shall not exceed ten acre-feet per year.

12 3. In a subsequent active management area that is designated for a
13 portion of a groundwater basin in the regional aquifer systems of northern
14 Arizona, groundwater withdrawn from such wells may be used only for domestic
15 purposes and stock watering.

16 C. On or after January 1, 2006, an exempt well otherwise allowed by
17 this section may not be drilled on land if any part of the land is within one
18 hundred feet of the operating water distribution system of a municipal
19 provider with an assured water supply designation within the boundaries of an
20 active management area established on or before July 1, 1994, as shown on a
21 digitized service area map provided to the director by the municipal provider
22 and updated by the municipal provider as specified by the director.

23 D. On request from the owner of the land on which an exempt well is
24 prohibited pursuant to subsection C of this section on a form prescribed by
25 the director, the director shall issue an exemption from subsection C of this
26 section if the landowner demonstrates to the satisfaction of the director
27 that any of the following applies:

28 1. The landowner submitted a written request for service to the
29 municipal provider that operates the distribution system and the municipal
30 provider did not provide written verification to the landowner within thirty
31 calendar days after receipt of the request that water service is available to
32 the landowner after payment of any applicable fee to the municipal provider.

33 2. The total capital cost and fees for connecting to the operating
34 water distribution system exceed the total capital cost and fees for drilling
35 and fully equipping an exempt well.

36 3. If the applicant must obtain an easement across other land to
37 connect to the water distribution system of the municipal provider, the
38 applicant sent the owner of the land a request for the easement by certified
39 mail, return receipt requested, and either the applicant did not receive a
40 response to the request within thirty calendar days of mailing the request or
41 the request was denied.

42 4. The landowner does not qualify for an exemption pursuant to
43 paragraph 1, 2 or 3 of this subsection and the landowner provides written
44 verification from the municipal provider that the landowner shall not receive
45 or request water service from the municipal provider while the exempt well is

1 operational. The exemption for that well is revoked if the landowner or any
2 subsequent landowner receives water service from the municipal provider. In
3 determining whether to approve or reject a permit application filed under
4 section 45-599, the director shall not consider any impacts the proposed well
5 may have on an exempt well drilled pursuant to this paragraph.

6 E. This section does not prohibit a property owner, after January 1,
7 2006, from drilling a replacement exempt well for a lawful exempt well if the
8 replacement well does not increase the total number of operable exempt wells
9 on the applicant's land.

10 F. A remediation well drilled for the purpose of remediating
11 groundwater is exempt from this section if it meets one of the following:

12 1. The remediation well is for an approved department of environmental
13 quality or United States environmental protection agency remediation program.

14 2. A ~~registered~~ PROFESSIONAL geologist certifies that the remediation
15 well is for the purpose of remediation.

16 G. A person shall file a notice of intention to drill with the
17 director pursuant to section 45-596 before drilling an exempt well or causing
18 an exempt well to be drilled.

19 H. The registered well owner shall file a completion report pursuant
20 to section 45-600, subsection B.

21 I. In an active management area only one exempt well may be drilled or
22 used to serve the same non-irrigation use at the same location, except that a
23 person may drill or use a second exempt well to serve the same non-irrigation
24 use at the same location if the director determines that all of the following
25 apply:

26 1. Because of its location, the first exempt well is not capable of
27 consistently producing more than three gallons per minute of groundwater when
28 equipped with a pump with a maximum capacity of thirty-five gallons per
29 minute.

30 2. The second exempt well is located on the same parcel of land as the
31 first exempt well, the parcel of land is at least one acre in size, all
32 groundwater withdrawn from both exempt wells is used on that parcel of land
33 and there are no other exempt wells on that parcel of land.

34 3. Combined withdrawals from both wells do not exceed five acre-feet
35 per year.

36 4. If the second exempt well is drilled after January 1, 2000, the
37 county health authority for the county in which the well is located or any
38 other local health authority that controls the installation of septic tanks
39 or sewer systems in the county has approved the location of the well in
40 writing after physically inspecting the well site.

41 5. Use of two wells for the same non-irrigation use at the same
42 location is not contrary to the health and welfare of the public.

43 J. An exempt well is subject to sections 45-594 and 45-595.

44 K. Groundwater withdrawn from an exempt well may be transported only
45 pursuant to articles 8 and 8.1 of this chapter.

1 L. A person who owns land from which exempt withdrawals were being
2 made as of the date of the designation of the active management area is not
3 eligible for a certificate of grandfathered right for a type 2 non-irrigation
4 use for such withdrawals.

5 M. For the purposes of this section:

6 1. "Domestic purposes" means uses related to the supply, service and
7 activities of households and private residences and includes the application
8 of water to less than two acres of land to produce plants or parts of plants
9 for sale or human consumption, or for use as feed for livestock, range
10 livestock or poultry, as such terms are defined in section 3-1201.

11 2. "Municipal provider" means a city, town, private water company or
12 irrigation district that supplies water for non-irrigation use.

13 3. "Stock watering" means the watering of livestock, range livestock
14 or poultry, as such terms are defined in section 3-1201.

15 Sec. 54. Section 45-596, Arizona Revised Statutes, is amended to read:

16 45-596. Notice of intention to drill; fee

17 A. In an area not subject to active management, a person may not drill
18 or cause to be drilled any well or deepen an existing well without first
19 filing notice of intention to drill pursuant to subsection C of this section
20 or obtaining a permit pursuant to section 45-834.01. Only one notice of
21 intention to drill is required for all wells that are drilled by or for the
22 same person to obtain geophysical, mineralogical or geotechnical data within
23 a single section of land.

24 B. In an active management area, a person may not drill or cause to be
25 drilled an exempt well, a replacement well in approximately the same location
26 or any other well for which a permit is not required under this article,
27 article 7 of this chapter or section 45-834.01 or deepen an existing well
28 without first filing a notice of intention to drill pursuant to subsection C
29 of this section. Only one notice of intention to drill is required for all
30 wells that are drilled by or for the same person to obtain geophysical,
31 mineralogical or geotechnical data within a single section of land.

32 C. A notice of intention to drill shall be filed with the director on
33 a form that is prescribed and furnished by the director and that shall
34 include:

35 1. The name and mailing address of the person filing the notice.

36 2. The legal description of the land on which the well is proposed to
37 be drilled and the name and mailing address of the owner of the land.

38 3. The legal description of the location of the well on the land.

39 4. The depth, diameter and type of casing of the proposed well.

40 5. Such legal description of the land on which the groundwater is
41 proposed to be used as may be required by the director to administer this
42 chapter.

43 6. When construction is to begin.

44 7. The proposed uses to which the groundwater will be applied.

- 1 8. The name and well driller's license number of the well driller who
2 is to construct the well.
- 3 9. The design pumping capacity of the well.
- 4 10. If for a replacement well, the maximum capacity of the original
5 well and the distance of the replacement well from the original well.
- 6 11. Proof that the director determines to be satisfactory that the
7 person proposing to construct the well holds a valid license issued by the
8 registrar of contractors pursuant to title 32, chapter 10 and that the
9 license is of the type necessary to construct the well described in the
10 notice of intention to drill. If the proposed well driller does not hold a
11 valid license, the director may accept proof that the proposed well driller
12 is exempt from licensing as prescribed by section 32-1121.
- 13 12. If any water from the proposed well will be used for domestic
14 purposes as defined in section 45-454, evidence of compliance with the
15 requirements of subsection F of this section.
- 16 13. If for a second exempt well at the same location for the same use
17 pursuant to section 45-454, subsection I, proof that the requirements of that
18 subsection are met.
- 19 14. If for a well to obtain geophysical, mineralogical or geotechnical
20 data within a single section of land, the information prescribed by this
21 subsection for each well that will be included in that section of land before
22 each well is drilled.
- 23 15. Such other information as the director may require.
- 24 D. On receiving a notice of intention to drill and the fee required by
25 subsection L of this section, the director shall endorse on the notice the
26 date of its receipt. The director shall then determine whether all
27 information that is required has been submitted and whether the requirements
28 of subsection C, paragraphs 11 and 12 and subsection I of this section have
29 been met. If so, within fifteen days of receipt of the notice, or such
30 longer time as provided in subsection J of this section, the director shall
31 record the notice, mail a drilling card that authorizes the drilling of the
32 well to the well driller identified in the notice and mail written notice of
33 the issuance of the drilling card to the person filing the notice of
34 intention to drill at the address stated in the notice. On receipt of the
35 drilling card, the well driller may proceed to drill or deepen the well as
36 described in the notice of intention to drill. If the director determines
37 that the required information has not been submitted or that the requirements
38 of subsection C, paragraphs 11 and 12 or subsection I of this section have
39 not been met, the director shall mail a statement of the determination to the
40 person giving the notice to the address stated in the notice, and the person
41 giving the notice may not proceed to drill or deepen the well.
- 42 E. The well shall be completed within one year after the date of the
43 notice unless the director approves a longer period of time pursuant to this
44 subsection. If the well is not completed within one year or within the time
45 approved by the director pursuant to this subsection, the person shall file a

1 new notice before proceeding with further construction. At the time the
2 drilling card for the well is issued, the director may provide for and
3 approve a completion period that is greater than one year but not to exceed
4 five years from the date of the notice if both of the following apply:

5 1. The proposed well is a nonexempt well within an active management
6 area and qualifies as a replacement well in approximately the same location
7 as prescribed in rules adopted by the director pursuant to section 45-597.

8 2. The applicant has submitted evidence that demonstrates one of the
9 following:

10 (a) This state or a political subdivision of this state has acquired
11 or has begun a condemnation action to acquire the land on which the original
12 well is located.

13 (b) The original well has been rendered inoperable due to flooding,
14 subsidence or other extraordinary physical circumstances that are beyond the
15 control of the well owner.

16 F. If any water from a proposed well will be used for domestic
17 purposes as defined in section 45-454 on a parcel of land of five or fewer
18 acres, the applicant shall submit a well site plan of the property with the
19 notice of intention to drill. The site plan shall:

20 1. Include the county assessor's parcel identification number.

21 2. Show the proposed well location and the location of any septic tank
22 or sewer system that is either located on the property or within one hundred
23 feet of the proposed well site.

24 3. Show written approval by the county health authority that controls
25 the installation of septic tanks or sewer systems in the county, or by the
26 local health authority in areas where the authority to control installation
27 of septic tanks or sewer systems has been delegated to a local authority. In
28 areas where there is no local or county authority that controls the
29 installation of septic tanks or sewer systems, the applicant shall apply for
30 approval directly to the department of water resources.

31 G. Before approving a well site plan submitted pursuant to subsection
32 F of this section, the county or local health authority or the department of
33 water resources, as applicable, pursuant to subsection F of this section,
34 shall review the well site plan and determine whether the proposed well
35 location complies with applicable local laws, ordinances and regulations and
36 any laws or rules adopted under this title and title 49 regarding the
37 placement of wells and the proximity of wells to septic tanks or sewer
38 systems. If the health authority or the department of water resources, as
39 applicable, pursuant to subsection F of this section, finds that the proposed
40 well location complies with this title and title 49 and with local
41 requirements, it shall endorse the site plan and the proposed well placement
42 in a manner indicating approval. On endorsement, the director of water
43 resources shall approve the construction of the well, if all remaining
44 requirements have been met. If the health authority is unable to determine
45 whether the proposed well location complies with this title and title 49 and

1 local requirements, it shall indicate this on the site plan and the decision
2 to approve or reject the proposed construction rests with the director of
3 water resources. If parcel size, geology or location of improvements on the
4 property prevents the well from being drilled in accordance with this title
5 and title 49 or local requirements, the property owner may apply for a
6 variance. The property owner shall make the request for a variance to the
7 county or local authority if a county or local law, ordinance or regulation
8 prevents the proposed construction. If a law or rule adopted under this
9 title or title 49 prevents the proposed construction, the property owner
10 shall make the request for a variance directly to the department of water
11 resources. The request for a variance shall be in the form and shall contain
12 the information that the department of water resources, county or local
13 authority may require. The department of water resources, or the county or
14 local authority whose law, ordinance or regulation prevents the proposed
15 construction, may expressly require that a particular variance shall include
16 certification by a registered professional engineer or A PROFESSIONAL
17 geologist that the location of the well will not pose a health hazard to the
18 applicant or surrounding property or inhabitants. If all necessary variances
19 are obtained, the director of water resources shall approve the construction
20 of the well if all remaining requirements have been met.

21 H. If a well that was originally drilled as an exploration well, a
22 monitor well or a piezometer well or for any use other than domestic use is
23 later proposed to be converted to use for domestic purposes as defined in
24 section 45-454, the well owner shall file a notice of intention to drill and
25 shall comply with this section before the well is converted and any water
26 from that well is used for domestic purposes.

27 I. Except as prescribed in subsection K of this section, the director
28 shall not approve the drilling of the well if the director determines that
29 the well will likely cause the migration of contaminated groundwater from a
30 remedial action site to another well, resulting in unreasonably increasing
31 damage to the owner of the well or persons using water from the well. In
32 making this determination, the director of water resources shall follow the
33 applicable criteria in the rules adopted by the director of water resources
34 pursuant to section 45-598, subsection A and shall consult with the director
35 of environmental quality. For the purposes of this subsection:

36 1. "Contaminated groundwater" means groundwater that has been
37 contaminated by a release of a hazardous substance, as defined in section
38 49-201, or a pollutant, as defined in section 49-201.

39 2. "Remedial action site" means any of the following:

40 (a) The site of a remedial action undertaken pursuant to the
41 comprehensive environmental response, compensation, and liability act of
42 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections
43 9601 through 9657), commonly known as "superfund".

44 (b) The site of a corrective action undertaken pursuant to title 49,
45 chapter 6.

1 (c) The site of a voluntary remediation action undertaken pursuant to
2 title 49, chapter 1, article 5.

3 (d) The site of a remedial action undertaken pursuant to title 49,
4 chapter 2, article 5, including mitigation of a nonhazardous release
5 undertaken pursuant to an order issued by the department of environmental
6 quality pursuant to section 49-286.

7 (e) The site of a remedial action undertaken pursuant to the resource
8 conservation and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42 United
9 States Code sections 6901 through 6992).

10 (f) The site of remedial action undertaken pursuant to the department
11 of defense environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10
12 United States Code section 2701).

13 J. Except as prescribed in subsection K of this section, the director
14 shall approve or deny the drilling of a well within forty-five days after
15 receipt of the notice of intention to drill if one of the following applies:

16 1. The proposed well is located within a remedial action site.

17 2. The proposed well is located within one mile of any of the
18 following remedial action sites:

19 (a) A remedial action undertaken pursuant to title 49, chapter 2,
20 article 5, including mitigation of a nonhazardous release undertaken pursuant
21 to an order issued by the department of environmental quality pursuant to
22 section 49-286.

23 (b) A remedial action undertaken pursuant to the comprehensive
24 environmental response, compensation, and liability act of 1980, as amended
25 (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through
26 9657), commonly known as "superfund".

27 (c) A remedial action undertaken pursuant to the department of defense
28 environmental restoration program (P.L. 99-499; 100 Stat. 1719; 10 United
29 States Code section 2701).

30 3. The proposed well is located within one-half mile of either of the
31 following remedial action sites:

32 (a) A remedial action undertaken pursuant to title 49, chapter 1,
33 article 5.

34 (b) A remedial action undertaken pursuant to the resource conservation
35 and recovery act of 1976 (P.L. 94-580; 90 Stat. 2795; 42 United States Code
36 sections 6901 through 6992).

37 4. The proposed well is located within five hundred feet of the site
38 of a corrective action undertaken pursuant to title 49, chapter 6.

39 K. Subsections I and J of this section do not apply to the deepening
40 of a well or to the drilling of a replacement well in approximately the same
41 location.

42 L. A notice of intention to drill filed under this section shall be
43 accompanied by a filing fee of one hundred fifty dollars, except that a
44 notice filed for a proposed well that will not be located within an active
45 management area or an irrigation nonexpansion area, that will be used solely

1 for domestic purposes as defined in section 45-454 and that will have a pump
2 with a maximum capacity of not more than thirty-five gallons per minute shall
3 be accompanied by a filing fee of one hundred dollars. The director shall
4 deposit, pursuant to sections 35-146 and 35-147, all fees collected pursuant
5 to this subsection in the well administration and enforcement fund
6 established by section 45-606.

7 Sec. 55. Section 49-1052, Arizona Revised Statutes, is amended to
8 read:

9 49-1052. Noncorrective actions; baseline assessment

10 A. A baseline period of seven years from January 1, 2016 is
11 established for underground storage tanks. Beginning January 1, 2016, during
12 the baseline period, an owner, operator or person who meets the requirements
13 of section 49-1016, subsection C may do the following:

- 14 1. Elect to conduct a baseline assessment pursuant to this section.
- 15 2. Request a grant to cover costs associated with the baseline
16 assessment pursuant to section 49-1071.
- 17 3. Request the department to perform the baseline assessment under
18 section 49-1017.02.

19 B. The department shall establish standards for conducting baseline
20 assessments pursuant to this section. Until the department establishes
21 standards by rule or by guidance documents, baseline assessment work plans
22 shall be submitted to the department for approval and shall be considered for
23 preapproval on a case-by-case basis, based on compliance with subsection D of
24 this section.

25 C. Baseline assessments shall be conducted under the direction of a
26 person who is a professional engineer ~~or a registered geologist who is~~
27 registered under title 32, chapter 1, ~~or a remediation specialist who is~~
28 certified under title 32, chapter 1 and the rules adopted under that chapter
29 **OR A PROFESSIONAL GEOLOGIST.**

30 D. The scope of the baseline assessment shall address likely release
31 areas and shall include a collection of sufficient information to allow for a
32 determination of the current environmental condition of the property.
33 Samples shall be collected in areas where contamination is most likely to
34 have occurred and sample locations shall consider site-specific conditions,
35 location of potential receptors and preexisting contamination. The baseline
36 assessment must include the registered or certified professional's
37 interpretation regarding confirmation of an unknown release and evaluation of
38 potential risk for the purpose of prioritizing corrective actions.

39 E. If unknown contamination is identified in the baseline assessment,
40 all of the following apply:

- 41 1. The owner, operator or person that meets the requirements of
42 section 49-1016, subsection C shall comply with the reporting requirements
43 pursuant to section 49-1004 and shall initiate corrective actions pursuant to
44 section 49-1005.

