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of
THE HONORABLE
FRANKLIN “JAKE” FLAKE
SPEAKER OF THE HOUSE

by
House Majority Research Staff

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ARIZONA HOUSE OF REPRESENTATIVES
FORTY-SIXTH LEGISLATURE
2004

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FORTY-SIXTH LEGISLATURE

SECOND SPECIAL SESSION



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2001	1	[E] repeal minimum withholding tax.....	2
HB 2002	2	judicial collections; repeal	2
HB 2005	3	redistricting commission; appropriation.....	2
HB 2019	5	state corrections department; fund; appropriations.....	2
HB 2024	6	[E] protection of children.....	3
HB 2025	7	uniform trust code; effective date.....	5
SB 1008	4 appropriation; attorney general; litigation.....	5
SCR 1001		memorial resolution; C.E. "Pep" Cooney	6

HB 2001 – Chapter 1 [E] – repeal minimum withholding tax

HB 2001 is an emergency measure that repeals the minimum withholding tax requirement of \$5.00 per month or a proportionate rate for any shorter pay period.

HB 2002 – Chapter 2 – judicial collections; repeal

Repeals the requirement for cities and counties to transmit 75 per cent of court collections above the FY 2003 baseline to the State Treasurer from and after June 30, 2004.

HB 2005 – Chapter 3 – redistricting commission; appropriation

Appropriates approximately \$1.7 million from the General Fund to the Independent Redistricting Commission for fees, costs and any other operational expenses. This appropriation is in addition to the monies authorized for payment of expenses pursuant to Article IV, part 2, section 1 (18) of the Arizona Constitution. The appropriation is exempt from lapsing, but all remaining unexpended or unencumbered monies shall revert to the General Fund after paying expenses.

HB 2019 – Chapter 5 – state corrections department; fund; appropriations

- Creates a new assessment on watercraft, vehicle and aircraft driving under the influence (DUI) or operating under the influence convictions (OUI) as follows:
 - \$500 for the first non-extreme DUI/OUI
 - \$1,000 for the first extreme DUI/OUI
 - \$1,250 for the second extreme or non-extreme DUI/OUI
 - \$1,500 for an aggravated DUI/OUI
- Exempts the assessment from surcharges and prohibits the court from waiving fines, surcharges or assessments imposed on DUI convictions.
- Establishes the Prison Construction and Operations Fund and directs monies collected from the new assessment into this Fund.
- Requires the Arizona Department of Corrections (ADC) director to negotiate contracts or amend existing contracts to expand the existing private prison facilities by 1,000 prison beds.
- Authorizes the Arizona Department of Administration (ADOA) to issue a certificate of participation (COP) in FY 2004 to expand the prison system by 1,000 beds and prohibits the total cost of construction from exceeding \$37.5 million. Allows monies from the COPs to be used to match available federal monies.
- Appropriates \$859,200 from the Corrections Fund in FY 2004 to ADC to contract with a public or private prison facility contractor for additional prison beds.
- Appropriates a total of \$2.4 million from the Corrections Fund in FY 2004 and FY 2005 for the new private or public prison beds and in FY 2005 for the provisional prison beds.
- Appropriates \$1.7 million in FY 2004 from the Corrections Fund to ADC to enter into agreements with Navajo County for 50 jail beds and Coconino County for 88 jail beds.

- Appropriates \$5 million in FY 2004 from the Corrections Fund to ADC for retention stipends and recruitment bonuses.
- By July 1, 2004, requires ADC to establish a pilot program at one of its facilities to treat and rehabilitate drug offenders. Appropriates the first \$250,000 deposited into the Prison Construction and Operations Fund in FY 2004 to the pilot program.
- Reduces the amount that ADC must pay for state employee health insurance premiums by \$3.1 million in FY 2004.
- Establishes a base fine for watercraft OUI of no less than \$250 and prescribes a base fine for aggravated DUI for vehicles and watercraft of no less than \$750.

HB 2024 – Chapter 6 [E] – protection of children

Makes policy changes to the statutes that govern child protective services (CPS) within the Department of Economic Security (DES), the court system, and in each county. Appropriates \$16.9 million to DES and provides for an accounting of the monies to the Legislature on a monthly basis.

APPROPRIATIONS

- Appropriates \$6.3 million to DES in FY 2004 from the General Fund as follows:
 - \$1.95 million for 93 annual FTE positions to meet national staffing standards for CPS service caseloads
 - \$1.67 million for 67 annual FTEs to fund 100 per cent investigation rate
 - \$1.6 million for performance-based compensation or classification adjustments at the discretion of the director
 - \$100,000 to replace obsolete equipment
 - \$1 million for family home foster care rate increases
- Appropriates \$10.3 million supplemental to maintain current staffing and service levels for CPS, including adoption services, permanent guardianship and children services.
- Appropriates \$25,000 and one FTE in FY 2004 to DHS for licensing.
- Requires DES to contract with provider for services including residential drug treatment services and appropriates \$350,000 in FY 2004, \$250,000 in FY 2005, \$75,000 in FY 2006.
- Includes a stipend for prescribed CPS workers of 10 per cent of the worker's monthly salary and specifies existing DES monies shall be used for the stipend.
- Requires the auditor general to report monthly to JLBC on the expenditure of prescribed monies appropriated in this act.

INVESTIGATIONS

- Requires CPS to investigate all complaints of alleged dependency, and specifies *extremely serious conduct allegations* shall be investigated according to protocols and in cooperation with law enforcement and the county attorney.

- Requires DES Director to the maximum extent possible to establish separate investigation units for the purpose of investigating allegations of dependency, abuse and neglect according to protocols.

INITIAL SCREENING / SAFETY ASSESSMENT PROTOCOLS AND INVESTIGATION PROTOCOLS

- Requires DES to develop *initial screening and safety assessment protocols* by July 2004 in consultation with the attorney general, county attorneys and law officials, medical experts, victim advocates, and mandatory reporters and to establish written policies and implementation procedures for the protocols.
- Requires each county attorney, sheriff, chief law enforcement officer for each municipality, and DES to develop and implement *investigation protocols* by July 2004 for cooperation in investigations of allegations involving extremely serious conduct.

COURT RECORDS AND PROCEEDINGS

- Expands the pilot program that opens juvenile proceedings by eliminating the 10 per cent cap in Maricopa and Pima counties. Requires counties with a population of 150,000 to 500,000 [Mohave, Pinal, Yavapai, Yuma] to open at least five per cent of their proceedings and counties with a population under 150,000 to open five to 10 per cent of their proceedings.
- Opens court records associated with the pilot program (except as provided by federal law) as a condition to receive monies, excluding: audio/videotapes of a child's testimony; identification of reporting source; medical information; sex offender treatment reports; identifying photographs and information; and, any other items the court orders inaccessible.

CPS RECORDS/INFORMATION

- Allows DES to clarify information concerning a case that has been made public by a source other than DES.
- Rewrites confidentiality laws to require CPS information to be shared with government agencies, tribal agencies, county attorneys, schools, and anyone providing services if there is reasonable need to meet duties, provide services, or prosecute abusers.
- Specifies that a person who is the subject of CPS information shall have access to information about that person.

JURY TRIALS

- Authorizes a jury trial in hearings terminating parental rights if requested by the parent whose rights are being terminated.
- Repeals the availability of jury trials three years from the effective date of this act.

IN-HOME INTERVENTION

- Defines *in-home intervention* as services to a child that remains in parental custody [as opposed to dependency].

- Allows the court to stay dependency proceedings if in-home intervention has been ordered and outlines when in-home intervention is applicable.

CHILD REMOVAL/TEMPORARY CUSTODY

- Requires a worker to inform a parent upon initial contact of an investigation the specific complaint or allegation made against that person.
- Specifies that if a child is taken into custody on the grounds that the child is the victim of abuse or neglect, the child's sibling(s) shall also be taken into temporary custody if reasonable grounds independently exist to believe that custody is clearly necessary to protect the child(ren) from suffering abuse.
- Specifies the notice given to a parent when a child is taken into temporary custody shall be given in verbal form, in addition to written form, when the parent is present.

FALSE REPORTING

- Establishes that a person who knowingly and intentionally makes a false report of child abuse/neglect or who coerces another person to make a false report while knowing the report is false is guilty of a Class 1 misdemeanor. [6 months/\$2500]
- Requires the court [family court] when determining custody to consider whether a parent has been convicted of false reporting.

RESIDENTIAL DRUG TREATMENT CENTER

- Requires DES to contract with a provider to conduct family assessments, provide case management and necessary services, including residential drug treatment, to protect the child and support the family.

ACCOUNTABILITY REQUIREMENTS, REVIEWS, AND EVALUATIONS

- Adds a requirement for DES, OSPB, and JLBC to develop a financial and program accountability reporting system for CPS.
- Requires the auditor general to establish a team to be housed in DES to provide ongoing performance review and analysis of DES.
- Requires DES for two years to establish evaluation criteria for CPS in the following areas: employee performance measures; foster parent performance measures; evaluations of ongoing improvement in CPS.

MISCELLANEOUS

- Stipulates that parental refusal to put a child on or questions the use of psychiatric medication shall not be considered abuse, neglect, or reason for dependency for that reason alone.
- Eliminates the charge of the Family Builders Program to accept, screen, assess, or investigate cases of child abuse and neglect.

- Requires the court to make protecting the child from abuse/neglect the first priority when making determinations and removes the requirement for the court to order DES to make efforts to provide services to facilitate family reunification.

HB 2025 – Chapter 7 – uniform trust code; effective date

Delays the enactment of the Uniform Trust Code until January 1, 2006.

SB 1008 – Chapter 4 – appropriation; attorney general; litigation

Appropriates \$1.2 million from the State General Fund in FY 2003-04 to the Office of the Attorney General for professional and outside services in the defense of *Crane v. Arizona*.

SCR 1001 – memorial resolution; C.E. “PEP” Cooney

Expresses regret toward the passing of C. E. "Pep" Cooney and extends the Legislature's deepest condolences to his family and friends.

C. E. "Pep" Cooney passed away on September 3, 2003 at the age of seventy. Born in Council Bluffs, Iowa in 1933 Pep Cooney went on to pursue degrees in marketing and advertising, eventually graduating from the University of Nebraska at Omaha, the University of Utah and the University of California at San Francisco.

Pep Cooney then embarked on more than four decades in television broadcasting, beginning in advertising and program sales and ending his career as President of KPNX Broadcasting and Senior Vice President of Gannett Broadcasting before retiring in 1998.

Dedicated to his family, Pep Cooney will be greatly missed by his wife, Cheri, sons, Rhett and Sean, daughters, Holly and Nicole, and eighteen grandchildren, as well as his many friends, peers and colleagues in the television broadcasting profession.

COMMITTEE ON APPROPRIATIONS

*Representative Russell K. Pearce, Committee Chairman
Joy Hicks, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause
[LIV] Line Item Veto

Bill	Chapter	Short Title	Page
HB 2202	118	*supplemental appropriation; independent redistricting commission	
HB 2470	298	*life extension study; state buildings	
HB 2471	40	named claimants; appropriations	
HB 2490	55	Prescott historical society	
HB 2459	143	*auto dealers; taxation; lease payments	
SB 1306	273	*storage tanks; underground; funding <i>(See Environment Committee)</i>	
SB 1402	275	[LIV] general appropriations; fiscal year 2004-2005	
SB 1403	276	2004-2005 capital outlay; appropriation	
SB 1404	277	fiscal year 2003-2004; supplemental appropriations	
SB 1405	278	department of education; budget reconciliation	
SB 1406	274	[LIV] school facilities; budget reconciliation	
SB 1410	279	AHCCCS; health; welfare; budget reconciliation	
SB 1411	280	environmental protection; budget reconciliation	
SB 1412	281	criminal justice; budget reconciliation	
SB 1413	282	highway fund monies; budget reconciliation	
SB 1414	283	general fund; revenue; budget reconciliation	
SB 1415	284	withholding tax rates; budget reconciliation	
SB 1416	285	Ladewig settlement; budget reconciliation	
SB 1417	286	state fees; budget reconciliation	
SB 1418	287	election systems funding; budget reconciliation	

HB 2202 – Chapter 118 – *supplemental appropriation; independent redistricting commission

Appropriates \$2.5 million in FY 2003-04 from the General Fund to the Independent Redistricting Commission (IRC) for operating expenses and costs associated with litigation. The appropriation is exempt from lapsing, except that unexpended and unencumbered monies that remain after paying IRC expenses revert back to the General Fund.

HB 2470 – Chapter 298 – *life extension study; state buildings

Requires state building systems to support funding requests for new buildings with a floor space of 25,000 square feet or greater with a building life extension study to ensure that proper consideration is given to economically effective options for extending the life of an existing building. The life extension study shall calculate both the current service life of the building and a comparison of the cost of extending the service life by five, ten, and twenty-five years respectively, with the cost of the proposed renovated or replaced building.

HB 2471 – Chapter 40 – named claimants; appropriations

The annual *relief for named claimants* bill reflects the Arizona Department of Administration (ADOA) request to the Legislature for an appropriation of monies to pay claims made against state agencies during FY 2000 through FY 2002. Claims were made by individuals and organizations that provided goods/services to agencies in a previous fiscal year but have yet to receive payment. Appropriates \$192,771.65 from the State General Fund and \$9,840.90 from the Technology and Telecommunications Fund to ADOA for the payment of these various claims.

HB 2490 – Chapter 55 – Prescott historical society

Allows the Prescott Historical Society to charge fees for certain duties they are required to perform under current law. In August 2003, the Joint Legislative Budget Committee recommended a \$60,000 decrease in the budget of the Society for FY 2004 and FY 2005 from the FY 2003 level. This was recommended in anticipation of the ability of the Society to begin collecting admission and other charges for exhibits at the Sharlot Hall Museum.

SB 1402 – Chapter 275 [LIV] – general appropriations; fiscal year 2004-2005

The following adjustments note major GF and OF changes in FY 2004-05 funding levels:

❖ AHCCCS - *General Fund changes are as follows:*

Admin Changes	(687,400)
Enrollment & Inflation Growth	115,364,700
Eliminates Enhanced Match-Prop 204	14,000,000
Retains KidsCare Parents	(8,754,700)
KidsCare Parents Caseload Revision	(2,570,500)
Federal Match Rate Backfill	79,094,500
Proposition 303 Emergency Services Offset	(5,000,000)
Hospital Outpatient Payment Change	(10,479,700)
Shift Breast Cancer Dollars to DHS	(887,000)
Shift Pass-through to DHS	(960,200)

❖ AHCCCS - *Other Fund changes are as follows:*

Eliminate Trauma Centers Appropriation	(5,000,000)
Healthcare Group Administrative Costs	500,000

- ❖ ARTS COMMISSION
 - Deposits \$2 million GF into the Arts Endowment Fund
- ❖ ATTORNEY GENERAL
 - Eliminates \$500,000 GF for a one-time Crane Litigation appropriation
 - Appropriates a total of \$1.2 million OF for costs associated with death penalty appeals, network security and information technology projects
- ❖ BANKING DEPARTMENT
 - Appropriates \$82,000 GF and four additional FTEs for examinations staff
- ❖ DEPARTMENT OF COMMERCE
 - Appropriates \$295,400 GF for Rural Economic Assistance
- ❖ ARIZONA COMMUNITY COLLEGES

Operating State Aid Formula	7,598,500
Capital Outlay State Aid Formula	3,353,000
Equalization Aid Formula	4,354,800
Gila Provisional District	325,000
- ❖ DEPARTMENT OF CORRECTIONS

Funds 2nd Special Session 1,000 New State Beds (500 each at Tucson & Perryville)	700,000
Funds 2nd Special Session 1,000 New Private Beds (OF)	0
Population Growth	1,925,200
Use AHCCCS rates for Medical Services	(2,445,200)
Pharmacy Centralization	(230,100)
Lethal Fence - Guard Tower Savings	(709,600)
Expand Substance Abuse Treatment - 13 FTEs	1,153,600
Double Inmate Fire Crews - 18 FTEs	804,300
Reduce Inmate Records Backlog - 10 FTEs	390,800
Restore Funding/FTEs for Beds Not Closed	2,623,900
- ❖ DEPARTMENT OF ECONOMIC SECURITY

<i>Developmental Disabilities</i>	
DD Title 19 Long Term Care	27,197,000
Continue FY 04 DD State-Only Supplemental	4,948,400
Provider Increase (w/ \$6 million in the base)	0

<i>Cash Assistance</i>	
TANF Cash Benefits Caseload	4,695,300
TANF Block Grant Backfill	15,288,700

<i>Aging and Community Services</i>	
Continue FY 04 Aging Supplemental	532,500

Older American's Act State Match	76,900
❖ DEPARTMENT OF ECONOMIC SECURITY (CON'T)	
<i>Children, Youth and Families</i>	
Annualize 2nd Special Session	10,658,800
Continue FY 2004 CPS Operating Shortfall Supplemental	3,100,000
Continue FY 2004 CPS Children Services Supplemental	1,061,100
Continue FY 2004 CPS Adoption Services Supplemental	5,689,600
Continue FY 2004 CPS Perm. Guardianship Supplemental	2,020,500
Children Services Four Per Cent Rate Increase	1,534,800
Attorney General Legal Staff	4,000,000
Healthy Families Expansion	8,715,800
Substance Abuse Treatment	3,000,000
<i>Employment Programs</i>	
Reduce Child Care Waiting List	9,675,500
Child Care Federal Block Grant Backfill	29,324,500
JOBS New Staff - 65 FTEs	3,500,000
❖ DEPARTMENT OF EDUCATION	
FY 2004 Base Adjustment	25,800,600
Basic State Aid - Enrollment Growth	147,272,700
Basic State Aid – Two Per Cent Deflator	76,289,500
Basic State Aid - NAV Growth	(138,975,500)
Basic State Aid - Endowment Earnings	11,529,300
Basic State Aid - Truth in Taxation	49,412,100
Basic State Aid - Other	279,500
Basic State Aid - Full Day Kindergarten	21,000,000
Additional State Aid	20,401,200
Special Education Vouchers	1,475,000
Extend Cap on Desegregation Funding (\$5 - \$12 million)	1,000,000
Extend Cap on Excess Utilities Funding (\$2 - \$5 million)	2,000,000
<i>Other</i>	
Achievement Testing	4,168,100
❖ BOARD OF EXECUTIVE CLEMENCY	
Reduction of \$64,300 GF by combining executive director/chairman positions	
Appropriates an additional \$92,000 GF to fund three vacant FTE positions	
❖ DEPARTMENT OF HEALTH SERVICES	
Title XIX Caseload	24,215,200
Title XIX Federal Match Rate Backfill	18,318,300
<i>Public Health</i>	
Shifts Blood Alcohol Regulations to DPS	(35,200)

Annualization of 2nd Special Session	25,000
Creates Child Care Ratings - 10 FTEs	0
Moves Title XIX Monies from AHCCCS to DHS	960,200
Increases Vaccines for Underinsured	879,600
Scorpion Antivenom	150,000
Moves Breast & Cervical Cancer Dollars from AHCCCS	887,000
<i>Public Health (Con't)</i>	
Funds State Match for Diabetes (\$500,000 Fed)	100,000
Backfills Health Start Tobacco Settlement	226,600
Backfills Vital Records	1,400,000
<i>Behavioral Health</i>	
Backfill Hospital Land Trust Earnings	300,000
State Hospital Antipsychotic Drug Costs	265,000
❖ ARIZONA JUDICIARY	
Fund shifts \$1,110,000 probation monies to Court of Appeals	
❖ JUVENILE CORRECTIONS	
Reduced population	(1,707,600)
Moves Center / Closes Sunrise Buckeye	(732,400)
Expands Officer Training & Other Issues	5,315,800
❖ STATE LAND DEPARTMENT	
Lowers CAP User Fee	(194,900)
Backfills NRCD Environmental Plate Fund	110,000
Inmate Fire and Fuel Treatment Crews (GF)	782,900
Inmate Fire and Fuel Treatment Crews (OF)	1,200,000
❖ LIQUOR LICENSES & CONTROL	
Provides \$300,000 for additional liquor enforcement staff	
❖ DEPT. OF PUBLIC SAFETY	
Sworn officer salary adjustment	1,414,900
Interoperability design	2,000,000
Continues County Contribution Shift	(4,800,000)
❖ DEPARTMENT OF REVENUE	
Appropriates \$900,000 GF for tobacco tax enforcement	
❖ SCHOOL FACILITIES BOARD	
Funds Deficiency Corrections	75,000,000
Funds Lease Purchase Payment	21,749,600
Funds Building Renewal Transfer	30,000,000
❖ SECRETARY OF STATE	

Appropriates \$600,000 GF for HAVA match
 Funds 2004 State Elections at \$2,833,800 GF
 Eliminates funding of \$1,500,000 for the Presidential Primary

❖ DEPARTMENT OF TRANSPORTATION

Highway maintenance workload	5,707,100
Motor pool equipment rental rates	1,638,700
Motor pool equipment fund authority	1,000,000
Highway maintenance – lighting – Six FTEs	2,039,200
MVD – Ports of entry expanded hours – 12 FTEs	495,200

❖ STATE TREASURER

Appropriates \$150,000 OF for tenant improvements
 Provides \$300,000 GF new trader position; eliminates equal amount in one-time equipment monies.

❖ ARIZONA BOARD OF REGENTS

University Pay Package	16,100,000
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❖ ARIZONA STATE UNIVERSITY

Funds enrollment growth	13,515,900
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❖ NORTHERN ARIZONA UNIVERSITY

Funds faculty support and retention	2,557,500
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❖ UNIVERSITY OF ARIZONA

Funds enrollment growth	7,926,600
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❖ DEPARTMENT OF VETERANS' SERVICES

Adds one fiduciary FTE at \$42,700 OF
 Provides medical inflation for the Phoenix home of \$318,700
 Appropriates \$40,500 OF for Southern Arizona home planning

❖ DEPARTMENT OF WATER RESOURCES

Reduces GF appropriation to Water Banking by \$500,000 and uses this amount to backfill prior year reductions in the operating budget

❖ BIENNIAL BUDGET OF ADJUSTMENTS - *Provides adjustments as follows:*

Acupuncture Board of Examiners	9,200
Auto Theft Authority	400,000
Barber Examiners Board	13,300
Board of Behavioral Health Examiners	2,300
Board of Chiropractic Examiners	5,100
Arizona State Lottery Commission	(883,400)
Arizona Medical Board	114,300

Naturopathic Physicians Board	189,500
Nursing Board	189,800
State Board of Optometry	12,800
Osteopathic Examiners Board	44,500
Board of Physical Therapy	22,000

- ❖ FUND TRANSFERS – *Transfers the OF monies into the GF as follows:*

Motor Vehicle Pool Revolving Fund	1,000,000
Indirect Cost Fund	2,000,000
Industrial Commission Administrative Fund	2,000,000
State Lottery Fund	2,500,000
School Improvement Revenue Bond Debt Service	1,756,500
Air Quality Fund – in lieu fee account	3,000,000
Arizona Correctional Industries Revolving Fund	500,000
Emergency Medical Services Operating Fund	500,000
School Capacity Equity Fund	278,000

- ❖ FUND TRANSFERS (CON'T) – *Transfers the OF monies into the GF as follows:*

Arizona Water Banking Fund 2,000,000
Budget Stabilization Fund 8,000,000

Notes that the water banking transfer shall not include monies from property tax deposits

Transfers monies into other OF as follows:

\$500,000 from Assurance Account to Water Quality Assurance Revolving Fund

\$100,000 from Air Quality In Lieu Fee Account to State Employee Travel Reduction Fund

\$1,500,000 from the Risk Management Revolving Fund to the Legislative, Executive and Judicial Public Buildings Land Fund

❖ STATE EMPLOYEE PAY ADJUSTMENTS

Appropriates a total of \$44,014,900 GF for state employee pay adjustments as follows:

<i>State Employees in ADOA System</i>	26,500,000
→ \$1,000 per FTE effective July 1, 2004	
→ \$2,000 per state employed nurse	

DPS Officer Pay Plan *\$1,414,900 GF and \$2,910,500 OF*

- DPS received a sworn officer salary adjustment through a lump sum appropriation. Should the Department choose to distribute the adjustment evenly across all pay grades, the adjustment would average to be a \$3,500 increase per officer.

University Employee Pay

16,100,000

- Lump Sum appropriation provided to ABOR. ABOR shall transfer monies to each university for distribution according to employee pay plans developed by the President of each university.
- Each university shall report to JLBC by July 31, 2004 on how monies were distributed by campus.

❖ CONDITIONAL APPROPRIATIONS

TRIGGERS IF EXCESS FY 2004 OR FY 2005 REVENUE (IN MILLIONS)	#1	#2	#3
SFB BUILDING RENEWAL	30.0	10.0	0.0
CHILD CARE	5.0	0.0	0.0
EMPLOYEE HEALTH INSURANCE – STATE EMPLOYER SHARE	15.0	8.0	0.0
RAINY DAY FUND	0.0	6.0	50%
DPS – PUBLIC SAFETY COMMUNICATIONS SYSTEMS – INTEROPERABILITY	0.0	3.0	
SFB DEFICIENCY CORRECTIONS – REMOVE BONDING	0.0	25.0	
ENDING BALANCE	0.0	0.0	50%
TOTAL	50.0	52.0	

SB 1403 – Chapter 276 – 2004-2005 capital outlay; appropriation

Appropriates \$8,103,800 in other funds (OF) for maintenance and repair of state buildings and infrastructure and \$233,750,000 OF for various major capital projects.

BUILDING RENEWAL - Appropriates the following amounts for major maintenance and repair activities for state buildings in FY 2005:

- ❖ DEPARTMENT OF ADMINISTRATION (ADOA)
 - \$3,500,000 from the Capital Outlay Stabilization Fund
 - Of this amount, \$170,000 must be allocated for the State Treasurer's Office tenant improvements.
- ❖ DEPARTMENT OF TRANSPORTATION (ADOT)
 - \$2,715,000 from the State Highway Fund (SHF)
 - \$65,900 from the State Aviation Fund (SAF)
- ❖ ARIZONA EXPOSITION AND STATE FAIR BOARD
 - \$1,247,400 from the Arizona Exposition and State Fair Fund
- ❖ GAME AND FISH DEPARTMENT
 - \$343,000 from the Game and Fish Fund
- ❖ ARIZONA LOTTERY COMMISSION
 - \$41,200 from the State Lottery Fund

CAPITAL PROJECTS - Appropriates monies for major capital projects in FY 2005:

- ❖ GAME AND FISH DEPARTMENT
 - Funded from the Game and Fish Capital Improvement Fund:*
 - \$80,000 for Silver Creek hatchery improvement
 - \$300,000 for Tri-state shooting range development
 - \$55,000 for Sierra Vista shooting range improvement
 - \$800,000 for Bellemont shooting range development*

**This appropriation reverts to its source if pending litigation is not resolved in the state's favor.*

\$50,000 for headquarters paving
\$150,000 for shade canopies
\$30,000 for Mesa office security system

Funded from the Game and Fish Fund:

\$200,000 for Tonto Creek hatchery improvements
\$30,000 for statewide preventative maintenance

- ❖ ADOT
 - \$218,155,000 for statewide highway construction - funded from the SHF
 - \$500,000 for Parker facility – funded from the SHF
 - \$13,540,000 for airport planning and development - funded from the SAF
- ❖ DEPARTMENT OF PUBLIC SAFETY (DPS) - Funded from Arizona Highway Patrol Fund:
 - \$360,000 for remote officer housing

SB 1404 – Chapter 277 – fiscal year 2003-2004; supplemental appropriations

Appropriates supplemental amounts and total expenditure authority for FY 2004:

- ❖ DEPARTMENT OF EDUCATION (ADE)
 - \$24.6 million in GF for supplemental funding for basic state aid
 - \$2.4 million in GF for supplemental funding for achievement testing
- ❖ DEPARTMENT OF HEALTH SERVICES (DHS)
 - \$1.3 million in GF and \$4.2 million in total expenditure authority for AHCCCS-special children's rehabilitative services line item. Specifies that up to 1.54 per cent may be spent for medical special exemption payments special line item.
 - \$1.1 million in GF and \$8.0 million in total expenditure authority for the children's behavioral health services state match for the title XIX special line item.
 - \$4.7 million in GF and \$8.0 million in total expenditure authority for seriously mentally ill and mental health and substance abuse services for the title XIX population and for behavioral health services for the Proposition 204 population. Limits the GF portion that may be spent on administrative costs to \$436,800.
 - \$128,300 in GF for increased drug costs used for antipsychotic treatment of patients at the Arizona State Hospital.
 - \$2.5 million from the Substance Abuse Services Fund for non-title XIX substance abuse services.
 - States that any transfer to or from the amounts appropriated to DHS requires the approval of the Joint Legislative Budget Committee (JLBC). Stipulates that the appropriated amounts shall be used exclusively for the purposes as stated unless a transfer is approved by the JLBC.
 - Increases the Disproportionate Share allocation by \$3.3 million in FY 2004.

- ❖ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
 - Allows AHCCCS to make additional disproportionate share payment of approximately \$17.7 million to qualifying county operated hospitals.
 - Requires the State Treasurer to withhold an additional \$17.7 million from the Transaction Privilege Tax revenues from counties with a population of at least 1.5 million persons.
 - \$268,944.90 from the risk management fund for costs related to the payment of health care services and legal expenses and fees associated with the settlement of the St. Joseph's Hospital v. AHCCCS lawsuit.
- ❖ DEPARTMENT OF ECONOMIC SECURITY (DES)
 - \$11.9 million for the Division of Children, Youth and Families for the following:
 - \$3.1 million for the operating budget
 - \$1.1 million for children services
 - \$2.0 million for permanent guardianship subsidy
 - \$5.7 million for adoption services
- ❖ DEPARTMENT OF ECONOMIC SECURITY (Con't)
 - \$5.0 million for state funded services in the Division of Developmental Disabilities for the following:
 - \$2.5 million for home and community based services
 - \$1.8 million for state funded long-term care services
 - \$600,000 for case management
 - \$532,500 for the operating budget in the Division of Aging and Community Services
 - \$4.2 million is GF and \$14.1 million in total expenditure authority for long-term care home and community based services
 - \$8.7 million from TANF for TANF cash benefits in the Division of Benefits and Medical Eligibility

Secretary of State

- \$57,000 for publication of the Arizona blue book and the annotated election statutes.

SB 1405 - Chapter 278 – department of education; budget reconciliation

SB 1405 is the education budget reconciliation bill containing education-related statutory and session law changes as follows:

INCREASED FORMULAS

- Increases charter school additional assistance as follows:
 - For pupils in K-8 from \$1,278.40 to \$1,303.97
 - For pupils in 9-12 from \$1,489.95 to \$1,519.75
- Increases the base level from \$2,822.74 to \$2,893.18
- Increases the transportation support level per route mile

SUPPLEMENTAL STATE AID

- Allows a school district to be eligible for supplemental state aid if the county treasurer has reasonable belief that more than 30 per cent of the primary property tax revenues entitled to be collected by the school district are not received or are delinquent pursuant to current law. The county treasurer must certify to the school district by January 1 that the monies will not be remitted to the school district. After receiving certification, the school district may apply to the Arizona Department of Education for supplemental state aid in the amount of uncollected primary property taxes for the tax year payable in the current fiscal year.
- Requires the State Board of Education, within 45 days of receiving a completed and correct application, to pay to the school district the amount of state aid necessary to fulfill the uncollected primary property taxes. The school district superintendent must report to ADE between May 5 and May 25 the actual amount of uncollected primary property taxes during the fiscal year. Any overpayments of supplemental state aid must be deducted from the school district's June 15 state aid apportionment and any subsequent apportionments. Beginning June 1 after receipt of supplemental state aid payments, the county treasurer must report quarterly to the ADE on the amount of any payments of delinquent primary property taxes that are received by the school district. ADE must deduct the amount of reported from the next state aid apportionment to the school district, or the school district must pay that amount directly to the State Treasurer for deposit in the state General Fund if the school district does not receive any state aid apportionment.

HAYDEN-WINKELMAN UNIFIED SCHOOL DISTRICT

- Appropriates \$3,215,000 from the School Improvement Revenue Bond Debt Service Fund for FY 2004-05 to ADE for distribution to the Hayden-Winkelmann Unified School District for the purpose of redeeming the school district's outstanding series 1994 callable general obligation bonds. The school district must levy a tax on the secondary assessment to repay the appropriation over five annual installments of principal and simple interest at four per cent per annum beginning July 1, 2011 until July 1, 2015, capped at \$830,000 per year. Payments shall be repaid to the School Improvement Revenue Bond Debt Service Fund.
- Prohibits the Hayden-Winkelmann Unified School District, until July 1, 2015, from proposing or conducting an election to approve any budget override or any authorization to issue bonds or incur any other form of district indebtedness.
- Requires the publishers of the annotated Arizona Revised Statutes to include the text of the Hayden-Winkelmann Unified School District appropriation and prohibition on additional indebtedness or overrides in the annotations of Section 15-481, which relates to school district budget override elections, through 2015.
- Establishes the 13-member Joint Legislative Study Committee on Hayden-Winkelmann Property Taxes to analyze the indebtedness, expenditures, property taxes and other revenues of the Hayden-Winkelmann Unified School District and the town of Hayden, and consider all possible solutions to provide long-term relief and stability to the residents, property owners and taxpayers of the community. Committee members are not eligible for compensation or reimbursement of expenses. The Legislature shall provide meeting space and the Joint Legislative Budget Committee shall provide staff support. The Committee

shall submit a report of its findings and recommendations to the Governor and the Legislature by December 31, 2004. Repeals the Committee on October 1, 2005.

FULL-DAY KINDERGARTEN REQUIREMENTS

- Requires a school or charter school that is provided and accepts funds for full-day kindergarten to offer full-day instruction to pupils who meet the enrollment requirements.
- Requires parents of pupils who meet the enrollment requirements for kindergarten programs, in a school or charter school that is required to provide full-day kindergarten instruction, to choose either half-day or full-day kindergarten instruction.
- Requires the Legislature to establish a plan to provide statewide full-day kindergarten instruction by FY 2009-10. Schools and charter schools that are provided full-day kindergarten funding must continuously be provided funding throughout the statewide implementation of the full-day kindergarten plan.

FULL-DAY KINDERGARTEN FUNDING SCHEDULE

- States that for FY 2004-05, schools or charter schools with a student count in which at least 90 per cent of the pupils meet the economic eligibility requirements established under the National School Lunch and Child Nutrition Acts (NSLCNA) must receive monies for full-day kindergarten per pupil who attends kindergarten instruction.

JOINT LEGISLATIVE STUDY COMMITTEE

- Establishes the nine-member Joint Legislative Study Committee on Full-Day Kindergarten to forward preliminary recommendations by December 1, 2004 to the Governor and the Legislature for full-day kindergarten implementation. The Committee must consider funding for each year of implementation, capital accommodations and program implementation.

FULL-DAY KINDERGARTEN FUND

- Establishes the Fund consisting of monies appropriated to and administered by the ADE. The Fund terminates on July 1, 2009 and any unencumbered monies in the Fund on that date must be transferred to the state General Fund. Monies in the Fund are continuously appropriated and are exempt from the provisions relating to lapsing of appropriations. If insufficient monies exist, the ADE may prorate the amount per pupil.
- Specifies that the allocation to each charter school and school district for a fiscal year must be equal to the established per pupil amount multiplied by the weighted student count for the school district or charter school for the fiscal year.
- Requires the weighted student count be increased to include nonresident pupils who attend school in the school district.
- Requires Fund monies to be spent only for full-day kindergarten instruction.
- Requires school districts and charter schools that receive monies from the Fund to submit a report to the Superintendent of Public Instruction on a per school basis that provides:
 - An accounting of the expenditures of the monies distributed during the school year.

- A description of any professional development required.
- Class size and any district class size policies.
- Data collected from state/district assessments of kindergarten pupils in both full-day and half-day programs.
- The number of pupils.
- The number of pupils not served and the reasons those pupils were not served.
- Any other information determined by the ADE and the Office of the Auditor General.

- Requires the ADE in conjunction with the Auditor General to prescribe the format and required due date of the report.
- Requires school districts and charter schools to receive monies from the Fund on a monthly basis, in an amount not to exceed one-twelfth of the monies estimated. If there are insufficient monies in the Fund, the distribution must be prorated. The ADE may make an additional payment in the current month for any prior month or months in which school districts or charter schools received a prorated payment if there are sufficient monies in the Fund. The State is not required to make payments to a school district or charter school fund if the monies in the Fund are insufficient to meet the estimated allocations to school districts and charter schools.
- Specifies that the Arizona State Schools for the Deaf and the Blind must receive monies from the Fund and are subject to the same guidelines as school districts and charter schools.

LOCAL FULL-DAY KINDERGARTEN FUNDS

- Requires each school district and charter school to establish a budgetary controlled local level Full-Day Kindergarten Fund to receive allocations from the state level Fund. Interest charges or interest earned must be a charge to or addition to the local level Fund. The state is not required to make payments to a school district or charter school local level Fund that are in addition to monies appropriated to the state level Fund.

COMPLIANCE

- Stipulates that if the State Board of Education (SBE), the ADE, the Auditor General or the Attorney General determines that a school district is substantially and deliberately out of compliance with A.R.S. Title 15 and has failed to correct the deficiency within 90 days after receiving notice from the ADE, the SBE may direct the Superintendent to withhold the monies the school district would otherwise be entitled to receive from the Fund, from the date of noncompliance until the ADE determines that the school district is in compliance.
- States that if the sponsor of the charter school determines at a public meeting that the charter school is not in compliance with federal law, state law or its charter, the sponsor of a charter school must notify the ADE to withhold the monies that the charter school would otherwise be entitled to receive from the Fund. The sponsor must provide written notice to the charter school at least 72 hours before the meeting and must allow the charter school to respond to the allegations of noncompliance at the meeting prior to the sponsor making a final determination to notify the ADE of noncompliance. When the sponsor determines that the charter school is in compliance, the ADE must restore the monies that the charter school is entitled to receive from the Fund.

SCHOOL FACILITY ADEQUACY

- Clarifies that schools are not required to offer full-day kindergarten instruction to qualifying students if there is insufficient classroom space. Schools must not accept monies from the Fund if space limitations result in class sizes that exceed the average class size of the district or charter school.

PROFESSIONAL DEVELOPMENT

- Requires schools that accept monies from the Fund to provide professional development that is directly related to the delivery of kindergarten standards in a full-day program.
- Specifies that any school that has not yet undergone professional development for implementation of the delivery of a research-based reading curriculum is not eligible for monies from the Fund until training has been received.
- Stipulates that if a school district already funds voluntary full-day kindergarten instruction with monies from a desegregation levy or a special budget override used solely to provide full-day kindergarten instruction and additionally qualifies for monies from the Fund, the governing board must hold a public meeting to determine the reallocation of desegregation or override monies to other programs or whether those monies must be used to reduce the school district's primary or secondary property tax levy, or both.

APPROPRIATIONS

- Appropriates \$21,000,000 in FY 2004-05 from the state General Fund to the ADE for distribution to schools and charter schools with a student count in which at least 90 per cent of the pupils meet the economic eligibility requirements established under the NSLCNA for the purpose of providing full-day kindergarten instruction.
- Appropriates \$4,000,000 from the state General Fund in FY 2004-05 to the SFB for distribution of capital grants to school districts that require immediate additional space in order to provide full-day kindergarten programs.
- Exempts both appropriations from the provisions relating to lapsing of appropriations.

MISCELLANEOUS

- Eliminates an inadvertent double appropriation for the FY 2003-04 K-12 rollover.
- Extends the prohibition on the formation or expansion of joint technological education districts (JTED) for an additional year. The average daily membership cap for JTEDs formed since FY 2002-03 under specified guidelines is extended until July 1, 2005.
- Prohibits the State Board of Education (SBE) from sponsoring any additional charter schools in FY 2004-05, and requires the State Board for Charter Schools to provide oversight for existing SBE-sponsored charter schools during FY 2004-05.
- Allows school districts governing boards, for FY 2004-05, to approve the completion of the minimum number of instructional hours in less than 180 days.

- Reduces the amount a school district may receive to adjust their budgets for a rapid decline in student count by 50 per cent for FY 2004-05.
- Defers the June 15, 2005 Basic State Aid and Additional State Aid payment to school districts of \$191,000,000 until July 1, 2005. The monies are appropriated July 1, 2005 from the state General Fund, along with \$293,800 for costs associated with the payment deferral. Exempts from the Revenue Control Limit any estimated incurred interest expenses for registering warrants.
- Transfers \$600,000 from the Certificates of Participation Fund to the ADE in FY 2004-05 for payments to a school district with at least 150 pupils attending from unorganized territories in its average daily membership count for FY 2002-03. These monies may only be used by the school district to purchase pupil transportation vehicles, and the school district may increase its Capital Outlay Revenue Limit for FY 2004-05 by the amount appropriated.
- Caps school district desegregation budgets at the FY 2003-04 levels plus growth in average daily membership and two per cent for inflation.
- Applies retroactively to July 1, 2004, unless otherwise noted.

SB 1406 – Chapter 274 [LIV] – school facilities; budget reconciliation

Amends the building renewal formula to be effective beginning in FY 2005-06, authorizes the School Facilities Board (SFB) to enter into up to \$250 million in lease-to-own agreements in FY 2004-05, reduces a state General Fund appropriation for deficiencies corrections projects by \$25 million in FY 2004-05, authorizes an additional \$25 million in state school trust revenue bonds for deficiencies corrections projects in FY 2004-05 and transfers monies from the Building Renewal Fund to the state General Fund in FY 2004-05.

- Amends the building renewal formula retroactively to July 1, 2005 as follows:
 - Caps the age of a school building at 30 years.
 - Equalizes the formula used to determine the amount of monies provided to buildings regardless of the type of building. Currently, the formula provides a divisor for the age of a building at 1,275, but modular or portable buildings are provided a divisor of 210.
 - Changes the student capacity baseline for the building renewal formula from new school construction square footage requirements to the minimum adequacy guidelines.
 - Changes the building renewal cost per square foot from new school construction guidelines to the replacement cost per square foot, and defines the term *replacement cost*.
- Reduces the FY 2004-05 appropriation from the state General Fund to the Deficiencies Corrections Fund from \$100 million to \$75 million. The remaining \$25 million is authorized through state school trust revenue bonds. Prior to issuing the state school trust revenue bonds, the SFB must submit the bond proposal to the Joint Committee on Capital Review (JCCR). Additionally, the SFB must report to JCCR on the cost of deficiency corrections projects financed with the \$75 million appropriation. Applies these changes retroactively to July 1, 2004.

- Authorizes the SFB to enter into lease-to-own for new school facilities in FY 2004-05 for up to \$250 million. Applies this retroactively to July 1, 2004. Monies may be transferred by the SFB from the New School Facilities Fund to the Lease-To-Own Fund in FY 2004-05 for these purposes. Any monies remaining in the Lease-To-Own Fund on July 1, 2004 do not revert to the state General Fund.
- Transfers \$104,894,500 in FY 2004-05 from the Building Renewal Fund to the state General Fund. Applies these changes retroactively to July 1, 2004.

LINE ITEM VETOES

The Governor line-item vetoed the changes to the building renewal formula.

SB 1410 – Chapter 279 – AHCCCS; health; welfare; budget reconciliation

SB 1410 is the omnibus budget reconciliation bill (ORB) containing health-related statutory and session law changes necessary to enact a balanced state budget for FY 2004-2005. Highlights of the bill are as follows:

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)

- Requires that AHCCCS eligibility be re-determined annually rather than every 6 months.
- Repeals the State Emergency Services program. (In the FY 2003-2004 budget, this provision was vetoed by the Governor in error.)
- Extends eligibility for parents of children in the Children's Health Insurance Program (KidsCare) to the end of FY 2005.
- Requires AHCCCS to reimburse hospitals for outpatient costs by applying the current cost-to-charge ratio until June 30, 2005, and caps hospital rate increases at 4.7 per cent.
- Stipulates that hospitals may only file rate increases once a year from July 1, 2004, through June 30, 2005, and stipulates the criteria hospitals must follow in order to increase rates.

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) (Con't)

- Requires AHCCCS to develop methodology for a capped fee-for-service schedule and a statewide cost-to-charge ratio. Beginning July 1, 2005, AHCCCS shall reimburse hospitals based on the capped fee-for-service schedule or the statewide cost-to-charge ratio.
- Exempts AHCCCS from rulemaking requirements for one year. Requires AHCCCS to hold at least one public hearing in a rural county and in an urban county before adopting rules for implementation of this act.

DEPARTMENT OF HEALTH SERVICES

- Continues to suspend the Suicide Prevention Program in FY 2005. Permits the program to operate if DHS receives new federal funding that does not require state matching funds.
- Makes \$576,600 of unexpended FY 2003 General Fund vaccines monies available to DHS for expenditure in FY 2005 for vaccines. Requires JLBC approval if DHS chooses not to spend the money on vaccines.

DEPARTMENT OF ECONOMIC SECURITY

- Continues to suspend the requirements to pay Institutional Support Payments in FY 2005.
- Continues to permit DES to reduce maximum income eligibility levels for all child care programs. Requires a report to JLBC within 15 days of a change in eligibility levels.

OTHER

- Continues the Board of Nursing Care Institution Administrators and Assisted Living Facility Managers until July 1, 2005 and repeals the Board's enabling statutes on January 1, 2006.
- Requires the Auditor General to complete a performance audit of the Board of Nursing Care Institution Administrators and Assisted Living Facility Managers by January 1, 2005.

SB 1411 – Chapter 280 – environmental protection; budget reconciliation

Makes funding transfers and funding allowances for water protection, Underground Storage Tank Assurance Account administrative activities, off-highway recreational activities and State Parks operating costs. Specifics include:

WATER QUALITY ASSURANCE REVOLVING FUND (WQARF)

- Requires the State Treasurer to transfer \$10 million from the corporate income tax to WQARF in FY 2005. States these monies are in addition to other source revenues.
- Prescribes that no monies from the transaction privilege and severance tax clearing account shall be deposited in WQARF in FY 2005.

UNDERGROUND STORAGE TANKS (UST)

- Suspends the UST Revolving Fund Assurance Account administrative cap for FY 2005 and allows DEQ to transfer \$6,930,900 from the Assurance Account for the administrative costs of the UST Leak Prevention program, Used Oil program as well as integrating the Assurance Account and UST databases into a single database.

ARIZONA WATER PROTECTION FUND

- Clarifies that the annual appropriation from the GF to the Arizona Water Protection Fund for FY 2005 shall be specified in the general appropriations act.

DEPARTMENT OF WATER RESOURCES

- Allows DWR to expend up to \$1,551,600 of unencumbered monies in the Augmentation and Conservation Assistance Fund and the Dam Repair Fund for operating expenses of DWR during FY 2005.

OFF-HIGHWAY VEHICLE RECREATION FUND

- Allows the State Parks Board to spend up to \$692,100 of the State Parks Board's allocation of the Fund in FY 2005 for State Parks Board operating expenses.

STATE PARKS

- States that all monies from the State Parks Enhancement Fund, except those necessary for the lease-purchase payments for the Tonto Natural Bridge State Park, are available for the operating of State Parks in FY 2005 as appropriated by the Legislature in the general appropriations act.
- Allows the Board to only spend up to \$1,749,200 from the State Lake Improvement Fund for agency operating costs in FY 2005.

SB 1412 – Chapter 281 – criminal justice; budget reconciliation

Establishes the Arizona Public Safety Communications Advisory Commission, requires the Department of Corrections (ADC) to privatize inmate commissary stores and continues several criminal justice provisions from the fiscal year 2004 budget.

- Establishes the Arizona Public Safety Communications Advisory Commission (Commission) to make recommendations regarding the development of a state of the art public safety interoperable communications network for Arizona and a long-term interoperability plan for the use of the network.
- Requires ADC to enter into a contract or contracts with a private entity or entities to establish and maintain inmate stores.
- Deposits profits from the state's portion of privatization of the stores into the Inmate Store Proceeds Fund (Fund).
- Provides that monies in the Fund may be used at the ADC Director's discretion for inmate activities, incentive pay increases for ADC officers, equipment to enhance safety or other official needs.
- States that it is the intent of the Legislature to increase the profitability of the state inmate stores while maintaining order within the inmate population.
- States that the Chairman of the Board of Executive Clemency shall also serve as the Board's Executive Director for FY 2005, 2006 and 2007.
- Suspends adult probation ratios for Maricopa County in FY 2005.
- Directs nine per cent of the Criminal Justice Enhancement Fund distribution from the General Fund (GF) to the Crime Laboratory Assessment Fund. States that these monies are for use by the Department of Public Safety and are exempt from distribution to political subdivisions.
- Allows the Attorney General (AG) to use monies in the Collection Enforcement Revolving Fund for operating expenses incurred by the Department of Law in FY 2005.
- Provides ADC with an exemption from the procurement code for private incarceration facility contracts in FY 2005.
- Adds furniture, fixtures and equipment to the original authorization for ADOA to issue a certificate of participation in FY 2004 for 1,000 additional prison beds.

SB 1413 – Chapter 282 – highway fund monies; budget reconciliation

Suspends the statutory limits relating to the amounts of Highway User Revenue Fund (HURF) and State Highway Fund (SHF) monies available for funding the Department of Public Safety highway patrol costs for FY 2004-05. Shifts the first \$118,000,000 in Vehicle License Tax (VLT) revenues received in FY 2004-05 from the SHF to the General Fund (GF). Allows ADOT to enter into an intergovernmental agreement with Maricopa County for the design and construction costs of the improvement of a highway approaching and traversing a bridge to provide direct access to commercial, residential or recreational facilities.

SB 1414 – Chapter 283 – general fund; revenue; budget reconciliation

Makes changes related to revenues that are necessary to implement the FY 2004-05 state budget as follows:

- Provides session law to continue to direct that 31.6% of Powerball sales from the Arizona lottery be deposited to the state general fund in FY 2004-2005.
- Requires any unrestricted federal monies received from May 1, 2004 through June 30, 2005 to be deposited in the state general fund for essential services.

SB 1415 – Chapter 284 – withholding tax rates; budget reconciliation

Makes changes regarding the state withholding rates.

- Effective beginning 2005, makes the following changes to the withholding tax rates (10% rate is only an option for those making less than \$15,000/year):

CURRENT RATES	PROPOSED RATES
10.0%	10%
18.2%	19%
21.3%	23%
23.3%	25%
29.4%	31%
34.4%	37%

- Provides session law to direct employers to increase withholding amounts for their employees. The increase is based on the current percentage the employee now has withheld from their paychecks.
- The changes will not preclude employees from changing the percentage of withholding tax if they so choose.

SB 1416 – Chapter 285 – Ladewig settlement; budget reconciliation.

Allocates \$120 million for costs associated with *Ladewig v. State of Arizona* in FY 2004-05. The Department of Revenue may utilize up to \$3,753,300 for administration costs. Any additional administrative costs incurred may be required after review of an expenditure plan by the Joint Legislative Budget Committee.

SB 1417 – Chapter 286 – state fees; budget reconciliation

Makes statutory and session law changes related to the public finances necessary to implement the FY 2004-05 state General Fund and Other Fund budgets as follows:

- Allows the Arizona Historical to charge a fee for services during FY 2005.
- Prohibits the Director of the Department of Insurance from revising fees or assessments in FY 2005 for the purposes of meeting the requirement to recover at least 95 per cent, but not more than 110 per cent of the department's appropriated budget.
- Prohibits the State Real Estate Commissioner from revising fees in FY 2005 for the purposes of meeting the requirement to recover at least 95 per cent but not more than 110 per cent of the State Real Estate Department's appropriated budget.

SB 1418 – Chapter 287 – election systems funding; budget reconciliation

Permits the Secretary of State to use state General Fund monies appropriated to the Election Systems Improvement Fund (ESI) without further appropriation beginning in FY 2004-05. Clarifies that all other monies deposited in the ESI, to the extent permitted by federal law, are subject to legislative appropriation and are subject to lapsing of appropriations provisions.

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COMMITTEE ON COMMERCE AND MILITARY AFFAIRS

*Representative Philip J. Hanson, Committee Chairman
Diana Clay O'Dell, Legislative Research Analyst
Steven Moortel, Assistant Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2044	48	[P 108]	board of appraisal; compensation; fees
HB 2114	92	iceburg lettuce research council (See NRA Committee)	
HB 2115	108	Arizona citrus research council (See NRA Committee)	
HB 2125	66	ADOSH; duties	
HB 2140	235	*military airport planning; appropriation	
HB 2141	111	*military airports; development; planning; zoning	
HB 2176	113	corporation commission; business entities	
HB 2221	27	UCC; bulk sales; repeal	
HB 2250	189	trustee sales	
HB 2301	248	contractors; recovery fund; registrar; license	
HB 2373	35	*exemption; building and fire safety	
HB 2399	208	*structural pest control commission	
HB 2435	203	state veterans' home facility	
HB 2438	165	workers' compensation; prescription medicine fees	
HB 2440	251	unemployment insurance benefits	
HB 2441	96	industrial commission; general powers	
HB 2529	37	board of funeral directors; continuation	
HB 2570	77	licensed liquor premises; closing time	
HB 2662	168	military airports; military training routes	
SB 1093	304	department of commerce continuation	
SB 1104	215	veterinarians; crematory licensure; animals	
SB 1106	16	registrar of contractors; continuation	

SB 1107	17	board of barbers; continuation
SB 1123	182	*county highway improvements; tax diversion <i>(See Transportation Committee)</i>
SB 1137	75	*homeowners' association; validity of actions
SB 1140	100	real estate omnibus
SB 1158	224	tuition waivers; guardsmen; correctional officers
SB 1159	102	*cosmetology mobile salons
SB 1163	42	board of cosmetology; continuation
SB 1172	43	manufactured housing board; duties
SB 1215	19	housing task force report; submission
SB 1234	183	landlord registration
SB 1249	133	Arizona aerospace and defense commission
SB 1256	307	workers' compensation; insurance carriers
SB 1264	334	tourism and sports; spring training
SB 1305	176	lottery commission personnel
SB 1311	216	purchaser of dwelling actions
SB 1353	311	cigarettes; delivery sales

HB 2044 – Chapter 48 [P 108] – board of appraisal; compensation; fees

Increases the compensation to \$150 per day (\$75 for serving less than four hours) for members of the Board of Appraisal, including those who attend via conference telephones. For *Property Tax Agents*, raises the initial registration fee to \$200 and the renewal fee to \$100 for two years. Contains a Proposition 108 clause.

HB 2125 – Chapter 66 – ADOSH; duties

Requires the Division of Occupational Safety and Health to inspect boilers and lined hot water heaters, except those already inspected by authority of Special Inspector Certificates issued to qualified individuals or companies. Conforms to federal law.

HB 2140 – Chapter 235 – *military airport planning; appropriation

Establishes that the Legislature finds that compatibility of land use with the continued operation of a military airport or ancillary military facility is of statewide concern. Makes an appropriation for military installation preservation and enhancement projects, creates a Military Affairs Commission, delineates an *ancillary military facility* on a map and amends the provisions of law relating to the responsibilities of the local governing bodies as well as the State Attorney General.

- Establishes the *Military Installation Fund* for the purpose of military installation preservation and enhancement projects. Appropriates from the State GF for FY 2004-05 and each year thereafter: \$75,000 and one FTE to the Department to administer the Fund; \$100,000 to the Attorney General; and \$4,825,000 to the Military Installation Fund (exempt from lapsing).
- Directs the Department of Commerce and the Commission to establish rules of procedure for receiving and evaluating grants. Directs disbursement of monies as follows:
 - 80 per cent to acquire private property, real estate, property rights and related infrastructure to preserve, support or enhance a *military installation*. Up to 20 per cent of these monies may be awarded to cities, towns or counties to acquire private land.
 - 20 per cent to cities, town or counties for military installation preservation/enhancement projects. Permits monies to be used for related debt service on bonds as noted.
- Requires the Legislature to review the distribution formula at least every four years and directs the Department to annually submit a written report of the awards to the Legislature and the Governor.
- Creates a 15-member *Military Affairs Commission* consisting of individuals of geographic diversity knowledgeable in military affairs who represent the long-term interests of military installations, private landowners and the affected cities, towns and counties. Outlines powers and duties.
- For the approval, adoption or readoption of a general or comprehensive plan or an amendment, modifies the powers and duties of the attorney general for determining compliance, which shall be according to the compatible land use plan in the *Joint Land Use Study* completed in February 2004. Outlines requirements and prescribes time limits for both the AG and the affected governing body.
- Allows counties to enter into IGAs and transfer development rights in order to facilitate development in a *High Noise/APZ*. States that for the purpose of acquisition of property by any State or Federal agency, or any related instrumentality, in determining *Fair Market Value* of property located in a *High Noise/APZ* or

the development rights to the appurtenant property, permits zoning of at least one residential dwelling per acre.

- Within 90 days after the effective date of the Act, requires the State Land Department to prepare a map of each ancillary military facility, the territory in the vicinity of the ancillary military facility, the high noise and accident potential zone, including APZ #1 and APZ #2. Requires the map to be available to the public at the State Land and the State Real Estate departments.
- Adds a statutory reference to *Ancillary Military Facility* and defines it as Luke Air Force Base Auxiliary Field #1, Luke Air Force Base Gila Bend Auxiliary Field, and Yuma Marine Corps Air Station Auxiliary Field. Defines property within a *High Noise and APZ*.
- Requires cities, towns and municipalities to identify the *boundaries* of the *High Noise/APZ* in the *General or Comprehensive Plan* for purposes of land use planning and compatibility (by 12/31/05).

HB 2141 – Chapter 111 – *military airports; development; planning; zoning

- Defines *Ancillary Military Facility* and incorporates the definition into pertinent sections of law, including the definitions of: *Accident Potential Zones #1 and #2; Clear Zone; Territory in the Vicinity of an airport*.
- States that land divisions resulting in a lot, parcel or fractional interest of four acres or less in size within a High Noise or Accident Potential Zone shall not be allowed or approved by a political subdivision. Allows the county to grant a variance.
- Within 90 days after the effective date of this law, directs the State Land Department to make the *Luke Air Force Base Auxiliary Airfield #1 Map* dated March 1, 2004, available to the public in print or electronic form at the State Land and the State Real Estate departments.
- Contains an applicability clause limiting the provisions to property in escrow after January 1, 2005, or pending zoning applications filed after that date.

HB 2176 – Chapter 113 – corporation commission; business entities

Conforms the limited liability companies' statutes to those of corporations relative to expedited filings, filing articles of correction and filing an application for reinstatement.

HB 2221 – Chapter 27 – UCC; bulk sales; repeal

Repeals the *Uniform Commercial Code—Bulk Sales* and related provisions of statute.

HB 2250 – Chapter 189 – trustee sales

Makes various changes to the statutes regarding trustee sales, including notice, disclosure, delegation of duties, maximum fees and reasonable expenses for enforcing the terms of a contract or trust deed.

HB 2301 – Chapter 248 – contractors; recovery fund; registrar; license

Modifies the powers and duties of the Registrar of Contractors to allow for the development, management and operation of construction-related programs that will benefit the public. Provides authority to accept voluntary gifts, grants or matching funds from public agencies. Makes the written examination required for licensure

valid for two years and prohibits an award for *actual damages* from being established by bids submitted by an unlicensed person performing contracting.

HB 2373 – Chapter 35 – *exemption; building and fire safety

Clarifies that real estate licensees or brokers who sell used manufactured homes, mobile homes, factory-built buildings or subassemblies do not also have to be licensed by the Department of Building and Fire Safety if the sale is listed in a contract for transfer of an interest in real property.

HB 2399 – Chapter 208 – *structural pest control commission

Requires a business licensee to file with the Commission, the Termite Action Registration Form and required fee within 30 calendar days after completing a treatment. Specifies that any record of a termite treatment, a wood-destroying insect inspection report or fungi inspection report be maintained for at least five years and all other treatment records be maintained at least three years.

HB 2435 – Chapter 203 – state veterans’ home facility

Allows the Director of Veteran’s Services to enter into lease-to-own transactions with private entities for the construction, occupancy and ownership by the state of veteran’s home facilities in southern Arizona and outlines specific requirements.

HB 2438 – Chapter 165 – workers’ compensation; prescription medicine fees

Expands the fee schedule developed by the Industrial Commission to include prescription medicines required to treat an injured employee.

HB 2440 – Chapter 251 – unemployment insurance benefits

Makes changes to the current Unemployment Insurance benefits provisions of law by increasing the weekly benefit payment to \$240 beginning July 1, 2004, and increasing the required dollar amount that must be earned in the base period to \$1,500.

- Effective January 1, 2005, a worker is not deemed to be *unemployed* as follows:
 - The unemployment is directly the fault of the worker.
 - The worker is receiving wages in lieu of notice, dismissal or severance pay.
 - The person is incarcerated.
- Prohibits disqualifying a person from benefits or reducing benefits as follows:
 - The person is a victim of domestic violence and leaves employment due to a documented case. Benefits shall not be charged against the employer’s account.
 - The person is receiving social security retirement benefits.
- Effective January 1, 2005, provides the following for the employer:
 - Waives payment if the quarterly contribution is less than \$10.
 - Reduces the contribution rate to two per cent if no chargeable benefits for the prior 12 months.
 - Calculates the adjusted rate to the nearest one-thousandth per cent if the positive reserve ratio is 13 per cent or more. The adjusted rate shall never be less than twenty-five thousandths per cent.

- Requires the employer to submit all required contribution and wage reports to the Appeals Board within 45 days after the final decision when there is a reconsidered determination and the employing unit is found to be liable.
- Places the burden of proof on DES to establish that the employer failed to provide employment opportunities to an individual to the same extent as during the base period.
- Authorizes the use of fax transmission reports as evidence of timely filing a response. The Department must report the results to the Joint Legislative Budget Committee.

HB 2441 – Chapter 96 – industrial commission; general powers

Authorizes the Industrial Commission to share, receive and enter into agreements that govern sharing nonpublic material with other agencies for administrative needs as long as the sharing agency agrees to maintain confidentiality. Additionally, the Commission may protect financial information regarding self-insurance or its renewal.

HB 2529 – Chapter 37 – board of funeral directors; continuation

Extends the State Board of Funeral Directors and Embalmers 10 years until July 1, 2014.

HB 2570 – Chapter 77 – licensed liquor premises; closing time

Extends the time that an on-sale or off-sale retailer may sell, dispose of, deliver or give spirituous liquor to a person until 2:00 A.M., an additional hour. Additionally, it extends the time an on-sale retailer may allow a person to consume or possess spirituous liquor until 2:30 A.M., which is an additional one hour and fifteen minutes.

HB 2662 – Chapter 168 – military airports; military training routes

Defines the military training routes, outlines requirements for subdivision public reports and provides for public disclosure through the State Land and Real Estate departments.

SB 1093 – Chapter 304 – department of commerce continuation

Continues the Department, with the exception of the Solar Energy Advisory Council and the State Energy Code Advisory Commission 10 years until July 1, 2014.

SB 1104 – Chapter 215 – veterinarians; crematory licensure; animals

Requires all animal crematories and those performing cremation services to be licensed. Prescribes fees and penalties that may be imposed by the Board. Outlines notification requirements when burial is in a landfill. Modifies certain licensure requirements, and establishes Board responsibilities for determining appropriate discipline. Establishes that licenses expire on December 31 of even numbered years and assesses a \$100 fee for late renewal. In an emergency, authorizes a technician to care for an animal under the telephonic advisement of a licensed veterinarian prior to the veterinarian's arrival.

SB 1106 – Chapter 16 – registrar of contractors; continuation

Continues the Registrar of Contractor for an additional 10 years until July 1, 2014.

SB 1107 – Chapter 17 – board of barbers; continuation

Continues the Board of Barbers for an additional 10 years until July 1, 2014.

SB 1137 – Chapter 75 – *homeowners’ association; validity of actions

Allows a member of a Condominium or a Planned Community Association of homeowners to challenge the corporation’s power to act.

SB 1140 – Chapter 100 – real estate omnibus

Prescribes the following relating to the Arizona Department of Real Estate:

- Outlines requirements to obtain a *Business Broker’s License*, including proper record keeping, and cooperatively conducting business with out-of-state brokers.
- Authorizes the Commissioner to take disciplinary action against a licensee or person seeking licensure for failing to provide documents during the course of an investigation or audit (within the immediately preceding five years).
- Property Management - Requires property management firms to account for monies that are collected, including any tenant deposits and directs each *rental agreement* to include a clearly stated provision of tenant deposits.
- Timeshares - Increases fees for developers who violate timeshare laws.
- Cemeteries – Outlines requirements when ownership/control transfers. Prescribes duties prior to selling plots/interment rights in a licensed cemetery. Authorizes and establishes a reclamation process to reclaim abandoned plots. Directs owners of cemetery property to keep the cemetery informed of a current residential address.

SB 1158 – Chapter 224 – tuition waivers; guardsmen; correctional officers

Enables a National Guard member, the spouse or child of the Guardsman or the child or spouse of a correctional officer to qualify for a tuition waiver scholarship as outlined.

SB 1159 – Chapter 102 – *cosmetology mobile salons

Expands the definition of a *salon* to include a retrofitted mobile facility for the purpose of practicing cosmetology, aesthetics or nail technology that is operated and dispatched from a business that has a physical street address on file with the Board. Removes hair braiders from being required to obtain a cosmetology license.

SB 1163 – Chapter 42 – board of cosmetology; continuation

Continues the Arizona Board of Cosmetology until July 1, 2014.

SB 1172 – Chapter 43 – manufactured housing board; duties

Requires the Board to establish standards for the permanent foundation of manufactured homes, mobile home and factory-built buildings.

SB 1215 – Chapter 19 – housing task force report; submission

Extends the date the Task Force must issue its final report on the availability of financing for single family homes and the distribution and use of private activity bonds to December 31, 2004.

SB 1234 – Chapter 183 – landlord registration

Outlines requirements for a tenant to provide written notification to the landlord when the landlord fails to comply with the current statutory reporting requirements at the office of the county assessor.

SB 1249 – Chapter 133 – Arizona aerospace and defense commission

Creates the Arizona Aerospace and Defense Commission in place of the Arizona Space Commission and outlines the amended duties. Additionally, the Commission must develop a strategic plan that builds a relationship between government, industry and education. Finally, the Commission must submit an annual report to the Governor, Legislature, Secretary of State and the Arizona State Library, Archives and Public Records detailing the condition of the aerospace and defense industries in Arizona.

SB 1256 – Chapter 307 – workers’ compensation; insurance carriers

Makes changes to the deposit required to offer workers’ compensation insurance and specifies requirements for reinsures. Changes the reimbursement procedures for the State Compensation Fund and the Special Fund for an insurance carrier or employee who fails to pay a valid claim.

SB 1264 – Chapter 334 – tourism and sports; spring training

Allows the Cactus League Promotional Account to be used in order to attract/retain Major League Baseball (MLB) spring training operations and prohibits its use in facilitating the relocation of a MLB spring training operation as outlined.

SB 1305 – Chapter 176 – lottery commission personnel

Removes employees of the Arizona State Lottery involved in sales that require the handling of property that produces revenue for the lottery, from being subject to personnel rules adopted by the Commission.

SB 1311 – Chapter 216 – purchaser of dwelling actions

Prohibits a purchaser from filing a multi-dwelling action without first complying with the alternative dispute resolution procedures and adds a 90-day period for notification from the purchaser to the seller prior to a purchaser being able to file a multi-dwelling act. Requires an insurer to treat a notice that issues a policy of insurance covering all or part of the business as a notice of a claim under the insurance policy. Stipulates that if a purchaser rejects the seller's offer, the response to the seller must include the specific factual basis for the rejection and the purchaser's counter-offer, if any.

SB 1353 – Chapter 311 – cigarettes; delivery sales

Establishes specific requirements for tobacco product delivery sales, including age verification, reporting requirements and penalties.

- Stipulates that a sale of tobacco products constitutes a *delivery sale* unless the individual is a licensed distributor or the sale is linked to an Indian tribe. Requires the retailer to obtain a distributor's license from the Department of Revenue (DOR) prior to placing an order for a *delivery sale*. Defines *tobacco products* as all tobacco luxuries included in the luxury privilege tax except pipe tobacco and cigars.
- Prescribes a Class 5 felony plus a specified fine for a violation of tobacco delivery sales laws by an adult, while a minor who knowingly violates any provision of this article is guilty of a petty offense. Outlines forfeiture requirements.

- Permits the Attorney General or a federal permit holder to bring an action in court to prevent or restrain violations of tobacco product delivery sales laws.

COMMITTEE ON EDUCATION

***Representative Linda Gray, Committee Chairman
Brian Lockery, Legislative Research Analyst***



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2005	263	vocational programs; age requirements	
HB 2010	313	*schools; impact aid revenue bonds	
HB 2026	88	community colleges; workforce development monies	
HB 2074	315	*K-3 override; carryforward	
HB 2102	243	schools; personnel reductions; timeline	
HB 2104	340	schools; excess utilities funding plan	
HB 2105	50	schools; procurement; GSA contracts	
HB 2181	230	school districts; agencies; insurance pools	
HB 2185	206	*enduring freedom memorial <i>(See Committee on Government & Retirement)</i>	
HB 2188	198	school teachers; certification applications	
HB 2206	316	character education license plates	
HB 2255	120	charter schools; civil penalties	
HB 2265	237	*poison control centers; appropriations <i>(See Committee on Health)</i>	
HB 2352	202	school textbooks; alternative format	
HB 2353	34	schools; measures of academic progress	
HB 2369	322	university employees; felony convictions; prohibition	
HB 2396	341	*unified school districts; budgets	
HB 2475	209	schools; impact aid	
HB 2546	126	A.S.P.I.R.E.; repeal	
HB 2558	256	special education; foster parent; definition	
HB 2580	257	state board; charter schools; members	
HB 2593	327	family college savings program	
HB 2601	336	community colleges board; cleanup	
SB 1133	259	*Arizona Historical Society; private donations	
SB 1327	338	small school districts; budget limit	
SB 1365	339	school curriculum; Native American culture	

HB 2005 – Chapter 263 – vocational programs; age requirements

Allows persons over 22 years of age, until July 1, 2006, to attend a vocational program during regular school hours in a joint technological education district (JTED) on a campus that is not a comprehensive high school campus in a county exceeding one million persons if additional student capacity remains after the enrollment of students who are 22 or younger under certain conditions. Additionally, JTED governing boards are required to establish security policies prescribing the circumstances when students over age 22 and students under age 22 are allowed in the same classroom, and these policies must be designed to maximize the safety of students and include security personnel.

Limits vocational programs, until July 1, 2006, that are offered by a JTED to persons over twenty-two years of age to a high school curriculum unless the programs are offered in conjunction with a community college district.

Prohibits students who are over 22 years of age from being part of the student count of the JTED. Additionally, the Arizona Department of Education is prohibited from distributing monies for students who graduated from high school or received a general education diploma or who turned 22 years of age, whichever occurs first.

HB 2010 – Chapter 313 – *schools; impact aid revenue bonds

Removes the restriction on accommodation school districts located on a military base from issuing impact aid revenue bonds. The district may hold an election to raise impact aid revenue bonds but may not issue the bonds until after the Federal Base Relocation and Closure Commission has affirmed that the base will remain open. Additionally, the Arizona Department of Education is required to put together a guidebook on the approved uses of federal impact aid monies that is to be distributed to school districts that receive impact aid monies. The guidebook may only include uses that are indisputably supported by a federal government determination or by state law.

HB 2026 – Chapter 88 – community colleges; workforce development monies

Changes the reporting requirement for the community college workforce development plans from an annual report to a biennial report, beginning December 1, 2004. Additionally, community colleges owned, operated and chartered by a qualifying Indian tribe on its own reservation must complete the biennial report. Finally, the term *qualifying Indian tribe* is defined.

HB 2074 – Chapter 315 – *K-3 override; carryforward

Allows a school district to include in the budget balance carryforward up to 50 per cent of any unspent K-3 override monies. Additionally allows the school district to retain that budget capacity and carryforward up to 50 per cent of unspent K-3 override monies to the next fiscal year.

HB 2102 – Chapter 243 – schools; personnel reductions; timeline

Changes the deadline of general salary reduction notifications given to all certificated teachers in the state and to credentialed specialists working for the Arizona State Schools for the Deaf and the Blind to the May 15 prior to the fiscal year when the reduction is effective and exempts reductions in funding provided by the Classroom Site Fund.

HB 2104 – Chapter 340 – schools; excess utilities funding plan

Requires school district governing boards that budget for excess utilities to annually review the costs associated with the direct operational costs of utilities, establish financial goals to include excess utilities costs within the school district's Revenue Control Limit (RCL) by June 30, 2009 and to review progress toward compliance. Additionally, the bill suspends school-by-school budgeting and reporting for two years, repeals some reports and allows the school district governing board to delegate purchasing authority to one or more employees.

- Requires school district governing boards that budget for excess utilities, until June 30, 2009, to annually review the following information at the same public meeting that the budget is proposed and adopted:
 - The current budget, the current estimated expenditures and the proposed budgeted amount of monies for the direct operational costs of utilities.
 - An establishment of specific financial goals enabling the school district to include excess utility costs within the district's RCL by June 30, 2009, as required by Proposition 301.
 - A review of the school district's financial goals to ensure progress towards compliance by June 30, 2009.
- Repeals the requirement for school districts to annually report a description of the school district's special academic assistance program and the monies expended on the program.
- Suspends school-by-school annual financial reporting and budgeting for two years.
- Repeals the requirement for the governing board of a school district to annually prepare a final estimate of revenue from all sources. The Department of Education may collect information from school districts necessary to complete the annual estimate by county school superintendents of monies for the ensuing year.

HB 2105 – Chapter 50 – schools; procurement; GSA contracts

Allows school district governing boards and charter schools to evaluate United States Government General Services Administration (GSA) contracts for materials and services, and to make purchases that are exempt from procurement rules if certain conditions exist.

- Authorizes the school district governing board and charter school governing body to make purchases from an approved contract. The purchases are exempt from procurement rules if the contract meets all of the following requirements:
 - The price is equal to or less than the contractor's current federal supply contract price.
 - The contractor has provided a written statement indicating they are willing to extend the current federal supply contract pricing, terms and conditions.
 - The purchase order adequately identifies the federal supply contract on which the order is based.
 - The purchase contract is cost-effective and is in the best interest of the school district or charter school.

HB 2181 – Chapter 230 – school districts; agencies; insurance pools

States that public agencies may enter into intergovernmental agreements (IGAs) or contracts with public agency pools for additional types of insurance and retention of risks. Additionally, the bill stipulates that

community college district governing boards may enter into IGAs or public agency pools without competitive procurement.

- Allows districts to include leased employees for the payment of any property or fidelity loss sustained, legal expenses incurred or lawful claim of liability or fortuitous loss made against them.
- Stipulates that community college district governing boards are not required to engage in statutorily established competitive procurement to participate in IGAs or pools.
- Expands the definition of *local public procurement unit* to include any nonprofit corporation created solely for the purpose of administering cooperative purchases for intergovernmental procurement.
- Stipulates that upon request of the Auditor General, a nonprofit organization acting as a public procurement unit, shall provide documentation regarding any cooperative purchasing transactions the public procurement unit administers.
- Requires a nonprofit corporation operating as a public procurement unit to comply with all procurement laws associated with the public procurement unit participating in a cooperative purchasing transaction that the nonprofit corporation administers.

HB 2188 – Chapter 198 – school teachers; certification applications

Prohibits certain persons from applying for teaching certification for five years. Additionally, the bill provides procedures to the Arizona Department of Education (ADE) and the Arizona State Board of Education (SBE) for the teacher certification application process and for delivering official notifications.

- Directs the ADE or SBE to:
 - Issue a written notice to a person submitting an administratively incomplete application for a teaching certificate to supply the lacking documentation or information.
 - Withdraw the application 60 days after the date of the notice if the applicant does not provide the requested documentation or information or provide reasonable documentation for the delay.
 - Provide the applicant an additional 30 days to comply with the request for further information if the applicant provides documented justification for the delay.
- Allows the ADE or SBE, in the event of a substantively incomplete application for a teaching certificate, to request additional information or documents. The SBE shall deny the application if the requested documents are not received 60 days from the date of the request.
- Directs the SBE to deliver by certified mail, personal delivery or other means reasonably calculated to the last known address of the recipient:
 - Disciplinary action notifications.
 - Teacher certification denials, which must include the justification for the denial, including references to the rules or statutes upon which the denial was based, and a notice that the applicant may appeal the denial.
- Allows a denied applicant to request a hearing with the SBE in accordance with current statutory requirements for governing hearings to appeal the denial.

- Prohibits persons from applying for teacher certification, and the ADE from processing those applications, for a period of five years from the event of:
 - The person surrendering their teaching certificate.
 - The person's certificate being revoked by the SBE due to immoral or unprofessional conduct.
 - The person being denied their teaching certificate due to immoral or unprofessional conduct.
- Provides an exemption to the five-year prohibition on reapplying for certification if a person submits additional information not previously considered by the SBE that addresses the grounds of their original denial for immoral or unprofessional conduct or if a person had their certificate revoked for dangerous crimes against children and other crimes involving children.
- Clarifies that immoral or unprofessional conduct is defined by the SBE.

HB 2206 – Chapter 316 – character education license plates

Requires the Arizona Department of Transportation (ADOT) to issue character education special license plates, as designed by the Superintendent of Public Instruction. Additionally, a portion of the monies collected from the sale of the character education special license plates must be deposited in the Character Education Special Plate Fund (Fund), as established in the bill. Monies in the Fund are to be distributed by the Arizona Department of Education (ADE) to schools for character education.

- Requires the ADOT to issue character education special license plates beginning no later than January 1, 2005 if the ADE pays \$32,000 to the ADOT for the character education special license plates. The ADE must accept and use monies from outside sources for the payment.
- Requires the Superintendent of Public Instruction, or designee, to design the character education special plates, with the design and color subject to approval by the ADOT.
- Separates the special plate fee, with \$8 applied as a special plate administration fee to be deposited in the State Highway Fund and the remaining \$17 to be deposited into the Fund.
- Establishes the Fund to be administered by the ADE. Monies in the Fund are to be distributed by the ADE to school districts and charter schools for character education through at least two but no more than four private 501 (c) (3) character education foundations and the programs must provide proven and effective research-based curriculum and training on character education. Additionally, the monies are exempt from lapsing.

HB 2255 – Chapter 120 – charter schools; civil penalties

Allows the sponsor of a charter school to direct the Arizona Department of Education to withhold a portion of state aid if the charter school is out of compliance with federal law, state law or with the charter.

HB 2352 – Chapter 202 – school textbooks; alternative format

Requires the State Board of Education (SBE) to adopt rules requiring the purchase of instructional materials only from vendors who provide an accessible electronic file of the materials for use by disabled students and students with Section 504 plans.

- Stipulates that by August 1, 2005, the SBE must adopt rules for the following:
 - Requiring school districts and other public schools to purchase instructional materials, not including workbooks, practice tests and tests, from a vendor who offers the materials in an accessible electronic file for use by students classified as disabled by IDEA and students with Section 504 plans. Only instructional materials adopted after the 2005-06 school year and with an original copyright date of 2004 or later are affected.
 - Submission by the vendor of the accessible electronic file at the time when the vendor's proposal is accepted.
 - Distribution of alternative formats of instructional materials to students at the same time as regular format distribution to students.
 - Submitting accessible electronic files by the vendor to an authorized entity for conversion into accessible formats.
 - Prohibiting unauthorized copying, modification and distribution to unauthorized entities.
- Considers nonprinted materials that meet federal standards for internet accessibility compliant, unless doing so would:
 - Fundamentally alter the nature of the instructional activity.
 - Result in undue financial and administrative burdens on any state agency, school district or school.
 - Cause the materials to not meet state content standards, adoption criteria or other applicable specifications.
- Exempts printed materials if compliance would do any of the following:
 - Fundamentally alter the nature of the instructional activity.
 - Result in undue financial and administrative burdens on any state agency, school district or school.
 - Cause such resources not to meet state content standards, adoption criteria or other applicable specifications.
- Prohibits reproductions or modifications of the instructional materials without written permission of the copyright holder.
- States that if a national file format is adopted, publishers are not required to produce accessible electronic files that are inconsistent with or more stringent than the specification of the nationally adopted file format.
- Clarifies copyright protections by:
 - Reiterating the prohibition of reproduction, modification and distribution of accessible electronic files or instructional materials.
 - Requiring school districts and other public schools to certify that no reproduction or modification shall occur without permission of the copyright holder while the materials are in their possession.
 - Specifying that vendors or copyright holders are not required to provide copies of instructional materials without compensation.

HB 2353 – Chapter 34 – schools; measures of academic progress

Changes the calculation used by the Arizona Department of Education to compute the Arizona Measures of Academic Progress for each school to include the extent of academic progress made by the pupils in each school during the course of the year.

HB 2369 - Chapter 322 – university employees; felony convictions; prohibition

Requires the Arizona Board of Regents to establish policies for guaranteed admission that assure fair and equitable access to Arizona students from public, private, charter and home schools.

HB 2396 – Chapter 341 – *unified school districts; budgets

Contains numerous education provisions.

- Establishes a formula for a newly formed unified school district formed after July 1, 2004, if all of the common schools were eligible for the small school district or small isolated school district weight, to retain that calculated weight when determining the base support level and base revenue control limit of the unified district. A new formula is created to determine the unified school districts eligible to utilize the small school district or small isolated school district weight as allowed for newly formed unified school districts. The budgeting exemption ends when the aggregate student count of the common school districts before unification exceeds the aggregate student count of the common school districts that are authorized to budget for the small school district and small and isolated school district weight.
- Clarifies that an override begun in a district before consolidation is the responsibility of the district that passed the override, and that consolidation does not consolidate or pool the liability of the override upon the taxpayers of the newly consolidated school district.
- States that if a school district consolidates after July 1, 2004, the new school district may pay tuition to the district of attendance when a pupil is precluded by distance or lack of transportation from attending school in the district of a pupil's residence.
- Changes the Class B bond ballot language for joint technological education districts (JTED).
- Allows Class B bond proceeds for a new facility at the main campus of a JTED to be expended on soft capital items, computer hardware, furniture or other equipment for new school facilities, with a bond issuance not to exceed five years. The amount of bonds is restricted to no more than 30% of the total cost of the new school facility.
- Establishes a deadline of February 28 for school districts and charter schools to submit applications for distributions of monies from the English Learner Classroom Personnel Bonus Fund. Additionally, the distributions from the Fund are capped at equal amounts not to exceed the statutory amount of \$250 per English learner.
- Changes distributions from the Classroom Site Fund. The Arizona State Schools for the Deaf and the Blind shall receive monies from the Fund in an amount corresponding to the weighted student count for each pupil enrolled.

- Conditionally makes changes to the timeframes and thresholds for uncollected property taxes as passed in SB 1405 and as transmitted to the Governor. The version approved in SB 1405 requires the county treasurer to annually certify to the school district as of January 1 that, in the treasurer's belief, more than 30 per cent of the primary property tax revenues due to the school district will not be remitted due to property tax delinquents. HB 2396 reduces the threshold to 20 per cent and requires the county treasurer to certify after January 1. Additionally, clarifying language is included to assure repayment of the supplemental state aid through basic state aid payments until the supplemental state aid is repaid.
- Conditionally changes the JTED cap as passed in SB 1405 and as transmitted to the Governor. The cap clarifies that newly formed JTEDs, as authorized in previous legislation that capped the formation and growth of JTEDs, may not receive more basic state aid funding than the amount of basic state aid funding the JTED received in FY 2003-04.
- Conditionally amends an appropriation to the Hayden-Winkelman Unified School District as passed in SB 1405 and as transmitted to the Governor. The language declares that nothing in that section shall be construed to prohibit the Hayden-Winkelman Unified School District from entering into lease-purchase agreements or from registering warrants if the agreements and warrants are repaid through the general operating revenues of the school district.
- Declares that small school district exemption override levies of taxes on taxable property do not include a levy of the government property lease or park property lease excise taxes authorized in statute.
- Establishes a park property lease excise tax, to be levied and collected by the county, on each prime lessee of a lease with the National Park Service of a property improvement. The assessment, collection and distribution of tax monies shall be as provided in statute with two exceptions.

HB 2475 – Chapter 209 – schools; impact aid

Authorizes school districts to expend Impact Aid funds on maintaining and renovating teacher-housing and allows for those monies to be transferred into the teacherage account.

HB 2546 – Chapter 126 – A.S.P.I.R.E.; repeal.

Repeals the Arizona Student Program Investing Resources for Education program.

HB 2558 – Chapter 256 – special education; foster parent; definition

Changes the definition of *foster parent* in relation to an individualized education program.

HB 2580 – Chapter 257 – state board; charter schools; members

Adds two members to the State Board for Charter Schools (SBCS), a charter school classroom teacher and an operator of a charter school, and continues the SBCS for an additional ten years.

HB 2593 – Chapter 327 – family college savings program

Makes changes to the Family College Savings Program (Program) by establishing the Family College Savings Program Trust Fund (Fund).

- Replaces three members of the Family College Savings Program Oversight Committee. Three members removed are the Director of the Department of Insurance, the Director of the Department of Banking and the President of the Arizona Board of Regents. The three new members are a certified financial planner, a certified public accountant and an attorney with a State Bar of Arizona certification in assets and trusts, all appointed by the Governor.
- Establishes the Fund consisting of the assets of the Program. The Fund is designated as a public instrumentality of the State that is created for an essential public purpose. The Commission must:
 - Administer and act as the trustee of the Fund.
 - Maintain the Program on behalf of the State as required by the Internal Revenue Code.
 - Enter into tuition savings agreements with account owners.
 - Designate trust interests in the Fund.
 - Separate the Fund into a trust account and an operating account.
 - Deposit and invest monies in the Fund with financial institutions as established by current statute.
- Makes changes to trust accounts and clarifies transaction processes.
- Allows account owners to transfer ownership rights to another eligible account owner and to designate successor account owners.
- Requires the Commission to select proposals from financial institutions to act as depositories and managers. Additionally, the selection process shall be exempt from the state request for proposal procurement process.

HB 2601 – Chapter 336 – community colleges board; cleanup.

Continues the transfer and removal of general administrative powers, authorities, reporting, oversight and responsibilities of the State Board of Directors for Community Colleges (SBDCC).

- Repeals the powers and responsibilities of the SBDCC.
- Transfers the following responsibilities and authorities of the SBDCC:
 - Notice of conviction of teachers of specified crimes.
 - Presentation of a plan to the Legislature for the formation and establishment of a community college district. This responsibility is transferred to the county board of supervisors.
 - Receipt of notification of persons eligible for tuition waivers from the Arizona Peace Officers Memorial Board or the Arizona Fire Fighters and Emergency Paramedics Memorial Board, which is transferred to community college district governing boards.
 - The annual reporting by a qualifying Indian tribe community college of full-time equivalent student enrollment by June 30, which is transferred to the Auditor General.
- Transfers the following responsibilities and authorities of the SBDCC to the community college districts:
 - The authority for the establishment of a program for the exchange of students at Arizona community colleges and of students at universities located in Sonora, Mexico. The total number of participating students statewide cannot exceed 50 pupils, with a report annually submitted detailing certain information.
 - For facilitating transfer articulation coordination.

- Receipt of certification of residency by the county school superintendent. This notification is to be sent to each community college district board.
- In conjunction with the Auditor General, prescribing a uniform system of accounting for use by all community college districts, including qualifying Indian tribe community colleges.
- Transfers the following reporting responsibilities from the SBDCC to each community college district:
 - For the completion of an annual report containing specific information by district including the number of staff, the curriculum offered and the number of students registered and attending. This report must be additionally submitted to the Joint Legislative Budget Committee (JLBC).
 - A report to all Arizona high schools with information describing the policies, types of courses available and other information related to the enrollment of students under 18 years of age.
 - A report to the Legislature and the State Board of Education (SBE) on the number of students under 18 years of age who were enrolled in the community college but had not received a high school diploma or equivalency.
 - A report demonstrating the academic performance of high school graduates.
- Replaces a member of the SBDCC from the following boards, councils and committees with a president or chancellor of a community college district:
 - The SBE, pursuant to conditional enactment requiring voter approval, as the composition of the SBE is constitutionally established.
 - The Family College Savings Program Oversight Committee.
 - The Arizona Drug and Gang Policy Council.
- Removes the SBDCC member from the following commissions and committees:
 - Commission for Postsecondary Education, served by the senior administrator of the SBDCC.
 - Arizona Student Program Investing Resources for Education (ASPIRE) Selection Committee.
- Allows representatives of the SBDCC serving on the SBE, the Commission for Postsecondary Education, the ASPIRE Selection Committee, the Family College Saving Program Oversight Committee and the Arizona Drug and Gang Policy Council to complete their service until the expiration of their normal terms.
- Provides that community college district governing boards may enter into lease agreements in excess of fifteen years only with Indian tribes, land owned or controlled by the federal government, a joint powers airport authority or that involve real property owned by a nongovernmental nonprofit organization that is offered for lease in an amount not to exceed \$1,000 per year to a community college district for purposes of expanding health care education programs.

SB 1133 – Chapter 259 – *Arizona Historical Society; private donations

Authorizes the Arizona Historical Society to solicit and expend private monetary donations for program activities.

SB 1327 – Chapter 338 – small school districts; budget limit

Allows small school districts that surpass the threshold for the small school district adjustment to exceed the general budget limit for one year without an election.

- Allows school districts to adopt a budget that exceeds the general budget limit without holding an election, subject to the following:
 - The exceeding budget may only be adopted for the budget year following the year in which the school district exceeded student count limits for small school districts.
 - The amount exceeding the general budget limit cannot exceed the sum of \$50,000 combined with the small school adjustment calculated for the school district.
 - The amount exceeding the general budget limit is exempt from the Revenue Control Limit.
- Clarifies that the changes shall not constitute a fiscal impact to the amount of state aid received by the district.

SB 1365 - Chapter 339 – school curriculum; Native American culture

Requires school district governing boards to incorporate instruction on Native American history into existing curricula, and directs schools to include the history of Native Americans in the state in the instruction of Arizona history.

COMMITTEE ON ENVIRONMENT

*Joe Hart, Committee Chairman
Tami Stowe, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2088	179	[E] brownfields program	
HB 2142	218	*gasoline; MTBE	
HB 2190	247	[P 108] water quality fees	
HB 2207	293	air quality; fuel formulations	
HB 2276	266	*waterless urinals; state buildings	
HB 2279	221	solid waste management	
HB 2403	95	clean bus fleets	
HB 2419	73	heavy duty diesel engines; extension	
HB 2421	140	water monitoring assistance program; continuation	
HB 2484	146	WQARF; revisions	
HB 2651	258	municipal tank closures; counties	
SB 1061	11	archaeology advisory commission; continuation	
SB 1062	12	water infrastructure finance authority; continuation	
SB 1064	129	regional haze; penalties	
SB 1085	303	solid waste fees	
SB 1246	175	pesticide regulation	
SB 1306	273	*storage tanks; underground; funding	

HB 2088 – Chapter 179 [E] – brownfields program

An emergency measure that allows Arizona's Brownfields Cleanup Revolving Fund Program to award grants in addition to loans and makes more sites eligible for funding. Requires the Department of Environmental Quality (DEQ) to implement the program, modifies what is an ineligible site and removes the repeal date of July 1, 2009.

HB 2142 – Chapter 218 – *gasoline; MTBE

Prohibits the sale or supply of motor vehicle gasoline that contains methyl tertiary butyl ether (MTBE) exceeding 0.3 per cent by volume, beginning on January 1, 2005.

HB 2190 – Chapter 247 [P 108] – water quality fees

A Proposition 108 that removes the formula-based fee cap and modifies the fees for Aquifer Protection Permits (APP), including increasing the registration fees for individual APP that allow the discharge of more than one million gallons of discharge or influent per day and clarifies the fees required for facilities with more than one APP.

HB 2207 – Chapter 293 – air quality; fuel formulations

A conditional enactment that mandates the use of California Air Resource Board (CARB) Phase 3 reformulated gasoline, rather than CARB Phase 2, for use in area A and eliminates the months of February and March from the winter fuel blend if the Environmental Protection Agency approves the revisions to the state implementation plan (SIP). Additionally, \$135,000 is appropriated from the Air Quality Fund to DEQ in FY 2004-05 for the purposes of collecting and analyzing data regarding these revisions. All unencumbered monies by November 30, 2005 revert back to the Air Quality Fund.

HB 2276 – Chapter 266 – *waterless urinals; state buildings

States that every effort shall be made to install water free urinals in new and existing state buildings and directs the Department of Administration (DOA) to endeavor to install these urinals, if DOA determines it is in the best interest of the state.

HB 2279 – Chapter 221 – solid waste management

Changes the effective date of 40 Code of Federal Regulations parts 257 and 258 to May 1, 2004 from July 1, 1998 to allow the State Solid Waste and Recycling Programs to operate under recent changes to federal rules.

HB 2403 – Chapter 95 – clean bus fleets

Consolidates the definitions of *alternative fuel* and *clean burning fuel* by referring sections of statute related to alternative or clean burning fuel programs to the definitions and clarifies duplicative bus fleet mandates for cities or towns in Maricopa County.

HB 2419 – Chapter 73 – heavy duty diesel engines; extension

Grants registered owners or lessees of fleets with less than 25 heavy duty diesel engine vehicles an exemption, until January 1, 2006, from the requirement that heavy duty diesel engine vehicles with a gross vehicle weight of more than 26,000 pounds must not operate in area A unless the vehicles were manufactured in or after 1988 or they are powered by engines that are certified to meet or surpass the appropriate federal emissions standards.

HB 2421 – Chapter 140 – water monitoring assistance program; continuation

Extends the repeal date of January 2, 2005 of the water monitoring assistance program under DEQ to January 2, 1011.

HB 2484 – Chapter 146 – WQARF; revisions

Allows DEQ to remove sites from the Water Quality Assurance Revolving Fund (WQARF) registry, to terminate or suspend an investigation of a site before completing the preliminary investigation and to reopen a preliminary investigation, if a release or threatened release of a hazardous substance presents an imminent and substantial threat to the public health, welfare or environment. Additionally, the bill requires the public comments on a consent decree with a potentially responsible party to be provided to DEQ and the settling party and DEQ to maintain a list of sites removed from the registry.

Allows a site removed from the registry to be reopened and remedial action taken if:

- New information is discovered that would result in the potential denial of a no further action request.
- Previous information submitted to DEQ is inaccurate, misleading or incomplete.
- Remedial action is necessary to respond to a release or the threatened release of a hazardous material.

HB 2651 – Chapter 258 – municipal tank closures; counties

Allows counties to participate in the municipal tank closure and corrective action program and renames the account the County and Municipal Tank Closure and Corrective Action Program.

SB 1061 – Chapter 11 – archaeology advisory commission; continuation

Continues the Archaeology Advisory Commission until July 1, 2014.

SB 1062 – Chapter 12 – water infrastructure finance authority; continuation

Continues the Water Infrastructure Finance Authority until July 1, 2014 and repeals the Authority on January 1, 2015 if there are no outstanding debts, obligations or guarantees.

SB 1064 – Chapter 129 – regional haze; penalties

Transfers and renumbers the regional haze statutes to grant DEQ the ability to enforce the regional haze program within the State Implementation Plan (SIP).

SB 1085 – Chapter 303 – solid waste fees

Deposits 12.5 cents of the disposal fee in the Solid Waste Fee Fund and 12.5 cents in the Recycling Fund from July 1, 2004 to July 1, 2005. After July 1, 2005, all 25 cents will continue to go in the Recycling Fund.

SB 1246 – Chapter 175 – pesticide regulation

Authorizes the Department of Environmental Quality (DEQ) to establish new procedures for the registration of agricultural pesticides in Arizona. Additionally, the bill provides the following:

- Requires applicants to provide DEQ with information necessary to determine if a pesticide, intended for registration with the Department of Agriculture (ADA), has the potential to pollute groundwater.
- Requires all information submitted to DEQ regarding pesticide active ingredients to comply with statutory requirements.

- Eliminates the ability of a pesticide being placed on the GWPL and subject to monitoring and testing if active ingredient information does not exist.
- Eliminates the requirement that the GWPL must be adopted by rule.
- Allows DEQ to remove pesticides from the GWPL if that pesticide has not been detected in Arizona groundwater, rather than in groundwater anywhere in the United States and removes other criteria for delisting.
- Offers alternative procedures for registrants to demonstrate to DEQ whether a pesticide has the potential to pollute groundwater. Both new options must be established in rule.
- Allows DEQ to accept alternative information to satisfy registration data requirements, but this information must also address conditions in Arizona or similar environmental conditions.
- Requires DEQ to report by July 1, 2008 on the effectiveness of methods for determining the potential of pesticides polluting Arizona groundwater and specifies other information to be included in the report.
- Requires DEQ to use the most predictive method to evaluate the potential of pesticides polluting Arizona groundwater, if based on the report DEQ determines an alternative procedure is more predictive than SNVs at determining groundwater pollution. Statutory and rule changes must be recommended in this event.

SB 1306 – Chapter 273 – *storage tanks; underground; funding

SB 1306 repeals the one-cent per gallon excise tax and the State Assurance Fund (SAF) on receipt of \$60 million in the newly established Regulated Substances Fund or by December 31, 2013, whichever is earlier. The administration of the excise tax and SAF will be phased out over four years, beginning June 30, 2006. Additionally, the Department of Environmental Quality (DEQ) must submit a report by September 1, 2009 regarding the anticipated financial liability of the SAF and provides for the following:

- Authorizes SAF coverage up to \$500,000 as the primary financial assurance mechanism for all UST owners and operators, effective retroactively to December 31, 2002.
- States that, effective retroactively to January 1, 2003, an owner or operator will not receive payment from DEQ until after the owner or operator has certified the amount of any benefits or reimbursement received from insurance coverage that has been applied to the costs of the corrective action for the occurrence.
- States that owners and operators who access their insurance or other alternative financial assurance may preserve their eligibility for an additional \$500,000 in SAF coverage.
- Allows DEQ to pay for corrective actions to remediate soil to predetermined or site-specific residential standards for unrestricted use of the property, whichever is most cost effective.
- Allows applications denied by DEQ after December 31, 2002 because the owner had insurance for corrective action costs, to be resubmitted for SAF reimbursement before January 1, 2005.

- Beginning January 1, 2006, prohibits DEQ from accepting SAF reimbursement applications that are for less than \$5,000, except under certain conditions.
- States that providers of insurance or an alternative financial assurance mechanism who are not an owner or operator are ineligible for reimbursement from the SAF.
- Repeals all cost schedules for SAF reimbursement on July 1, 2005. Beginning on July 1, 2005, SAF reimbursements must be based on the cost schedule in effect on the date a contract for corrective action work is signed by the owner or operator, or if that date cannot be determined, the date that work is performed.
- Requires DEQ, after adoption of rules and upon request, to issue a no further action letter on completion of source removal and control and approval of a monitoring and natural attenuation (MNA) corrective action plan.
- Reduces SAF coverage for property owners who are not the UST owner or operator (Volunteers) from 100 per cent to 90 per cent, unless the remaining 10 per cent exceeds the assessed valuation of the property.
- Allows DEQ to take corrective actions on Volunteer sites if the Volunteer is unable or fails to pay the remaining 10 per cent.
- Requires Volunteers to receive preapproval for remediation costs in excess of \$100,000.
- Allows Volunteers to file an informal appeal if DEQ fails to respond with an interim determination within 90 days of submitting an application for preapproval, direct payment or reimbursement from the SAF.
- Expands the UST Technical Appeals Panel and establishes conflict of interest measures.
- Requires the Regulated Substance Fund to be used by DEQ to remediate sites where no owner or operator can be located and sites where MNA is inadequate, after July 1, 2010.
- Requires DEQ to adopt rules to implement the phase out, financial assurance coverage and Volunteer site administrative changes.
- Requires DEQ to work with rural local governments before June 30, 2006 to identify and close historic USTs.

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COMMITTEE ON FEDERAL MANDATES AND PROPERTY RIGHTS

*Representative Marian McClure, Committee Chairman
Tami Stowe, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2177	114	homeowners' associations; meetings; records	
HB 2317	222	landlord tenant; domestic violence	
HB 2355	321	*recreational corridors; districts	
HB 2368	94	homestead exemption; increase	
HB 2379	72	homeowners' associations; annual audit	
HB 2380	245	homeowners' associations; written disclosure	
HB 2381	312	homeowners' associations; board member conflicts	
HB 2402	342	homeowners' associations; liens	
HB 2478	299	homeowners' associations; political signs	
HB 2492	166	homeowners' associations; public safety vehicles	
HB 2539	239	eminent domain; attorney fees; appraisals	
SB 1125	57	homeowners' associations; designated agent	
SB 1197	250	eminent domain; condemnation; leasehold interest	
SB 1232	343	driver licenses; source of identification	

HB 2177 – Chapter 114 – homeowners’ associations; meetings; records

Allows members of a homeowners’ association (HOA) or a designated representative to speak in open meetings with reasonable time restrictions and requires the board to allow a reasonable number of people to speak on each side of an issue. The criteria for what can be considered in closed meetings is modified and outlined. Requires all financial and other records of the HOA to be reasonably available for examination with the following exceptions:

- Privileged communication between an attorney and the HOA.
- Pending or contemplated litigation.
- Meeting minutes or other records of a closed meeting of the Board.
- Personal, health and financial records of a member, employee of the HOA or an employee of a contracting agency working for the HOA.
- Job performance, compensation, health records or complaints against an employee of the HOA or an employee of a contracting agency working for the HOA.
- Financial records, if disclosure would violate any state or federal law.
- Timeshare associations are exempt from the provisions of this legislation.

HB 2317 – Chapter 222 – landlord tenant; domestic violence

Prohibits rental agreements from requiring tenants to waive or limit their right to summon peace officers or other emergency assistance for domestic violence or monetary payment or other penalties for summoning emergency assistance for domestic violence.

HB 2355 – Chapter 321 – *recreational corridors; districts

Effective July 1, 2005, authorizes the formation of a recreational corridor channelization district (District) in an area subject to a watercourse master plan and provides for the following:

- Requires the Board of Supervisors (BOS) to issue preliminary approval of the District for the furtherance of planning and project preparation after a memorandum of intent has been submitted and a public hearing takes place. Requires all affected cities to approve the plan before the BOS can approve the District.
- Requires an initial management committee to produce a District concept report, which shall include the watercourse master plan, land use plan, financial plan and governance plan.
- Requires the BOS to appoint a District Board of Directors, and allows the BOS to appoint an Advisory Board after approval of the District. Grants powers and duties to the District.
- Allows the District to levy a special assessment on the property within the legal boundaries of the District for financing the planning and construction of the preliminary phase of improvements. Allows the District to issue special assessment lien bonds, refunding bonds and bond anticipation notes and establishes bond requirements and terms.

- Requires the District to make annual financial statements, publish a notice and hold hearings on the budget.
- Provides for long-term storage credits of underground storage facilities.
- Allows the Board of Directors, with no outstanding indebtedness, to call a special election to dissolve the District.

HB 2368 – Chapter 94 – homestead exemption; increase

Increases the homestead exemption to \$150,000 from \$100,000.

HB 2379 – Chapter 72 – homeowners' associations; annual audit

Requires each homeowners' association (HOA) to provide an annual financial audit of the HOA by a certified public accountant that is completed no later than 180 days after the end of the HOA's fiscal year and make the audit available to the members within 30 days after its completion. This act is effective January 1, 2005.

HB 2380 – Chapter 245 – homeowners' associations; written disclosure

Requires a homeowners' association (HOA) to provide a purchaser with a statement informing the purchaser that the governing documents of an HOA constitute a contract and the purchaser may be giving up the right to the homestead exemption protection regarding a lien of the HOA.

HB 2381 – Chapter 312 – homeowners' associations; board member conflicts

Requires a member of the Board of Directors of a homeowners' association (Board) to declare a conflict of interest prior to voting on an issue that relates to any contract, decision or other action for compensation taken by or on behalf of the Board that would benefit the member or the member's family. Such a declaration must be made in an open meeting before the Board discusses or takes action on that issue and then the member may vote. Any contract in violation of this prohibition is void and unenforceable.

HB 2402 – Chapter 342 – homeowners' associations; liens

Excluding timeshare plans, allows a homeowners' association (HOA) to place a lien on a unit for monetary penalties, fees, charges, late charges or interest charges unrelated to payment of assessments after a court judgment in a civil suit for those monies and provides for the following:

- Clarifies that monetary penalties, fees, charges, late charges or interest charges unrelated to payment of assessments are not enforceable as assessments.
- Prohibits the foreclosure on a lien for monetary penalties, fees, charges, late charges or interest charges unrelated to payment of assessments and stipulates that the lien is only effective upon conveyance of any interest in the real property.
- Includes attorney fees incurred with respect to assessments and charges for late payment of assessment to an HOA's lien for assessments.

HB 2478 – Chapter 299 – homeowners' associations; political signs

Requires each homeowners' association (HOA) to permit the display of indoor or outdoor political signs on a member's property, beginning July 4, 2004. The HOA may limit the display of political signs to within 45 days before an election and seven days after an election. If the HOA display of political sign regulations is no

more restrictive than any applicable local ordinance, the HOA may regulate the size and number of political signs. If the applicable local ordinance doesn't regulate the display of political signs, the HOA must permit at least one political sign with the maximum dimension of 24 inches by 24 inches on the member's property.

HB 2492 – Chapter 166 – homeowners' associations; public safety vehicles

Requires a homeowners' association (HOA) to allow a resident to park a public safety vehicle, with the gross vehicle weight rating of 10,000 pounds or less that bears an official emblem or visible designation, on a street or driveway in the planned community. This measure includes police or fire service for a federal, state, local or tribal agency or a private fire service provider or an ambulance service provider.

HB 2539 – Chapter 239 – eminent domain; attorney fees; appraisals

Ensures a second appraisal may be obtained in a proposed condemnation action, if the owner-occupant disagrees with the offer and appraisal and the government entity must provide all the appraisals. A government entity that acquires owner-occupied residential property by condemnation or threat of condemnation must provide the owner-occupant with relocation benefits in an amount that allows the owner-occupant to purchase a comparable replacement dwelling. The bill ensures that the court may award fees and other expenses in a condemnation action to acquire owner-occupied residential property other than the state or a city, town or county as follows:

- Allows the court to consider the difference between the final offer and the compensation awarded, the percentage of the difference between the final offer and the award and any other factors deemed appropriate.
- Includes reasonable expenses of expert witnesses, reasonable cost of any study, analysis, engineering report, test or project found to be directly related to and necessary for the party's case and reasonable and necessary attorney fees.
- Excludes actions for the acquisition of property for public safety, transportation, flood control or utility purposes.

SB 1125 – Chapter 57 – homeowners' associations; designated agent

Requires a homeowners' association (HOA) to record and update specified contact information in the county recorders office in the county in which the HOA is located and adds an escrow agent to the list of entities to which an association is required to provide statements of unpaid assessments.

SB 1197 – Chapter 250 – eminent domain; condemnation; leasehold interest

Allows a leasehold interest in a building to be taken in fee title or easement only if the underlying property is taken. A plaintiff's written offer may be made subject to any lessees of record or any lessees who may claim an interest. The offer does not in itself obligate the plaintiff to offer to purchase the leasehold interest. Additionally, the bill specifies notice procedures and states that both parties in a condemnation proceeding must pay their own expenses if the proceeding is dismissed because parties have agreed to settle out of court.

SB 1232 – Chapter 343 – driver licenses; source of identification

Prohibits the Arizona Department of Transportation from accepting as primary identification for a new driver license a license issued in a state that does not require proof of legal residency to issue a driver license.

COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

*Representative Ted Carpenter, Committee Chairman
Lace Collins, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2091	291	financial transactions; requirements; exemptions	
HB 2224	68	*insurers; claim files; confidentiality	
HB 2228	30	charitable gift annuities; disclosures	
HB 2232	162	insurance producer licenses; renewal	
HB 2233	31	consumer reporting agency; information disclosure	
HB 2235	32	captive insurers; formation	
HB 2239	119	annuities; standard non-forfeiture law	
HB 2240	33	state banking department; continuation	
HB 2241	188	department of financial institutions	
HB 2270	317	*rental car insurance; damage waiver	
HB 2313	244	insurance policies; annuity contracts; replacement	
HB 2324	201	*creditors; life insurance proceeds	
HB 2370	164	life insurance; association groups	
HB 2516	148	restoration of uniform trust code	
HB 2547	149	insurance inquiries; use by insurer	
HB 2551	211	insurance; utilization review agent; qualification	
HB 2684	128	vehicle protection product warranties	
SB 1094	5	unfair claims; medical necessity review	
SB 1238	156	campaign finance; separate segregated fund	
SB 1241	226	vehicle insurance; loss; vendor choice	
SB 1381	159	group life insurance; eligibility	

HB 2091 – Chapter 291 – financial transactions; requirements; exemptions

Adds, for the purpose of civil remedies, bringing in, transporting or harboring someone in the United States illegally for the purpose of financial gain of over \$5,000 in a one month period, to the definition of racketeering. In cases of forfeiture of property, the conduct must involve more than three undocumented individuals in a one-month period and in cases of forfeiture of real property, the conduct must involve more than 15 undocumented individuals in one month.

HB 2224 – Chapter 68 – *insurers; claim files; confidentiality

Makes confidential an insurer's claim file information maintained by the Director of the Department of Insurance. The information is not subject to subpoena or disclosure unless subpoenaed by the Attorney General, a county attorney, a law enforcement agency or a state or federal government agency. The Director is required to make a reasonable effort to notify an insurer of any subpoena for information or documents so that an insurer may assert any legal privileges.

HB 2228 – Chapter 30 – charitable gift annuities; disclosures

Requires a charitable organization, upon entrance into an agreement for a charitable gift annuity, to have a minimum of \$300,000 unrestricted cash or securities funding the agreement, to have been in continuous operation for at least three years and to have had an annual audit of its operations for the past two fiscal years. Requires any person offering a charitable gift annuity to provide specific information in writing to a donor prior to entering into an agreement and prohibits a person from directly or indirectly paying or accepting a commission in connection with the solicitation or negotiation of a charitable gift annuity, excluding regular employee compensation.

Allows a donor to bring action against a charitable organization for violations of the law and specifies that the donor is allowed to recover the amount of the consideration paid for the charitable gift annuity, with interest, taxable court costs and reasonable attorney fees minus the amount of income received from the charitable gift annuity.

HB 2232 – Chapter 162 – insurance producer licenses; renewal

Extends the validation period of an insurance producer license from two years to four years. Makes various modifications to laws regulating insurance producer licensing including:

- Adjusts continuing education requirements to reflect the addition two year validation period for all licensees who at any time during the license period holds a current nonresident license to transact insurance in another state.
- Extends from six months to one year the period in which a producer who voluntarily surrenders a license is prohibited from reapplying for the license.
- Extends the period in which a qualified applicant can renew an expired license from six months to a year.
- Allows the director of DOI to make licenses available electronically.

HB 2233 – Chapter 31 – consumer reporting agency; information disclosure

Prohibits consumer-reporting agencies from providing or selling any personal or privileged information

received through an insurance transaction.

HB 2235 – Chapter 32 – captive insurers; formation

Allows a non-profit corporation to form a captive insurer and allows them to use third party consultants, in addition to employees, to act as the industry group's insurance manager.

HB 2239 – Chapter 119 – annuities; standard non-forfeiture law

Conforms Arizona law regulating the minimum non-forfeiture interest rates currently set at one and one-half percent to the National Associations of Insurance Commissioners (NAIC) indexed interest rate model. The NAIC model is an indexed minimum based on the five year Constant Maturity Treasury rate.

HB 2240 – Chapter 33 – state banking department; continuation

Continues the State Banking Department for another 10 years until July 01, 2014.

HB 2241 – Chapter 188 – department of financial institutions

Changes the name of the State Banking Department to Department of Financial Institutions and changes the required qualification of the superintendent from five years active experience in the banking business to five years active experience in the financial institution business.

HB 2270 – Chapter 317 – rental car insurance; damage waiver

Codifies that a collision damage waiver offered by a rental car company is not insurance and clarifies that rental car agents do not have to comply with insurance producer licensing continuing education requirements.

HB 2313 – Chapter 244 – insurance policies; annuity contracts; replacement

Makes clarifying changes to laws regulating the replacement of life insurance and annuity contracts recommended by the National Association of Insurance Commissioners (NAIC).

HB 2324 – Chapter 201 – *creditors; life insurance proceeds

Fully exempts life, health or accident insurance policies and employer or individual annuity contracts, including the cash value, from debt liability. The exemption does not apply in cases of bankruptcy, fraud or debt secured by the cash value of a policy or contract.

HB 2370 – Chapter 164 – life insurance; association groups

Allows association groups and a trust or the trustees of an association fund established and maintained for the benefit of an association, to provide group life insurance for their employees.

HB 2516 – Chapter 148 – restoration of uniform trust code

Repeals the Uniform Trust Code (UTC), restores laws that regulated trusts prior to the adoption of the UTC.

HB 2547 – Chapter 149 – insurance inquiries; use by insurer

Prohibits an insurance company from considering an inquiry about the terms and coverage of a policy as a claim and a basis for declining or canceling insurance coverage and specifies that an inquiry is not a claim unless a filed claim results in an investigation of the claim.

HB 2551 – Chapter 211 – insurance; utilization review agent; qualification

Removes the requirement that the Director of the Department of Insurance deny a utilization review agent certificate to an individual who employs another individual who has been convicted of a misdemeanor involving moral turpitude.

HB 2684 – Chapter 128 – vehicle protection product warranties

Codifies that a vehicle protection product warranty is not insurance and exempts the warranties from insurance law if certain requirements are met.

SB 1094 – Chapter 5 – unfair claims; medical necessity review

Allows an insurer to apply medical necessity review to a particular type of service or treatment without being in violation of the Unfair Claims Settlement Practices Act.

SB 1238 – Chapter 156 – campaign finance; separate segregated fund

Allows insurers licensed in Arizona to make up to two written solicitations for political contributions from licensed insurance producers with whom they have exclusive contracts to produce insurance business.

SB 1241 – Chapter 226 – vehicle insurance; loss; vendor choice

Requires insurance companies to inform their policyholders of their right to choose any auto glass repair facility and establishes the repeated failure to recognize a valid assignment of claim by an insurer as a violation of law under the Unfair Claim Settlement Practices Act.

SB 1381 – Chapter 159 – group life insurance; eligibility

Decreases from ten to two the required number of employees an employee group must have to be eligible for group life insurance coverage and from twenty-five to two the required numbers of members a labor union group must have to be eligible for group life insurance coverage.

COMMITTEE ON GOVERNMENT AND RETIREMENT

*Representative John Huppenthal, Committee Chairman
Mike Huckins, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2008	87	[E] *ASRS; health care premium subsidy	
HB 2009	288	*regulatory reform; amendments	
HB 2010	313	*schools; impact aid revenue bonds (See Committee on Education)	
HB 2011	21	Indian gaming; renumbering; conforming change	
HB 2012	314	reviser's technical corrections; 2004	
HB 2029	252	ASRS; service purchase; cost	
HB 2032	47	performance based incentives; amount	
HB 2043	89	board of appraisal	
HB 2049	246	ASRS; membership; political subdivision entities	
HB 2050	177	firefighter cancer insurance; continuing coverage	
HB 2052	106	ASRS; retirement incentive costs	
HB 2073	63	fingerprinting; child protective service workers	
HB 2074	315	*K-3 override; carryforward	
HB 2076	160	agency bank accounts; custody	
HB 2077	107	ASRS; long-term disability	
HB 2078	76	ASRS; asset management; limitations	
HB 2079	24	*family builders; audits; repeal	
HB 2080	64	*CORP; prior service redemption	
HB 2081	91	PSPRS; disability offset	
HB 2083	290	*accessible voting technology	
HB 2109	229	contribution rate; CORP	
HB 2138	39	supreme court; performance audit	

HB 2185		
HB 2253	54	notaries public
HB 2305	163	state personnel board; appeals
HB 2351	190	procurement code revisions
HB 2365	71	*state treasurer investments; funding
HB 2382	139	social security numbers; government use
HB 2383	180	public information; confidentiality
HB 2433	141	political subdivisions; self-insurance
HB 2502	210	governmental procurement; set aside program
HB 2520	56	chaplain's memorial
HB 2542	325	PSPRS; pension; limitation.
HB 2578	74	extradition; recovery of expenses
HB 2620	41	legislative ethics committee; meetings
HB 2703	205	state buildings; energy savings
SB 1090	223	state employee compensation study committee
SB 1265	185	JOBS program; welfare; privatization
SB 1269	158	public records; index
SB 1275	260	business entity information; confidentiality
SB 1343	217	state investments; security risks; reports
SB 1351	310	information technology; access; disabled persons
SB 1366	335	department of administration; self-insurance; benefits
SB 1388	241	state employees; mentoring
SB 1394	20	committees; commissions; repeal

HB 2008 – Chapter 87 [E] – *ASRS; health care premium subsidy

Clarifies that if a member of the Arizona State Retirement System (ASRS) and the member's spouse are both retired or disabled under ASRS and apply for family coverage, the ASRS member who elects family coverage will be entitled to receive the payments as if both were applying under a single coverage premium unless the payment for family coverage is greater.

HB 2009 – Chapter 288 – *regulatory reform; amendments

Makes various changes to the State's administrative procedures.

- Applies provisions governing notices of appealable agency action rights and requests for hearings to contested cases.
- Exempts contested cases under specific circumstances from the notice and hearing requirements.
- Clarifies that at a hearing of a denial of an application or request for modification of a license or permit, the applicant has the burden of persuasion.
- Requires that at a hearing on an agency's imposition of sanctions or any agency order, the agency has the burden of persuasion.
- Stipulates that at a hearing on an agency action to suspend, revoke, terminate or modify on its own initiative material conditions of a license or permit, the agency has the burden of persuasion.
- States that the appellant or claimant has the burden of persuasion at hearings regarding procurement code cases.
- States that the persuasion requirements do not affect laws governing burden of persuasion in an agency denial of, or refusal to issue, a license renewal.
- Modifies the definition of *contested case* to mean any proceeding in which the legal rights, duties or privileges of a party are required or permitted by law, other than the *administrative procedure statutes*, to be determined by an agency after an opportunity for an administrative hearing.
- Changes the definition of *appealable agency action* to mean an action that determines the legal rights, duties or privileges of a party and that is not a contested case.
- Creates an 18-member Regulatory Reform and Enforcement Study Committee to examine and report on various regulatory reform issues. States that the Committee is repealed from and after January 31, 2009.

HB 2011 – Chapter 21 – Indian gaming; renumbering; conforming change

Corrects statutory text that conflicts with Proposition 202 passed by the voters at the 2002 general election.

HB 2012 – Chapter 314 – reviser's technical corrections; 2004

Corrects defective and conflicting statutory text.

HB 2029 – Chapter 252 – ASRS; service purchase; cost

Makes various changes to the service purchase program within ASRS.

- Changes the ASRS calculation method used for military, other public service or leave of absence service credit from normal cost to actuarial present value.
- Prohibits the purchase of time worked for a prison while the member was incarcerated.

- Increases the amount of military call-up time that an active member may receive from 48 to 60 months (conforms to Uniformed Services Employment and Reemployment Act).
- Requires a member, in the case of an election to utilize all/part of the member's termination pay to purchase credited service, to make an election at least three full calendar months before the date of the member's termination of employment to receive the termination pay.
- Allows for a direct trustee-to-trustee transfer from retirement programs to purchase service with the stipulation that the member on whose behalf the transfer is made is not eligible to retire before the member turns age 50 and one-half.
- Adds language to the modified DROP program so that the cost of service purchases under the DROP program are based on the greater of the contribution rate or the normal cost in effect at the time of the purchase.
- Excludes service purchase monies from member contributions that are doubled to pay survivor benefits.

HB 2032 – Chapter 47 – performance based incentives; amount

Increases the monthly amount a state employee may receive in the performance based incentives program for incentive performance compensation from \$200 to \$250.

HB 2043 – Chapter 89 – board of appraisal

Stipulates the requirements for classification as a state licensed or state certified appraiser and the amount of time in which they must keep their work file. Additionally, the bill removes the duty of the Appraisal Subcommittee to approve other state's requirements for licensing and certification.

HB 2049 – Chapter 246 – ASRS; membership; political subdivision entities

Stipulates that political subdivision entities are eligible to participate in the Arizona State Retirement System (ASRS) and provides a definition of *political subdivision entities*.

- States that the effective date of this act shall apply retroactively to any eligible political subdivision entity currently participating in the ASRS.
- Stipulates that active members of ASRS are eligible to purchase credited service for employment that occurred before or after the effective date of this act from an eligible political subdivision entity even if the entity is not participating in ASRS.
- Allows employees of participating political subdivisions who join ASRS after December 31, 2003 and before January 1, 2005 to purchase service under current statute.

HB 2050 – Chapter 177 – firefighter cancer insurance; continuing coverage

Allows retired firefighters of the Public Safety Personnel Retirement System (PSPRS) to remain eligible for coverage in the firefighter cancer insurance program once their employer coverage has expired, as long as the retired member pays the cost of the insurance premium.

HB 2052 – Chapter 106 – ASRS; retirement incentive costs

Establishes guidelines for retirement incentive programs implemented by a participating employer in the Arizona State Retirement System (ASRS) that results in an unfunded liability to the ASRS.

- States that if an employer implemented retirement incentive program creates an unfunded liability to ASRS, that employer shall pay the amount of the unfunded liability to ASRS.
- Requires an employer to notify the ASRS if the employer intends to implement a retirement incentive program that may affect ASRS funding.
- Establishes guidelines for the ASRS to collect monies associated with any unfunded liability.
- Contains a delayed effective date from and after June 30, 2005.

HB 2073 – Chapter 63 – fingerprinting; child protective service workers

Requires new and current CPS workers to obtain fingerprint clearance cards and outlines the timeframe for obtaining the cards.

HB 2076 – Chapter 160 – agency bank accounts; custody

Places all state agency and budget unit private bank accounts, which are not statutorily authorized to be separate, under the custody of the State Treasurer by January 1, 2005, and makes various changes to the guidelines and processes by which discount, processing and convenience fees are deducted from an original credit card transaction amount.

HB 2077 – Chapter 107 – ASRS; long-term disability

Makes various changes to the long-term disability (LTD) program within the Arizona State Retirement System (ASRS).

- Requires existing employees of new employers to meet the 12-month pre-existing condition limitations that new employees of existing employers are required to meet.
- States that a member will no longer receive benefits if the member refuses to participate in a work rehabilitation program for which the member is reasonably qualified by education, training or experience and that is requested by the insurance company or claims administrator.
- Clarifies that LTD benefits shall be reduced by both primary and dependent social security benefits received by the member.
- Requires members to pursue obtaining social security disability benefits through all available levels or until the insurance company or claims administrator determines that the member would not be eligible for social security disability benefits.
- States that a member is considered totally disabled if the member has received monthly benefits for 24 months within a five year period and the member is unable to perform any work for compensation for which the member is reasonably qualified by education, training or experience in an amount at least equal to their scheduled benefits.
- Prohibits an ASRS member, if the member is convicted of a criminal offense and sentenced to more than six months in any penal institution, from receiving LTD benefits for the period of confinement beginning the first day of the month following the first thirty continuous days of the member's confinement for the remainder of the confinement.

HB 2078 – Chapter 76 – ASRS; asset management; limitations

Changes the requirements for investment managers of the Arizona State Retirement System (ASRS) including, decreasing the experience requirement for handling institutional investments from five years to

three years and eliminating the 10 per cent of total ASRS assets requirement and replacing it with a requirement that the investment management have at least \$250 million currently under management.

HB 2079 – Chapter 24 – *family builders; audits; repeal

Eliminates the requirement that the Auditor General perform an impact and effectiveness evaluation on the Family Builders Program.

HB 2080 – Chapter 64 – *CORP; prior service redemption

Allows members of the Corrections Officer Retirement Plan (CORP) to purchase out-of-state prior service time for correctional officer or certified peace officer service and outlines the redemption calculation methodology.

HB 2081 – Chapter 91 – PSPRS; disability offset

Eliminates the disability pension offset for a Public Safety Personnel Retirement System member who returns to work while receiving an accidental disability pension.

HB 2083 – Chapter 290 – *accessible voting technology

Establishes that the Secretary of State shall require the state and various political subdivisions of the state, excluding cities and towns with a population of less than 20,000 persons, to provide voting systems that are accessible to the visually impaired.

HB 2109 – Chapter 229 – contribution rate; CORP

Raises the Corrections Officer Retirement Plan (CORP) employer rate floor, beginning in fiscal year 2005-06, from two per cent to four per cent and would allow the employee rate to be lowered if the aggregate computed employer rate dropped below the four per cent floor.

HB 2138 – Chapter 39 – supreme court; performance audit

Directs the Auditor General to conduct a performance audit of the Administrative Office of the Courts, and requires the Auditor General to complete the initial performance audit by October 15, 2006 with copies of the performance audit submitted and without a request from JLAC.

HB 2185 – Chapter 206 – *enduring freedom memorial

Allows for an Enduring Freedom Memorial to be placed in Wesley Bolin Plaza and establishes procedures for placement.

HB 2253 – Chapter 54 – notaries public

Amends the statutes relating to the duties and responsibilities of notaries public.

- Clarifies the definition of *incomplete document* to include one lacking a notarial certificate.
- Requires notaries to keep as a reference a manual that is approved by the Secretary of State that describes the duties, authority and ethical responsibilities of notaries public.
- Specifies that a notary's failure to respond to an investigation is considered a failure to fully and faithfully discharge the duties of a notary.
- Stipulates that the Secretary of State may either revoke or suspend a notary's commission if the notary violates statutorily prescribed prohibited acts.
- Authorizes the Secretary of State to revoke or suspend the commission of a notary public if the notary notarizes a document that contains no notarial certificate.

- States that if a person has had his or her notary commission in this state revoked, then the Secretary of State may refuse to appoint the person as notary public four years from the date of revocation.
- Specifies that upon suspension of a notary's commission, the Secretary of State shall give notice to the notary public and shall provide the person with notice the opportunity for a hearing on the suspension.
- Clarifies that the suspension of a notary public's commission is an appealable agency action.

HB 2305 – Chapter 163 – state personnel board; appeals

Allows the State Personnel Board to modify a state agency's disciplinary penalty against a state employee, and clarifies when the personnel board may reduce an agency's disciplinary penalty.

HB 2351 – Chapter 190 – procurement code revisions

Makes various changes to the Arizona Procurement Code.

- Excludes the investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property from the definition of *construction*.
- Clarifies that the revision of offers is permitted under the competitive sealed proposals method of procurement.
- Stipulates that if discussions regarding proposals are conducted, all offerors who have submitted proposals that are determined by the procurement officer to be in the competitive range shall be invited to submit a final revised proposal.
- Raises the formal bid and proposal threshold from \$35,000 to \$50,000.
- Increases the small business set-aside from \$25,000 to \$50,000.
- Removes the performance bond and payment bond requirements for simplified construction procurement (construction not exceeding \$100,000).
- Stipulates that only the Director of ADOA may enter into public-private partnership contracts to finance the technology needs of the purchasing agency (currently any purchasing agency may enter into these contracts).
- Authorizes parties under a cooperative purchasing agreement to make available to other public procurement units, software that may assist in improving the efficiency or economy of procurement.

HB 2365 – Chapter 71 – *state treasurer investments; funding

Allows the State Treasurer to establish long-term local government investment pools for cities, towns, counties, political subdivisions and tribal governments of this state, and makes the State Treasurer's Management Fund subject to Legislative appropriation.

HB 2382 – Chapter 139 – social security numbers; government use

Limits the government use of complete Social Security Numbers to the Department of Revenue, the Industrial Commission of Arizona, or a law enforcement agency of this state, county, city or town. Allows an agency of this state or county, city, town, or other political subdivisions to disseminate or use the last four numbers of a person's Social Security Number and to use the number in its administration of employee payroll, benefits, and workers' compensation matters.

HB 2383 – Chapter 180 – public information; confidentiality

Prohibits the disclosure of a peace officer's photograph from his or her personnel file except under various circumstances.

HB 2433 – Chapter 141 – political subdivisions; self-insurance

Allows special health care districts and political subdivisions located in a county with a population of more than one million that are governed by the county board of supervisors the authority to establish a self-insurance program.

HB 2502 – Chapter 210 – governmental procurement; set aside program

Specifies that governmental units shall endeavor to obtain 1% of their purchases or contracts for any products, materials and services directly from Arizona Industries for the Blind, certified nonprofit agencies for disabled individuals and the Arizona Correctional Industries, effective January 1, 2005.

HB 2520 – Chapter 56 – chaplain's memorial

Allows for a Chaplain's Memorial to be placed in Wesley Bolin Plaza and establishes procedures for placement.

HB 2542 – Chapter 325 – PSPRS; pension; limitation.

Makes numerous changes to statutes relating to the Public Safety Personnel Retirement System.

- Creates a new *catastrophic disability* pension classification to mean a physical condition that results in a catastrophic injury incurred in the performance of the employee's duty and that the local board determines prevents the employee from totally and permanently engaging in any gainful employment.
- Allows for 10 catastrophic disability pensions in calendar year 2004 and allows for four additional catastrophic disability pensions every year thereafter.
- States that if more than the allowable amount of catastrophic disability pensions are approved by the Local Boards, then no new catastrophic disability pensions may be awarded from and after December 31 of the following calendar year.
- States that catastrophic disability pensions shall be calculated as follows:
 - For the first 60 months, 90 per cent of the member's average monthly salary.
 - After the first 60 months, 60 per cent of the member's average salary or the amount the member would have received under a normal pension, whichever is greater.
- Mandates that catastrophic disability pensions be based on medical evidence provided by a physician or clinic appointed by the Local Board.
- States that if a PSPRS member is convicted of theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction.
- Stipulates that beginning on July 1, 2008, PSPRS employers whose retired employees elect to purchase individual health insurance coverage shall be required to provide the administrative functions associated with the payment of health insurance subsidy.
- Outlines guidelines for the payment and limits the payment to \$25 per month.

- Modifies the definition of *nonservice area* in relation to the PSPRS temporary rural retiree health insurance subsidy to include qualifying areas outside of Arizona.
- Requires Legislative Council to contract with a private entity to conduct a study on retiree health insurance within the four state retirement systems, including the feasibility and cost impact of establishing a single health insurance for all retirees.

HB 2578 – Chapter 74 – extradition; recovery of expenses

Allows for state or political subdivision agencies extraditing a person, upon the person's conviction, to recover the actual expenses of the extradition from the person being extradited.

HB 2620 – Chapter 41 – legislative ethics committee; meetings

Requires the Arizona State Senate and House of Representatives Ethics Committees to adopt a Code of Ethics and conflict of interest requirements in each First Regular Session rather than once each session.

HB 2703 – Chapter 205 – state buildings; energy savings

Expands and clarifies statute relating to performance contracts ADOA implements and develops with contractors to achieve energy savings in state-owned buildings.

SB 1090 – Chapter 223 – state employee compensation study committee

Establishes a 19-member Joint Legislative Study Committee on State Employee Compensation to study the various personnel systems, state employee compensation and related issues, including salary benefits, employee turnover, performance pay based on the performance of the individual, department, and agency, and comparisons to other comparable public and private employers.

SB 1269 – Chapter 158 – public records; index

Mandates that the custodian of records of an agency maintain and furnish an index of records or categories of records that have been withheld from the requesting person, including the reasons why the records have been withheld.

SB 1275 – Chapter 260 – business entity information; confidentiality

Creates a process that enables a governmental entity to classify as confidential, information provided to the entity by the petroleum industry.

SB 1343 – Chapter 217 – state investments; security risks; reports

Requires the State Treasurer and the Public Safety Personnel Retirement System Fund Manager to individually report the economic impact of global security risks of investments of their individual monies and outlines the reporting requirements.

SB 1351 – Chapter 310 – information technology; access; disabled persons

Mandates that state budget units provide comparable access to electronic or information technology for individuals with disabilities in accordance with Federal Law.

SB 1366 – Chapter 335 – department of administration; self-insurance; benefits

Mandates that if the Arizona Department of Administration (ADOA) implements a self-insurance program the program must include benefits that are mandated pursuant to A.R.S. Title 20 and grievance procedures for participating employees and officers. Outlines requirements for participating non-state entities.

SB 1388 – Chapter 241 – state employees; mentoring

Establishes a procedure in the Arizona Department of Administration's (ADOA) personnel rules that would encourage state employees to engage in activities that support mentoring, education and youth development of school age youths.

SB 1394 – Chapter 20 – committees; commissions; repeal

Repeals the Marriage and Communication Skills Commission, the State-County Fiscal Committee, the Welfare Reform Joint Committee, the Joint Legislative Review Committee on Game and Fish Fees, the Study Committee on State Funding of Hospitals and Senior Centers Operating on Indian Reservations, and the Vehicle Emissions Identification, Testing and Repair Research Study Oversight Committee, on varying dates.

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COMMITTEE ON HEALTH

**Representative Deb Gullett, Committee Chairman
Elizabeth Baskett, Legislative Research Analyst**



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2004	45	board of chiropractic examiners	
HB 2006	56	board of physician assistants; omnibus	
HB 2024	22	assisted living facilities; training programs	
HB 2025	264	Arizona medical board; omnibus	
HB 2031	23	child day care; regulations; exception	
HB 2034	265	service animals; classification	
HB 2046	49	*advisory committee; clinical laboratories	
HB 2056	62	[E] residential care institutions; fingerprinting	
HB 2113	65	AHCCCS; assisted living centers	
HB 2142	218	*gasoline; MTBE <i>(See Committee on Environment)</i>	
HB 2172	219	health care directives; registry	
HB 2180	25	physicians; referrals; reimbursement	
HB 2191	51	health inspections; food products	
HB 2193	199	residential settings; regulation; DES; transfer	
HB 2194	6	*dentist; dental hygienists; duties	
HB 2195	115	*emergency assistance; vulnerable adults	
HB 2196	116	pharmacy technicians; licensing renewal requirements	
HB 2197	292	statewide emergency trauma system	
HB 2198	26	[E] *bed capacity; state hospital	
HB 2200	117	vital records; public health statistics	
HB 2256	121	*nursing assistants; pilot program; medication	
HB 2265	237	*poison control centers; appropriations	
HB 2344	138	board of osteopathic examiners; omnibus	
HB 2345	123	nutrition; feeding assistants; training programs	

HB 2397	191	medical records; HIPAA
HB 2495	269	*interpreter training; hearing impaired; appropriation
HB 2543	270	hearing and speech professions; fund
HB 2565	212	duty for burial or cremation
HB 2568	271	ambulance services; hearings on rates
HB 2637	213	*dental hygienists; affiliated practice relationship
HB 2681	154	hospital liens; enforcement
SB 1007	7	board of pharmacy; continuation
SB 1008	8	state hospital advisory board; continuation
SB 1021	10	board of physical therapy; continuation
SB 1086	14	naturopathic physicians board
SB 1087	99	board of massage therapists
SB 1088	81	*certificate of necessity; special districts
SB 1095	305	teratogen information program; funding; tax
SB 1098	172	board of physical therapy; omnibus
SB 1113	4	*expert testimony; affidavits; health professionals
SB 1166	332	AHCCCS; healthcare group
SB 1167	225	AHCCCS; trusts
SB 1168	58	AHCCCS; long-term care system
SB 1204	130	occupational therapy
SB 1237	155	board of psychologists examiners; complaints
SB 1248	104	nursing board; approval of schools

HB 2004 – Chapter 45 – board of chiropractic examiners

Increases the minimum number of study hours from 50 to 100 for chiropractors seeking acupuncture certification. Allows the Board to refuse licensure to applicants who have been convicted of criminal conduct that constitutes grounds for disciplinary action under the Chiropractic statutes.

HB 2006 – Chapter 46 – board of physician assistants; omnibus

Provides an exemption to the supervision requirements for both physician assistants and their supervising physicians when the physician assistant provides medical care in response to a natural disaster, accident or other emergency. Expands the types of examinations the Board may use to detect the presence of alcohol or drugs. Removes dismissed complaints from the types of charges and convictions the Board must make known in a licensee's public profile.

HB 2024 – Chapter 22 – assisted living facilities; training programs

Clarifies in statute that the Director of the Department of Health Services (DHS) may approve training programs for assisted living facilities. Establishes a civil penalty, not to exceed \$500, for training programs that violate current laws and/or DHS rules relating to health care institutions.

HB 2025 – Chapter 264 – Arizona medical board; omnibus

Prohibits the Executive Director of the Medical Board from dismissing a complaint if a court has entered a medical malpractice judgment against a physician. Establishes a practitioner health program to evaluate, monitor and treat physicians and physician assistants who have medical, psychiatric, psychological or behavioral health disorders. Establishes that performing office based surgery using intravenous sedation in violation of Board rule is an act of unprofessional conduct. Allows the board to utilize a variety of testing methods for the detection of drugs and alcohol.

HB 2031 – Chapter 23 – child day care; regulations; exception

Exempts preschool programs for disabled students and after school tutoring programs from the licensing requirements of the Arizona Department of Health Services.

HB 2034 – Chapter 265 – service animals; classification

Establishes a Class 2 misdemeanor for a driver of a vehicle who fails to yield the right-of-way or take reasonable precaution when approaching a legally blind pedestrian who is carrying a white or metallic colored cane, is using a service animal or is assisted by a sighted person. Changes the Class 1 misdemeanor penalty for the violation of each provision in A.R.S. §11-1024 relating to the rights of individuals with disabilities when using service animals in public places to a Class 2 misdemeanor.

HB 2046 – Chapter 49 – *now: advisory committee; clinical laboratories

Establishes an Advisory Committee on Clinical Laboratories (Committee) to advise the Department of Health Services (DHS) on direct access testing in clinical laboratories. Charges the Committee with developing a list of clinical laboratory tests that may be obtained without a physician's referral. Requires DHS to adopt rules to authorize patients to order lab tests.

HB 2054 – Chapter 62 [E] – residential care institutions; fingerprinting

Stipulates that employees of residential care institutions, home health agencies and nursing care institutions are not required to meet the fingerprint and criminal records check requirements again when ownership of the facility changes due to sale, lease or operation of law.

HB 2113 – Chapter 65 – AHCCCS; assisted living centers

Clarifies that AHCCCS home and community based services may be provided in an assisted living center. Requires that a person residing in an assisted living center must be given the choice of single occupancy.

HB 2172 – Chapter 219 – health care directives; registry

Authorizes the Secretary of State to establish and maintain an online health care directives registry. Establishes a Health Care Directives Registry Fund consisting of monies received by the Secretary for operation of the registry.

HB 2180 – Chapter 25 – physicians; referrals; reimbursement

Allows physicians to accept payments from a medical researcher in connection with identifying and monitoring patients for a clinical trial.

HB 2191 – Chapter 51 – health inspections; food products

Enables the Arizona Department of Health Services and county health departments to inspect retail dairy products. Authorizes the Arizona Department of Agriculture to contract with county health departments for inspections of dairies, manufacturing plants and trade product manufacturing plants.

HB 2193 – Chapter 199 – residential settings; regulation; DES; transfer

Transfers the responsibility of health and safety inspections of child welfare agencies and foster homes from the Department of Health Services (DHS) to the Department of Economic Security (DES). Transfers all monies appropriated and personnel employed by DHS to inspect child welfare agencies and foster homes to comparable positions and pay classifications at DES.

HB 2194 – Chapter 6 – *dentist; dental hygienists; duties

Establishes that dental hygienists may perform dental hygiene services without general supervision by a dentist if the dental hygienist establishes an *affiliated practice relationship* with a licensed dentist.

HB 2195 – Chapter 115 – *emergency assistance; vulnerable adults

Exempts emergency medical technicians and paramedics from civil liability, criminal penalties and civil actions prescribed in statute for rendering aid to incapacitated or vulnerable adults.

HB 2196 – Chapter 116 – pharmacy technicians; licensing renewal requirements

Requires that, before license renewal, a pharmacy technician must comply with Board approved professional education requirements. Clarifies that pharmacy technician trainees are not required to comply.

HB 2197 – Chapter 292 – statewide emergency trauma system

Requires the Department of Health Services (DHS) to develop and administer a statewide and emergency medical services (EMS) and trauma system. Appropriates \$100,000 from the Emergency Medical Services Operating Fund to DHS to provide operation support in implementing the EMS and trauma system. Adds a Native American representative from a tribal health organization to the membership of State Trauma Advisory Board.

HB 2198 – Chapter 26 [E] – *bed capacity; state hospital

Continues the ability of the State Hospital Superintendent to establish, subject to legislative appropriation, the maximum capacity limits and maintain waiting lists until June 30, 2006.

HB 2200 – Chapter 117 – vital records; public health statistics

Rewrites and revises the vital records statutes. Distinguishes between system of public health statistics and system of vital records. Requires accuracy of information. Establishes that all fees collected by the State Registrar be deposited into the State General Fund. Clarifies that monies collected by the local registrar shall be credited to the local registrar health department fund. Allows nurse practitioners to sign death certificates. Extends the time period for filing death certificates from three to seven days. Clarifies that the current DHS rules regarding vital records shall remain in effect until new rules are adopted. Revises and rewrites the definitions section of the vital records statutes. Exempts government agencies from paying confidential intermediary fund, fiduciary fund and child fatality review fund surcharges. Currently, DHS does not assess surcharges for governmental agencies.

HB 2256 – Chapter 121 – *nursing assistants; pilot program; medication

Creates a pilot program to study the impact of allowing certified nursing assistants to administer non-needle medications under conditions prescribed by the Arizona Board of Nursing. Requires that the pilot program be completed on or before December 1, 2008.

HB 2265 – Chapter 237 – *poison control centers; appropriations

Appropriates from the Poison Control Fund in FY 2004-2005 to the Department of Health Services \$225,000 for the University of Arizona poison control center and \$125,000 for the poison control center located in Maricopa County.

Requires the appropriated monies to be used for salaries, employee-related expenditures and staff retention at the poison control centers.

HB 2344 – Chapter 138 – board of osteopathic examiners; omnibus

Makes numerous changes to statute regarding the Board of Osteopathic Examiners. Conforms, clarifies, and extends provisions of unprofessional conduct. Allows the Board further options for disciplinary action as alternatives to license revocation.

HB 2345 – Chapter 123 – nutrition; feeding assistants; training programs

Allows the Department of Health Services (DHS) to adopt rules prescribing minimum standards for training programs for nutrition and feeding assistants in skilled nursing facilities. Allows DHS to impose a civil penalty on training programs that violate the adopted standards.

HB 2397 – Chapter 191 – medical records; HIPAA

Conforms Arizona medical records laws to the federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Standards regulations. Revises the medical records statutes to provide clarity.

HB 2495 – Chapter 269 – *interpreter training; hearing impaired; appropriation

Appropriates \$750,000 from the Telecommunication Fund for the Deaf in FY 2004-05. Requires the Commission for the Deaf and the Hard of Hearing to use the monies to help establish partnerships with colleges and universities in this state to provide interpreter and support service provider training and degree programs.

HB 2543 – Chapter 270 – hearing and speech professions; fund

Stipulates that all monies collected for purposes of licensing hearing and speech professionals shall be deposited into a Hearing and Speech Professionals Fund. Eliminates the statutory requirement that those monies be deposited into the State General Fund (SGF). Appropriates \$260,000 from the Hearing and Speech Professionals Fund to the Department of Health Services (DHS) for the regulation of hearing aid dispensers, audiologists and speech language pathologist. Also includes a conditional reversion of \$130,000 from DHS assurance and licensure to the SGF upon the effective date of this act.

HB 2565 – Chapter 212 – duty for burial or cremation

Clarifies that persons responsible for the burial of decedents may have the option of cremation. Requires the county to notify an Arizona federally recognized Native American tribe as soon as possible upon the death of a person known to be a member. Allows the tribe to provide for the final arrangements of the deceased member.

HB 2568 – Chapter 271 – ambulance services; hearings on rates

Requires the Department of Health Services (DHS) to hold a public hearing each time an ambulance provider proposes a uniform rate or charge increase for services. Requires ambulance service providers to submit specific financial information to DHS to assist them in analyzing the request.

HB 2637 – Chapter 213 – *dental hygienists; affiliated practice relationship

Clarifies that dental hygienists may provide dental hygiene services pursuant to the terms of an affiliated practice agreement with a dentist in certain practice settings.

HB 2681 – Chapter 154 – hospital liens; enforcement

Prohibits hospitals from collecting an injured person's uninsured and underinsured motorist coverage when enforcing a lien.

- Allows attorney fees to be awarded to prevailing parties in lien actions. Current law only allows attorney fees to be awarded to claimants who prevail.
- Stipulates that a lien may be enforced against any insurer, other person, firm or corporation that is responsible for part or all of the damages.
- Clarifies that allowing lien holders to enforce liens against liable insurance companies does not create any new causes of action

SB 1007 – Chapter 7 – board of pharmacy; continuation

Continues the Arizona State Board of Pharmacy for ten years.

SB 1008 – Chapter 8 – state hospital advisory board; continuation

Continues the Arizona State Hospital Advisory Board for ten years.

SB 1021 – Chapter 10 – board of physical therapy; continuation

Continues the Arizona State Board of Physical Therapy for ten years.

SB 1086 – Chapter 14 – naturopathic physicians board

Allows the Naturopathic Physicians Board of Medical Examiners to use the national licensure exam. Allows the Board to require direct supervision for applicants who have had a three-year period of inactivity. Prohibits graduates from employing their supervising physicians after completion of their training programs.

SB 1087 – Chapter 99 – board of massage therapists

Requires the Board of Massage Therapists (Board) to recognize, rather than approve, out-of-state massage therapy schools based on nationally approved standards. Extends the deadline for massage therapists to be licensed by the Board to January 1, 2005.

SB 1088 – Chapter 81 – *certificate of necessity; special districts

Clarifies that when hospital districts and special health care districts propose to provide ambulance services, they do so through the certificate of necessity process set up by the Department of Health Services.

SB 1095 – Chapter 305 – *teratogen information program; funding; tax

Reallocates 0.01 per cent of the Telecommunication Excise Tax to the Teratogen Information Program Fund for the financing of a Teratogen Information Program.

SB 1098 – Chapter 172 – board of physical therapy; omnibus

Makes numerous changes to the Arizona Physical Therapy Practice Act, including expanding the duties of the Board of Physical Therapy with respect to continuing competence, as well as adding some new exemptions to licensure for licensed physical therapists from other U.S. jurisdictions. Expands and clarifies grounds for disciplinary action against a physical therapist.

SB 1113 – Chapter 4 – *expert testimony; affidavits; health professionals

Adds health-care related lawsuits to the class of lawsuits that require expert certification before the cases may proceed. Declares that the legislative intent of this act is to reduce the filing of frivolous lawsuits against health care professionals and to reduce nonparty at fault designations by health care professionals.

SB 1166 – Chapter 332 – AHCCCS; healthcare group

Expands Healthcare Group (HCG) eligibility, allows HCG to contract directly with health care providers, establishes the Healthcare Group Fund, and appropriates \$3,207,400 for the HCG fiscal year 2005 administrative budget.

SB 1167 – Chapter 225 – AHCCCS; trusts

Makes changes to special treatment trusts, including time frames for the Arizona Health Care Cost Containment System (AHCCCS) to qualify trusts, permitted trust disbursements and consequences of disallowed trust disbursements.

SB 1168 – Chapter 58 – AHCCCS; long-term care system

Authorizes AHCCCS to extend the Arizona Long-Term Care System contracts in Maricopa County for one year beginning on October 1, 2005.

SB 1204 – Chapter 130 – occupational therapy

Codifies current practice by including references to *occupational therapy* in laws regulating insurance claims, medical care cost recovery, prescriptions and massage therapy. Clarifies that athletic trainers may use anti-inflammatories and anesthetics for specified uses. Stipulates that the scope of massage therapy does not include athletic training.

SB 1237 – Chapter 155 – *board of psychologists examiners; complaints

Establishes a complaint screening committee to review complaints received by the Board of Psychologist Examiners. Prohibits complaints that are dismissed by the committee from being posted on the Board's web site or disclosed over the telephone.

SB 1248 – Chapter 104 – nursing board; approval of schools

Requires the Arizona State Board of Nursing to approve only nursing programs administered at a postsecondary educational institution or a school that is accredited by an accrediting agency recognized by the U.S. Department of Education.

COMMITTEE ON HUMAN SERVICES

***Representative Pete Hershberger, Committee Chairman
(January 2003 – February 9, 2004)***

***Representative Mark Thompson, Committee Chairman
(February 9, 2004 – Present)***

Marianne Hardy Yamnik, Legislative Research Analyst



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2090	228	dissolution of marriage; community property	
HB 2348	320	*dissolution of marriage; criminal conduct	
HB 2513	125	high schools; organ donation education	
HB 2557	192	organ donation; protocol for requests	
HB 2680	169	great-grandparents; adoption	
SB 1055	79	independent living programs; tribal agencies	
SB 1068	331	developmental disabilities; governor's council; continuation.	
SB 1149	18	healthy families program; marriage classes	
SB 1156	195	retroactive child support.	
SB 1265	185	JOBS program; welfare; privatization	
SB 1332	186	uniform interstate family support act.	
SB 1334	105	child support; overpayment; reimbursement.	

HB 2090 – Chapter 228 – dissolution of marriage; community property

Stipulates if a spouse solely acquires a mortgage or deed of trust for real property after the service of a petition for dissolution of marriage, separation or annulment, the mortgage or deed of trust shall remain enforceable against that real property even if the petition does not result in a dissolution of marriage, separation or annulment.

HB 2348 – Chapter 320 – *dissolution of marriage; criminal conduct

Allows court consideration of all actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim in proceedings for dissolution of marriage or separation involving disposition of property or spousal maintenance. Additionally, the bill permits the court to impress a lien on the property of either spouse to secure payment of these damages.

Stipulates that unless the court finds no significant risk, the court shall not grant a person custody of a child or unsupervised parenting time if the person is a registered sex offender or has been convicted of murder in the first degree of the other parent.

Increases from four to eight the number of legislators serving on the Domestic Relations Committee and expands the charge of the Committee to develop minimum training standards by December 31 of each year on domestic violence and child abuse issues for persons conducting custodial arrangement investigations.

Establishes a requirement that any person, except a physician, who conducts or prepares custodial arrangement investigations or reports must meet training requirements on domestic violence and child abuse.

HB 2513 – Chapter 125 – high schools; organ donation education

Allows high schools with driver education programs to educate students about organ donation options.

HB 2557 – Chapter 192 – organ donation; protocol for requests

Outlines the requirements for obtaining consent to an anatomical gift as follows:

- Provides that consent to an anatomical gift is not valid unless a requestor provides the person authorized to give consent with a written anatomical gift authorization form that requires initialing each individual organ or tissue gift.
- Outlines items that must be listed on the authorization form, including the right for the person giving consent to have a third person physically or telephonically present and specifies that a copy of the form shall be provided to the person giving consent.
- Specifies the requirements for consent obtained by telephone.

HB 2680 – Chapter 169 – great-grandparents; adoption

Includes great-grandparents in the class of people who are exempt from pre-adoption certification, petitioning for custody of a great-grandchild, and certain requirements of the pre-adoption social study.

SB 1055 – Chapter 79 – independent living programs; tribal agencies

Expands the Independent Living Program and Transitional Independent Living Program to include youth in the custody of a tribal welfare agency.

SB 1068 – Chapter 331 – developmental disabilities; governor's council; continuation.

Continues the Governor's Council on Developmental Disabilities for five years.

SB 1149 – Chapter 18 – healthy families program; marriage classes

Extends the Healthy Families Program to serve pregnant women, their families and persons with substantiated child abuse or neglect reports. The bill requires participants be offered education on successful marriage and eliminates the client satisfaction survey.

SB 1156 – Chapter 195 – retroactive child support.

Permits child support to be ordered retroactively to the date of separation, up to three years prior to filing for dissolution of marriage if the parties lived apart during that time.

SB 1265 – Chapter 185 – JOBS program; welfare; privatization

Continues the privatization of the JOBS program case management and employment services and specifies deadlines for statewide privatization dependent on the reauthorization of TANF by July 1, 2004.

SB 1332 – Chapter 186 – uniform interstate family support act.

Adopts changes to the Uniform Interstate Family Support Act conditional upon federal government approval.

SB 1334 – Chapter 105 – child support; overpayment; reimbursement.

Establishes the right of an obligor of child support payments to request a refund of overpayment once all obligations to the child support order have been met.

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COMMITTEE ON JUDICIARY

*Representative Stephen Tully, Committee Chairman
Katy Proctor, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2116	109	*fraud; theft of identity	
HB 2128	3	small claims court; mail service	
HB 2180	25	physicians; referrals; reimbursement (See <i>Committee on Health</i>)	
HB 2208	52	domestic violence; diversion	
HB 2209	53	motion pictures; unlawful recording	
HB 2213	220	*liquor license; definition; act of violence	
HB 2217	207	obtaining utility service fraudulently	
HB 2220	67	product liability; food products	
HB 2223	28	forcible entry and detainer appeals	
HB 2226	29	criminal code cleanup; internal references	
HB 2247	294	tobacco manufacturers; master settlement agreement	
HB 2260	69	*court fees; supreme court; report	
HB 2452	142	*sex offenders; identification; monitoring	
HB 2552	38	board of executive clemency; continuation	
HB 2573	181	theft; dogs	
HB 2602	272	sex offenders; community notification	
HB 2609	153 [E]	jury duty; lengthy trial fund	
HB 2694	328	cross burning	
SB 1034	171	*guardianship; foreign citizens	
SB 1049	98	presiding justice of the peace	
SB 1050	330	*election law amendments	
SB 1076	80	JPs; pro tem qualifications	
SB 1127	174	impersonating a peace officer	
SB 1222	131	victims' rights; statement by judge	
SB 1242	103	arson; emergency responses; investigations; costs	
SB 1247	157	police officer discipline; evidence; discovery	
SB 1250	184	election amendments; help America vote	

SB 1291	308	*sex offenders; community notification; applicability
SB 1335	187	child bigamy
SB 1345	134	prohibited possessors; misconduct involving weapons

HB 2116 – Chapter 109 – *fraud; theft of identity

Includes entities in identity theft statutes and prohibits a person or entity from using more than five numbers that are reasonably identifiable as being part of an individual's social security number on specific materials after January 1, 2009.

HB 2128 – Chapter 3 – small claims court; mail service

Increases the fee that small claims courts receive for service by mail from \$3.00 to \$8.00.

HB 2208 – Chapter 52 – domestic violence; diversion

Strikes language that authorizes the court to defer the proceedings against a defendant convicted of a domestic violence offense.

HB 2209 – Chapter 53 – motion pictures; unlawful recording

Makes it a Class 1 misdemeanor to knowingly operate an audiovisual recording function with the intent to record a motion picture in a facility where a motion picture is being exhibited.

HB 2213 – Chapter 220 – *liquor licenses; definition; act of violence

Amends the definition of an *act of violence* in the liquor license statutes to specifically exclude the use of non-lethal devices by a peace officer and contains a purpose section stating that the change to the definition of an *act of violence* is a clarification of existing administrative authority and is not intended to be a substantive change.

HB 2217 – Chapter 207 – obtaining utility service fraudulently

Makes fraudulently obtaining utility service a Class 6 felony. HB 2217 makes it unlawful for any person or customer to intentionally:

- Make a connection/reconnection with property that is owned or used by a utility service without the authorization or consent of the utility.
- Prevent a utility meter or device from accurately performing.
- Tamper with property owned/used by a utility.
- Use, receive or divert utility services without authorization or consent from the utility.

Creates a rebuttable presumption that the customer intentionally obtained utilities fraudulently if:

- Any instrument, apparatus or device is found attached to the meter that would allow a person to obtain utility service without paying the full charge.
- A meter is altered, tampered with or bypassed resulting in inaccurate measurement of utilities.
- The person is an occupant or has access to the premises and receives a benefit from tampered or bypassed equipment.

HB 2220 – Chapter 67 – product liability; food products

States there is no duty to warn a consumer that a non-defective food product may cause health problems if consumed excessively and provides an affirmative defense.

HB 2223 – Chapter 28 – forcible entry and detainer appeals

Shifts where payments on a bond for costs or a supersedeas bond can be made during a forcible entry and detainer appeal from the Superior Court to the Justice Court.

HB 2226 – Chapter 29 – criminal code cleanup; internal references

Makes technical and conforming changes.

HB 2247 – Chapter 294 – tobacco manufacturers; master settlement agreement

Modifies the release of escrow payments required under the Tobacco Master Settlement Agreement (MSA) for non-participating tobacco manufacturers (NPM). It provides that monies may be released from a NPM's escrow account if the NPM can show that the amount it was required to place in escrow based on units sold in Arizona in that particular year was greater than the NPM would have been required to pay under the MSA after final determination of all adjustments. Provides that if a court of competent jurisdiction finds the new language contained in the bill unconstitutional, the current provisions of the MSA statute will apply.

HB 2260 – Chapter 69 – *court fees; supreme court; report

Prescribes approval requirements before monies may be spent from the State Aid to the Courts Fund, the Local Courts Assistance Fund and the Judicial Collection Enhancement Fund, and requires the Auditor General to conduct an audit of the Administrative Office of the Courts.

HB 2452 – Chapter 142 – *sex offenders; identification; monitoring

Repeals the Sex Offender Registration Fee and makes the failure of a person required to register as a sex offender and to carry a valid license a Class 1 misdemeanor. The bill establishes a \$250 assessment on all new convictions for violations of offenses that require a person to register as a sex offender as well as a \$250 assessment on all convictions for not carrying the valid license. Deposits monies from both assessments into the Sex Offender Monitoring Fund.

HB 2552 – Chapter 38 – board of executive clemency; continuation

Continues the Board of Executive Clemency for one year until July 1, 2005.

HB 2573 – Chapter 181 – theft; dogs

Makes stealing a pet for use in dog fighting or training a Class 6 felony.

HB 2602 – Chapter 272 – sex offenders; community notification

Requires local law enforcement to notify the surrounding neighborhood, area schools, appropriate community groups and prospective employers when a level two (intermediate risk) or level three (high risk) sex offender is released or relocates into an area. Expands the membership of the Community Notification Guidelines Committee (Committee) by adding five members and requires the Committee to develop and recommend a process to allow a sex offender to have a review of the notification level and study whether there is uniform and consistent application of community notification guidelines across different jurisdictions.

HB 2609 – Chapter 153 [E] – jury duty; lengthy trial fund

Provides payment of \$40 from the Arizona Lengthy Trial Fund for jurors who are unemployed and permits postponements to persons who have not previously had two postponements.

HB 2694 – Chapter 328 – cross burning

Makes it a Class 1 misdemeanor to burn a cross or any other symbol on another person's property, a highway or any other public place without permission and with the intent to intimidate any person or group of persons.

States that the intent to intimidate must be proven by independent evidence not solely inferred by the act of burning a symbol or cross.

SB 1034 – Chapter 171 – *guardianship; foreign citizens

Allows the court to appoint an adult to be the guardian of a foreign citizen if all of the following apply: the foreign citizen is under 21 years old and has a temporary visa; an adult agrees to sponsor the foreign citizen in obtaining permanent resident alien status; the foreign citizen's parent filed a petition on behalf of the foreign citizen for permanent resident alien status and that parent is now deceased; and, the foreign citizen was under 18 years of age at the time the petition was filed.

SB 1049 – Chapter 98 – presiding justice of the peace

Requires justices of the peace in a county with two or more justice courts to select a presiding justice of the peace.

SB 1050 – Chapter 330 – *election law amendments

Makes several changes to election laws regarding precinct committeemen, recall of appointed officers and consolidation of polling places.

- Requires a Board of Supervisors (Board) to wait to cancel the election for precinct committeemen until at least 75 days before the election if the number of nominating petitions filed is less than or equal to the number of positions available.
- Requires a separate ballot to be prepared for the election of precinct committeemen if there are more nominating petitions than the number of positions.
- Allows only persons registered as members of the specific political party in that precinct to vote the precinct committeemen ballot.
- Provides that if an officer being recalled was appointed to the office or was deemed elected (after an election was cancelled due to the lack of opposing candidates), the recall petition must be signed by at least 10 per cent of the number of the active registered voters in the jurisdiction/district.
- States that candidates for an office that is currently filled by an officer being recalled must file a nomination signed by at least one-half of one per cent of the number of active registered voters in the jurisdiction/district. Persons signing the nomination petition must be qualified electors of the district that the officer being recalled represents.

- Allows the Board, for any election in which there are no candidates for elected office appearing on the ballot, to consolidate polling places and precinct boards along with the tabulation of results for that election, if specific notification is provided.
- Allows a person whose information is protected to request an early ballot before the 90 days preceding the Saturday before the election and to have early ballot materials provided through two general elections for federal office.
- States that a facility used as a polling place must allow electioneering and political activity outside of the 75-foot limit in public areas and parking lots used by voters.

SB 1076 – Chapter 80 – JPs; pro tem qualifications

Specifies that a person who is not admitted to practice law may be appointed as a justice of the peace pro tempore.

SB 1127 – Chapter 174 – impersonating a peace officer

Creates and defines the crime of impersonating a peace officer, makes impersonating a peace officer a Class 6 felony and adds it to the list of aggravating circumstances.

SB 1222 – Chapter 131 – victims’ rights; statement by judge

Provides that in order to assure that all crime victims in court are advised of their rights, Superior Court judges must read a specific statement of rights at the daily commencement of the criminal docket.

SB 1242 – Chapter 103 – arson; emergency responses; investigations; costs

Provides that a person convicted of arson may be held liable for expenses related to the emergency response or investigation of the arson and allows the court to collect the expenses.

SB 1247 – Chapter 157 – police officer discipline; evidence; discovery

Establishes evidence and discovery procedures for appeals hearings resulting from a disciplinary action taken against a law enforcement officer.

- Specifies a time frame for the exchange of all relevant documents and witness lists between a law enforcement officer’s employer and the officer.
- Prohibits the dissemination of any information received to any person who is not a party to the appeal.
- Allows the employer or law enforcement officer to seek a determination regarding any evidence they feel should not be disclosed because the risk of harm involved in the disclosure outweighs any usefulness of the disclosure.
- Provides that the request by an employer or officer to change hearing officer or administrative law judge shall be granted on the first request for cases before the office of administrative hearings. Other requests may only be granted on a showing that a fair and impartial hearing cannot be obtained due to the prejudice of the hearing officer or administrative law judge.

- States that if either party to the appeal violates the sections regarding the disclosure of information, that party shall not be allowed to use that evidence at the hearing.

SB 1250 – Chapter 184 – election amendments; help America vote

Makes numerous changes to election laws to comply with the Help America Vote Act, including:

- Requires a person wishing to register to vote who does not provide a driver license number, a non-operating license number or the last four digits of a social security number to affirm that the person does not have any of those forms of identification. The affirmation should include the person's request to be assigned a unique identifying number by the Secretary of State (SOS).
- Requires county recorders to have the capability to electronically transmit information to the SOS on a daily basis for the statewide voter registration database.
- Strikes the requirement for a person to be qualified for primary matching monies in order to be eligible as a candidate in the presidential preference election.
- Requires provisional ballots voted on in a general election including an election for federal office to be verified within 10 calendar days of the election.
- Provides that if a challenge is made to the ability of an elector to vote by an inspector, the ballot cannot just be destroyed. If a majority of the election board decides that the challenge is valid, the person challenged will be allowed to vote a provisional ballot.
- Clarifies that in the event of a court ordered recount of votes for a state primary, general or special election, the tabulating system shall be furnished and programmed under the supervision of the SOS.
- Requires a political committee making independent expenditures for literature/advertisements relating to one candidate to send a copy of the literature/advertisement to each candidate named or referred to in the literature/advertisement 24 hours after submitting it or mailing it.
- Makes technical, clarifying and conforming changes.

SB 1291 – Chapter 308 – *sex offenders; community notification; applicability

Extends community notification to sex offenders convicted before June 1, 1996 as follows:

- States that for these sex offenders, the agency that had custody of the offender or the court that sentenced the offender may conduct a risk assessment for the offender as existing resources are available.
- Provides that community notification and placement on the sex offender website can only be conducted after the risk assessment has been completed.
- Requires the Community Notification Guidelines Committee to adopt guidelines on community notification for sex offenders convicted before June 1, 1996.

SB 1335 – Chapter 187 – child bigamy

Establishes the crime of child bigamy and makes child bigamy a Class 3 felony. Provides that a person commits child bigamy if the person is at least 18 years old and knowingly:

- Has a spouse already and marries a child or marries a child who already has a spouse.
- Alone or in association with others, directs, causes or controls the marriage of a child who is already married or the marriage of a child to a person who already has a spouse.
- Transports or finances the transportation of a child to promote marriage between the child and a person who already has a spouse.
- Transports or finances the transportation of a child who already has a spouse to promote marriage between the child and another person

Exempts any person who marries a child if the person's spouse has been absent for five years without being known to be living or the person had a marriage that was pronounced void, annulled or dissolved.

SB 1345 – Chapter 134 – prohibited possessors; misconduct involving weapons

Adds a person who is an undocumented alien or non-immigrant alien to the list of persons prohibited from possessing deadly weapons.

COMMITTEE ON NATURAL RESOURCES, AGRICULTURE, WATER AND NATIVE AMERICAN AFFAIRS

Representative Tom O'Halleran, Committee Chairman
(January 2003 – February 9, 2004)

Representative Chuck Gray, Committee Chairman
(February 9, 2004 – Present)

Kathi Knox, Legislative Research Analyst
Kristine Stoddard, Assistant Research Analyst



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2114	92	iceburg lettuce research council (See CMA Committee)	
HB 2115	108	Arizona citrus research council (See CMA Committee)	
HB 2244	93	water rights; Zuni settlement	
HB 2277	318	*water supply; replenishment; conservation	
HB 2278	238	[E] assured water supply certificate; assignment	
HB 2549	326	[E] *healthy forests; tax credits	
HB 2590	300	stored water; recovery wells	
HB 2591	152	retired race horses; adoption; surcharge	
HB 2616	301	department of agriculture; omnibus act	
SB 1006	170	*task force; arsenic standards implementation	
SB 1014	9	[E] cotton; pink bollworm eradication; referendum	
SB 1063	13	cotton research council; sunset continuation	
SB 1182	59	racing; interstate compacts..	

HB 2114 – Chapter 92 – iceburg lettuce research council

Clarifies various provisions of the Arizona Iceberg Lettuce Council relating to term limits, audits, advance notice regarding an increase of fees, administration of the Council's fund and provides exemptions from grant applications procedures.

HB 2115 – Chapter 108 – Arizona citrus research council

Clarifies various provisions of the Arizona Citrus Research Council relating to term limits, audits, advance notice regarding an increase of fees, administration of Council funds and provides exemptions from grant applications procedures.

HB 2244 – Chapter 93 – water rights; Zuni settlement

Allows surface water rights to be transferred to an Indian tribe or the United States in trust for the benefit of such Indian tribe. The water transferred cannot exceed 3,600 acre-feet per year and must be used for vegetative restoration, including wildlife.

- Allows a surface water right to be transferred to an Indian tribe or to the United States in trust for a tribe under the following conditions:
 - Congress has approved a tribal water rights settlement agreement with a tribe for lands within the Little Colorado River Basin.
 - Requires consent of the owner of the right.
 - The water will be used to restore vegetation and for wildlife.
 - The water may not be used for irrigation purposes.
 - The amount of water that may be severed and transferred is capped at 3,600 acre-feet per year.
 - The Arizona Department of Water Resources Director or a court of competent jurisdiction must approve the transfer.
- Provides that the priority date of the surface water right will not change upon transfer.
- Establishes the order of approval for applications to sever and transfer surface water rights. A court of competent jurisdiction must approve the application or if there is none, the Department of Water Resources shall give approval.
- The authorization to sever and transfer a surface water right under the conditions outlined in HB 2244 expires on January 1, 2020.

HB 2277 – Chapter 318 – *water supply; replenishment; conservation

Makes technical and conforming changes to Laws 2003, Chapter 155 that expanded the Central Arizona Groundwater Replenishment District (CAGRD) planning horizon to 100 years and established an upfront replenishment fee. The bill also allows the Central Arizona Water Conservation District (CAWCD) to retain their authority to employ peace officers to provide law enforcement on property under the district's control. Authorizes Mohave County to store water outside their county. States that energy used to pump water for CAP is not subject to state or city tax (retroactive to 1985). Repeals CAWCD condemnation authority and clarifies recovery of long-term storage credits under specific conditions.

HB 2278 – Chapter 238 [E] – assured water supply certificate; assignment

An emergency measure that allows a holder of a certificate of assured water supply (certificate) to assign the certificate to another person if the holder applies to the Department of Water Resources (DWR) within 10 years after the original certificate was issued. Additionally, the bill:

- Allows for applications to be filed more than 10 years after the original certificate if the holder or previous holders of the certificate have sold a minimum of 500 lots within the subdivision covered by the certificate to individual homebuyers.
- States that timely applications shall be approved by DWR under specific conditions.
- Requires DWR to issue a certificate in the name of the assignee, retaining the original date of issuance, after a change in ownership has occurred.
- Provides for partial assignment of certificates, grants administrative processes, provides notification procedures for applications and defines *original certificate*.

HB 2549 – Chapter 326 [E] – *healthy forests; tax credits

An emergency measure that allows a Healthy Forest Enterprise Assistance Program to be established and provides sales, use and income tax incentives for qualified businesses until 2014.

The bill also authorizes cities, towns and counties to adopt and periodically revise an urban-wildland interface code, makes the State Forester a position separate from the State Land Commissioner, establishes the State Urban-Wildland Fire Safety Committee and requires the State Forester to identify pilot programs to promote forest health.

HEALTHY FOREST ENTERPRISE ASSISTANCE PROGRAM

Requires the Department of Commerce (Commerce) to identify and certify to the Department of Revenue (DOR), the relevant information for businesses to qualify for tax incentives that promote forest health in this State.

Outlines terms for a business to qualify for certification for tax incentives and provides grounds for revocation of a certificate.

Defines the terms *biomass*, *forest health*, *initial processing* and *qualifying equipment*.

TAX INCENTIVES

- Provides transaction privilege (sales) and use tax exemptions and income tax credits for businesses that are engaged in an industry that uses, consumes, or adds value to forest products or biomass as follows:

TRANSACTION PRIVILEGE (SALES) AND USE TAX:

- Provides an exemption from the retail classification from July 1, 2004 until June 30, 2014 for any machinery or equipment that is installed or used by a qualified business for harvesting, transporting or the initial processing of forest products or biomass. The business must be prequalified by Commerce at the time of purchase.
- Provides a similar exemption from use tax for machinery or equipment purchased out of state.

- Provides an exemption for machinery or equipment that is rented for at least five years instead of being purchased.
- Provides an exemption from the prime contracting classification for the construction of any building, structure, project, development or improvement that harvests, transports or provides initial processing of forest products or biomass. Construction must begin before January 1, 2010 and the contractor must be established as a qualifying business by Commerce.

INDIVIDUAL AND CORPORATE INCOME TAX CREDITS:

- Creates a new individual and corporate income tax credit for employers, based on net increases in qualified employment positions in qualified business certified by Commerce. The method to calculate the credit is outlined in the bill and credits may be carried forward for five years.
- States that an eligible business cannot take credits for the second and third year unless it has taken credit for an employee in the first year of employment.
- To qualify for the income tax credits:
 1. The business must employ at least 10 employees who are residents of Arizona on the date of hire. The employees may not have been previously employed by the taxpayer in the past year. The positions must be permanent and full-time (at least 1,750 hours/year).
 2. The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of forest products or biomass into a product having commercial value.
 3. The employer must offer compensation equal to or exceeding the average wage as computed by the Department of Economic Security per county. The employer must also include health insurance and pay for at least half the cost.
 4. An employee must have been employed at least 90 days in the first year the tax credit is taken. If the position is filled in the last 90 days of the year, it qualifies in the next tax year.
- The number of qualified employment positions that are eligible for the income tax credits cannot exceed 200. The calculation for eligible employees is the lesser of:
 - the total number of filled qualified employment positions created, *or*
 - the difference between the average number of FTEs during the current tax year and the average number of FTEs during the immediately preceding tax year.
- Credits are subject to recapture if, within five years of first receiving a credit, a business certification is terminated or revoked. In that case, an imputed tax liability will be added in the next taxable year.
- Applies to tax incentives from January 1, 2005 through December 31, 2014.

STATE FORESTER

Requires the Governor to appoint and the Senate to confirm a State Forester. The duties of the position are expanded, including a requirement to conduct education and outreach in forest communities to explain the threat of wildfire to private property. The State Forester is also authorized to intervene on behalf of the State and its citizens in administrative and judicial appeals and litigation that challenge governmental efforts supported by the State Forester if the State Forester determines that intervention is in the best interest of the State.

STATE URBAN-WILDLAND FIRE SAFETY COMMITTEE AND INTERFACE CODE

Establishes the State Urban-Wildland Fire Safety Committee consisting of twelve members appointed for three year terms.

- Allows the Urban-Wildland Fire Safety Committee to recommend an urban-wildland interface code.
- Requires the Committee to develop recommendations for minimum standards for safeguarding life and property from wildfire and issue an annual report with recommendations to the Governor and Legislature by December 31 of each year.
- Authorizes cities, towns and counties to adopt and periodically revise an urban-wildland interface code.
- Requires a city, town or county to provide notification and allow for public participation and comment when the code is adopted or modified.

STATE PURCHASE OF BIOMASS ENERGY

- Requires the Arizona Department of Administration to develop a program to enter into contracts to purchase electrical energy produced from biomass resources and specifies conditions.
- Stipulates that the Department of Administration must make a presentation on the status of the program relating to state contracts for biomass energy to the House of Representatives and Senate committees dealing with Natural Resources in the 2005 and 2006 legislative sessions.
- Repeals the requirement for the Department of Administration to develop a program regarding biomass electrical energy contracts on July 1, 2006.
- Defines the term *biomass*.

HEALTHY FOREST PILOT PROGRAM REQUIREMENTS

- Identify potential pilot programs and specific public private partnerships that may promote forest health.
- Work in partnership with federal agencies to establish a pilot program.
- Identify necessary steps that may be needed in conjunction with the provisions of the federal Healthy Forests Restoration Act.
- Maximize state fire assistance grants by establishing timelines for use of any monies that are awarded.
- Provide an interim report in November 2004 and a final report to the Legislature and Governor by November 1, 2005 on progress accomplished regarding forest health, costs and recommendations for statutory changes.
- Repeals the pilot program on January 1, 2006.

HB 2590 – Chapter 300 – stored water; recovery wells

Modifies the conditions for obtaining a permit to recover stored water within Active Management Areas (AMAs).

- Modifies the conditions that apply in order to recover Colorado River water stored underground in an AMA when: 1) the recovery well will be located within the area of impact of the stored Colorado River water, and 2) the person proposing to recover the water is not the person who stored the water. In this situation, there will no longer be a requirement to obtain consent from a nearby water provider, nor will there be a requirement for the director of the Arizona Department of Water Resources (ADWR) to find that the recovery is consistent with the AMA management goal and management plan.
- Clarifies that consistency with AMA goals and consent from a nearby water provider will still be required for recovery within an area of impact by a person who did not store the water and if the stored water is not Colorado River water.
- Retains the current requirements that apply to recover water from outside the area of impact. Recovery will be allowed only if consistent with AMA goals and if consent is obtained from a nearby water provider.

HB 2591 – Chapter 152 – retired race horses; adoption; surcharge

Creates a method to promote the adoption of retired race horses.

- Expands the Greyhound Adoption Fund to include retired race horses and establishes the Greyhound and Retired Race Horse Adoption Fund.
- Creates a five per cent surcharge on all civil penalties assessed in connection with horse or harness racing.
- Provides that revenue generated from the surcharge will be deposited in the Retired Race Horse Adoption account of the Greyhound and Retired Race Horse Adoption Fund and states that revenues will be used for grants to organizations that promote adoption of retired race horses.

HB 2616 – Chapter 301 – department of agriculture; omnibus act

Makes numerous changes to Arizona Department of Agriculture statutes regarding livestock self-inspection, seizure of horses in poor physical condition, animal diseases, packaging requirements for eggs, seed testing and labeling, protected native plants, aquaculture and worker safety.

DEPARTMENT

- Moves the authority for native plant protection from the Plant Services Division to the Environmental Services Division.
- Authorizes the Director, rather than the Associate Director, to enter into compliance agreements for the purpose of enforcing the Department's requirements.

LABORATORIES

- Clarifies that the Director, rather than the state agricultural laboratory, creates the sampling procedures for testing samples in a laboratory.
- Provides that the Director's decisions regarding denial, suspension or revocation of a laboratory certificate of compliance may be appealed according to State administrative procedures as outlined in ARS Title 41, Chapter 6, Article 10.

PLANTS

- Allows the Nursery Certification Program to include requirements or standards established by another state, commonwealth or country.
- Allows the Associate Director to require records to determine the origin and quarantine certification status of nursery stock sold, offered for sale or transported within the State.
- Requires the Associate Director to publish electronically, rather than print, bulletins each year containing information, current rules, and orders of the Department. The requirement to mail copies of the bulletins to agricultural organizations and carriers transporting plants and other agricultural products is eliminated.
- Eliminates the authority of the Associate Director of the Plant Services Division to employ entomologists.

SEEDS

- Requires a *seed labeler license* for each place of business at which seed is labeled.
- Expands requirements for labeling seed for non-farm use to include a conspicuous viability statement including a "sell by" date.
- Extends the time limit for testing seeds to determine the percentage of germination to 15 months for any agricultural, ornamental, or vegetable seed intended for retail purchase. The limit for seeds intended for commercial purchase remains nine months.

PESTICIDE CONTROL

- Requires written consent from any agricultural land owner within one quarter mile of a child care group home before an application can be approved by the Department of Health Services. The bill also limits this requirement to facilities that have not previously been subject to this requirement. A *childcare group home* is defined as a residential facility in which child care is regularly provided for compensation for periods of less than 24 hours per day for not less than five children but no more than ten children through the age of 12 years.

DAIRY

- Removes the requirement to keep a copy of the federal milk ordinance on file with the Secretary of State.
- Reduces the length of time a "hard cheese" must age from one year to sixty days.
- Defines *nest run eggs* as eggs that are packed as they come from the producer without being washed or sized. The term is used to replace *unclassified eggs*.

- Deletes authorization for a retailer to sell repacked eggs that are past the sell-by date or come from a carton with broken or cracked eggs.

ARIZONA NATIVE PLANTS

- Modifies conditions that apply to removing protected native plants from private property. Current law allows a private property owner to remove native plants only from a canal, lateral ditch, survey line, building site or road or other right-of-way.
- Removes the requirement for all protected native plant species coming into Arizona that are not grown in the State to be declared at an Arizona agricultural inspection station. Instead, the protected native plant species must be transported directly to a department field office at which a movement permit and seals must be purchased.

LIVESTOCK

- Repeals Laws 2002, Chapter 270, Section 10 and retains the procedure currently in place regarding inspection of livestock that will be sold or relocated. Laws 2002, Chapter 270 authorized the Department to implement a “mandatory livestock self-inspection” program on temporary basis, until July 1, 2004. Establishes the temporary program as a permanent program. The effect is that owners of ranching, dairy and feedlot operations as well as owners of exhibition livestock will continue to inspect their own animals and maintain records that verify the origin, shipment and sale of livestock. Provides a retroactive effective date of July 1, 2004.
- Clarifies that the certificate for seasonal self inspection for exhibition livestock is valid for 12 months after the date of issuance.

EQUINE

- Eliminates the ability of an owner to reclaim a horse that has been deemed to have been placed in poor physical condition due to neglect or cruel treatment. Current law allows a negligent owner to reclaim the animal by paying the costs incurred by the Department to care for the animal during an investigation.
- Authorizes the Department of Agriculture to put a seized equine up for sale at an auction if the owner is not granted immediate, expense free possession.

SLAUGHTER AND SALE OF MEAT

- Requires compliance with federal regulations for the collection of dead stock by tallow and rendering companies.

AQUACULTURE

- Eliminates specific statutory qualifications for an aquaculture facility inspector and authorizes the Director to approve an inspector.
- Extends the period the Animal Services Division has to issue or deny a license from 15 to 30 days after receiving the completed application.

- Requires the Associate Director of the Animal Services Division to notify a person who has been denied an aquaculture license that the decision can be appealed through the state administrative hearing procedure.

AGRICULTURAL SAFETY

- Clarifies that hearings related to violations of agricultural safety and health standards shall be conducted according to state administrative hearing procedures.

SB 1006 – Chapter 170 – *task force; arsenic standards implementation

Establishes a 13-member special task force on arsenic standards implementation.

- Requires the task force to make recommendations on issues facing this State and its water providers as a result of the implementation of federal arsenic standards.
- Stipulates that the task force will complete a report including recommendations by October 1, 2004 and submit that report to the Governor, Speaker of the House of Representatives, President of the Senate, and the Director of the Arizona State Library, Archives and Public Records.
- Repeals the task force on February 15, 2005.

SB 1014 – Chapter 9 [E] – cotton; pink bollworm eradication; referendum

An emergency measure allowing the Arizona Cotton Research and Protection Council to conduct a statewide referendum to implement a pink bollworm eradication program and fee.

- Authorizes the Council, rather than the Director of the Department of Agriculture, to determine whether a program of pink bollworm eradication is necessary on land above 2,700 feet in elevation. If pink bollworm eradication is necessary, the Council is authorized to raise the assessment fee to a maximum of \$5.00 per bale for the duration of the eradication program or four years, whichever is shorter. The fee reverts to a maximum of \$1.00 per bale when the eradication is complete or after the four-year time limit. That Council is authorized to determine if a program should be implemented on a statewide basis or on a regional basis.
- Allows the Council to conduct a referendum among eligible cotton producers on the question of establishing a program and fee. The ballot shall also ask if a fee of not more than \$32 per planted acre of cotton shall be established.
- Requires that the program may not be established unless either:
 - at least 66 per cent of those voting approve the referendum, or
 - those voting to approve the program represent more than 50 per cent of the cotton acreage in this State, as determined by the Council.
- States that the authority to assess the pink bollworm eradication fee terminates within four years of the date established.

- Requires the Council to provide 30 days advance notice of a meeting at which the fee will be adopted, rather than 60 days.
- Changes the date for a cotton producer to register each acre of non-Bt cotton from March 15 of each year to 30 days after the date established by rule to abate cotton stubble. Each producer must register non-Bt cotton with the Council, rather than the Director of the Department of Agriculture.
- Provides that pink bollworm eradication fees will be deposited and held in trust by the Council.

SB 1063 – Chapter 13 – cotton research council; sunset continuation

Continues the Arizona Cotton Research and Protection Council until July 1, 2014. Contains a retroactive date of July 1, 2004.

SB 1182 – Chapter 59 – racing; interstate compacts..

Permits the Department of Racing and the Racing Commission to join other states in an interstate compact to license participants in live racing with pari-mutuel wagering. The rights and responsibilities include the following:

- Allows the state to charge a fee for the use of a Compact Committee license and to apply its own standards to determine whether a compact committee license should be issued, suspended or revoked. The state will establish its own standards to determine licensure eligibility for participants who do not meet the criteria of the Compact Committee. The state will also establish its own standards to license non-racing employees at pari-mutuel racetracks and employees at separate wagering facilities.
- Requires a state that participates in the compact to notify the Compact Committee of any suspensions or revocations.
- Provides that a member state is not liable for debts or other financial obligations of the Compact Committee.
- Allows the Department of Racing to adopt rules relating to the interstate compact.
- Defines *compact committee, official, participants in live racing and party state.*
- Includes a severability clause.

COMMITTEE ON PUBLIC INSTITUTIONS AND COUNTIES

***Representative James R. Carruthers, Committee Chairman
Todd Sanders, Legislative Research Analyst***



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2056	178	local fire protection; payment	
HB 2059	135	disposition of proceeds; abandoned property	
HB 2070	90	county planning; definition	
HB 2089	253	federal assistance monies; distribution	
HB 2149	193	joint powers airport authority	
HB 2182	231	alcohol detoxification centers; study committee	
HB 2306	200	repeal fire districts county reimbursement	
HB 2309	122	fire districts; fingerprint requirements	
HB 2310	267	animal mistreatment; procedures	
HB 2626	167	[E] county transportation; acceleration agreements	
HB 2646	204	community accountability pilot program	
HB 2671	127	*underserved areas; ambulance service	
SB 1023	1	Arizona historical society; continuation	
SB 1036	78	jail inmates; meal costs	
SB 1079	194	state archives and history building	
SB 1091	15	*property tax corrections	
SB 1142	101	county prisoner health grievance procedures	
SB 1213	44	police canine memorial	
SB 1336	227	county officials; salaries	

HB 2056 – Chapter 178 – local fire protection; payment

Provides counties with the authority to enter into Intergovernmental Agreements (IGAs) with municipalities to provide emergency fire or medical services within unincorporated areas. Establishes that counties with over 1.5 million persons must enter into IGAs with a city or town for fire and emergency medical services by July 1, 2005.

HB 2059 – Chapter 135 – disposition of proceeds; abandoned property

Establishes that excess proceeds from trustee sales deposited with the county treasurer will be considered abandoned after a period of three years.

HB 2070 – Chapter 90 – county planning; definition

Provides a definition for *rezoning ordinance* in relation to county planning and zoning.

HB 2089 – Chapter 253 – federal assistance monies; distribution

Authorizes the transfer of \$4 million in enhanced federal matching assistance percentages (FMAP) monies to the counties for their portion of non-federal costs of the Arizona Long Term Care System (ALTCS) program for FY 2003.

HB 2149 – Chapter 193 – joint powers airport authority

HB 2149 broadens financing options available to Joint Powers Airport Authorities to include lease purchase agreements and bank lines of credit.

HB 2182 – Chapter 231 – alcohol detoxification centers; study committee

Establishes a 14-member committee to study regional alcohol detoxification centers and submit a report of its findings and recommendations to the Governor, the President of the Senate and the Speaker of the House on or before November 16, 2004.

HB 2306 – Chapter 200 – repeal fire districts county reimbursement

Requires fire districts to reimburse counties for actual costs of organization, reorganization, boundary changes, and election services.

HB 2309 – Chapter 122 – fire districts; fingerprint requirements

Amends current statute relating to fire districts to require full-time, reserve and volunteer fire fighters, on probationary status, to submit a full set of fingerprints to the district.

HB 2310 – Chapter 267 – animal mistreatment; procedures

Establishes that a county law enforcement officer or a municipal animal control agent may request a civil hearing before a Justice of the Peace or Magistrate to determine whether an animal has suffered mistreatment, neglect or is dangerous and should be forfeited by the owner. This allows a county or municipality to decide the fate of the animal in question prior to any criminal court proceedings pertaining to the owner.

HB 2626 – Chapter 167 [E] – county transportation; acceleration agreements

Allows political subdivisions or Indian tribes to enter into agreements with the Department of Transportation (ADOT) for the acceleration of right-of-way acquisition, design or construction of eligible projects and to pledge excise taxes to secure borrowing for advance monies to ADOT for such agreements. Allows ADOT to exchange federal funds with local governments to receive local funds and may include additional federal

funds in the exchange to offset matching costs required of local governments related to transportation services.

HB 2646 – Chapter 204 – community accountability pilot program

Establishes a pilot Community Accountability Program that includes supervision and treatment for eligible prison inmates to lower recidivism rates.

HB 2671 – Chapter 127 – *underserved areas; ambulance service

Allows counties with a population of less than 500,000 persons to enter into contracts with an ambulance service provider that has a certificate of necessity to operate an ambulance service in under-served areas of the county.

SB 1023 – Chapter 1 – Arizona historical society; continuation

Extends the Arizona Historical Society for a period of ten years.

SB 1036 – Chapter 78 – jail inmates; meal costs

Increases the amount that counties may collect from inmates for meal preparation from \$1.00 to \$2.00 per day.

SB 1079 – Chapter 194 – state archives and history building

Appropriates up to \$1.6 million from the Public Buildings Land Earnings Fund and \$400,000 from the Records Services Fund in FY 2004-05 to the Department of Administration for the design and site preparation of the Polly Rosenbaum State Archives and History Building.

SB 1091 – Chapter 15 – *property tax corrections

Enables the county assessor to send a notice of error related to an error that occurred during the current tax year and the three immediately preceding tax years regardless of what time of the year the notice is mailed or filed.

SB 1142 – Chapter 101 – county prisoner health grievance procedures

Establishes that the County Board of Supervisors may require an inmate to exhaust all internal grievance procedures with the County Sheriff's Office before filing a complaint with any regulatory entity for health or medical services as long as those services are provided by a facility that has been accredited by the National Commission on Correctional Health Care or the American Correctional Association.

SB 1213 – Chapter 44 – police canine memorial

Allows a police canine memorial to be placed in the Wesley Bolin plaza. Adds that all costs will be the sole responsibility of the proponents of the memorial.

SB 1336 – Chapter 227 – county officials; salaries

Increases the statutory amount that county officials are paid beginning January, 2005.

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COMMITTEE ON TRANSPORTATION

Representative Gary L. Pierce, Committee Chairman
John Halikowski, Legislative Research Analyst
Courtney Riddle, Assistant Research Analyst



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2002	262	honored military special plates; motorcycles	
HB 2038	60	*motorcycle safety advisory council; continuation	
HB 2148	236	San Carlos Apache; license plates	
HB 2184	254	oversight council; DUI abatement	
HB 2238	255	vehicle identification number; frame replacement	
HB 2323	319	special plates; spaying; neutering; animals	
HB 2456	2 [E]	transportation excise tax; election	
HB 2458	323	*taxi; limousine; livery vehicles; regulation	
HB 2459	143	*auto dealers; taxation; lease payments	
HB 2460	296	*registration; motor vehicles; nonresidents	
HB 2462	36	commercial vehicles; motor carriers; registration	
HB 2463	144	*towed vehicles; insurance companies; release	
HB 2464	324	commercial motor carriers; license; regulation	
HB 2466	297	*vehicle registration; electronic third-party providers	
HB 2467	268	*vehicle towing; notice	
HB 2468	233	*damaged vehicles; insurer repair facilities	
HB 2469	124	*regulation transfer; vehicle dealers; report	
HB 2483	145	off-highway vehicles	
HB 2507	147	regional transportation authority; excise tax.	
HB 2628	97	DUI; ignition interlock devices	
SB 1020	302	aircraft license taxes; antique classic	
SB 1123	182	county highway improvements; tax diversion	
SB 1174	249	use fuel refunds; use taxes	
SB 1230	82	public airport police officers	
SB 1231	261	*traffic control; preemption emitter; accidents	

SB 1233	333	license plate to owner; refund
SB 1239	306	vehicle license tax exemptions; veterans

HB 2002 – Chapter 262 – honored military special plates; motorcycles

Requires the Arizona Department of Transportation (ADOT) to issue veteran special plates for motorcycles and authorizes ADOT to accept and utilize up to \$32,000 from outside sources to implement the act.

HB 2038 – Chapter 60 – *motorcycle safety advisory council; continuation

Continues the Motorcycle Safety Council until June 30, 2010.

HB 2148 – Chapter 236 – San Carlos Apache; license plates

Requires ADOT to issue *San Carlos Apache Tribe* special license plates provided that the San Carlos Apache Tribe pays ADOT \$32,000 for the implementation costs. Requires \$8.00 of the \$25.00 special license plate to be an administrative fee and \$17.00 an annual donation. The annual donation monies are transmitted to the San Carlos Apache Tribe Transportation Board to pay for traffic control devices on non-state highways located on the Arizona portion of the San Carlos Apache Tribe reservation.

HB 2184 – Chapter 254 – oversight council; DUI abatement

Reconfigures the Driving Under the Influence Abatement Council, makes changes to the Council makeup, and amends the Driving Under the Influence Abatement Fund. Imposes an additional civil penalty on a person who refuses an alcohol concentration test while operating a motorized watercraft and establishes a system to notify ADOT of convictions relating to operating motorcraft while intoxicated.

HB 2238 – Chapter 255 – vehicle identification number; frame replacement

Exempts a person from existing requirements to notify the Department of Transportation Motor Vehicle Division (MVD) when replacing a component part of a vehicle that has a Vehicle Identification number (VIN) attached, and from applying to the department for a special serial or vehicle identification number if the component part being replaced is the vehicle frame, if the frame and VIN is being replaced by the manufacturer, and if the existing vehicle warranties remain valid.

HB 2323 – Chapter 319 – special plates; spaying; neutering; animals

Requires ADOT to issue *Spaying and Neutering of Animals* special license plates provided that a non-profit entity that has a mission to provide for the welfare and protection of animals pays \$32,000 to ADOT for the implementation costs. Creates the Companion Animal Spay and Neuter Committee as well as the Spaying and Neutering of Animals Fund.

HB 2456 – Chapter 2 [E] – transportation excise tax; election

Provides for the establishment of a transportation excise tax for 20 years in Maricopa County, pending voter approval on November 2, 2004. Specific provisions include:

- The tax rate may not exceed 10 per cent of the transaction privilege tax rate that applied on January 1, 1990 (equals a one-half cent tax). Limits the tax to specific services and products.
- Requires an independent modal transportation systems performance audit beginning in 2010 and every fifth year thereafter of regional transportation projects scheduled for funding during the next five years.

- Instructs the Auditor General to contract with a nationally recognized independent auditor with expertise in evaluating multi-modal transportation systems.
- Includes reimbursement for utility relocation costs as an allowable expenditure from the light rail portion of the public transportation fund.
- Mandates that the light rail project reimburse a utility for all utility relocation costs and reasonable ongoing costs related to the relocation of utility facilities resulting from the construction and operation of a light rail project.

HB 2458 – Chapter 323 – *taxi; limousine; livery vehicles; regulation

Adds a new definition for *livery vehicle* and changes the definitions for *taxi* and *limousine*. Additionally, makes changes to the self-insurance statutes governing motor carriers by allowing for captive insurance, self-insurance or partial self-insurance provided the carrier is able to meet requirements establishing that the person is financially able to pay the entire amount of self-insurance, and files a bond for the amount of self-insurance with the director. Contains an emergency clause making the provisions effective upon signature of the Governor.

HB 2459 – Chapter 143 – *auto dealers; taxation; lease payments

Creates a transaction privilege tax exemption in the personal property rental tax classification for the first month's automobile lease payment received by a motor vehicle dealer if the lease is transferred to a third party leasing company.

HB 2460 – Chapter 296 – *registration; motor vehicles; nonresidents

Adds to the special 30-day nonresident registration permit issuance requirements and allows a licensed motor vehicle dealer or authorized third party to complete the sale and deliver a vehicle to a nonresident purchaser in this state while allowing the purchaser to retain existing statutory exemptions from the transaction privilege tax (sales tax). Further, allows an exemption to Arizona's sales tax provided the purchaser's state of residence has a reciprocity agreement with this state and the purchaser pays the tax in Arizona at the rate applicable in their state of residence.

HB 2462 – Chapter 36 – commercial vehicles; motor carriers; registration

Requires ADOT to issue a permanent license plate validating tab for commercial vehicles used in interstate operations.

- Allows a facsimile of the registration card instead of the actual card issued by the department to be carried in commercial vehicles used in interstate operations.
- Extends the validity period of a temporary proportional registration from 30 to 90 days.
- Deletes the requirement that a motor carrier have a currently registered fleet in order to qualify for a temporary proportional registration.

HB 2463 – Chapter 144 – *towed vehicles; insurance companies; release

Requires the written consent of the vehicle owner prior to the removal of the vehicle from the tower's storage facility by the insurance company, unless the insurance company includes a statement in the vehicle removal request that:

1. The insurer has the vehicle owner's permission to remove the vehicle from the tower's storage premises.
2. The vehicle owner has been informed that the tower is not liable for loss or damage to the vehicle not disclosed to the towing company before the removal of the vehicle from the tower's premises.

HB 2464 – Chapter 324 – *commercial motor carriers; license; regulation

Allows ADOT to require by rule that a person registering a vehicle subject to the gross weight fees have and provide to the Director of ADOT a United States Department of Transportation number and a federal taxpayer identification number issued to the registrant before the vehicle may be registered to travel in Arizona.

- Allows ADOT to require all hazardous materials endorsement applicants to submit a set of fingerprints.
- Outlines violations by which ADOT shall cancel, suspend, or revoke a commercial driver's license (CDL.)
- Requires applicants for a CDL to complete the skills portion of an examination in a motor vehicle or motor vehicle combination that is applicable to the endorsement.
- Prohibits a person who holds a CDL from attending defensive driving school for the purpose of dismissing a conviction for a moving violation.
- Appropriates \$168,500 in Fiscal Year 2004-05 from the State Highway Fund to the Arizona Department of Transportation, Motor Vehicle Division (MVD) to implement this act or for the purpose of regulating motor carriers that are engaged in the business of towing motor vehicles. Prohibits these funds from lapsing of appropriations.

HB 2466 – Chapter 297 – *vehicle registration; electronic third-party providers

Allows the Director of ADOT to establish a pilot program pertaining to the electronic transmission of information between ADOT, authorized third parties and other states for the purpose of measuring improvements in customer service, reducing capital costs and improving security of information transmitted to ADOT.

- Allows ADOT to establish procedures to accept vehicle inspections completed in another state.
- Permits ADOT to establish procedures to accept evidence that a certificate of title or ownership has been voided or destroyed in another state.
- Repeals provisions prescribing the methods by which ADOT must process vehicle registration renewals.
- Establishes a definition of *authorized third party electronic service provider* and *authorized third party*.

- Allows the Director of ADOT to authorize a person to be an authorized third party electronic service provider.
- Allows the Director to expand the system after 12 months of successful operation.

HB 2467 – Chapter 268 – *vehicle towing; notice

Requires a police officer who causes the removal of a vehicle to do one of the following:

1. Provide the tow truck operator with a signed form that provides the vehicle identification number (VIN), a number identifying the law enforcement agency and the officer ordering the tow, the year, make and model of the vehicle, the license plate number, the date and time the vehicle was towed, and the address from which the vehicle was towed.
2. Electronically communicate to the officer's law enforcement agency the name and telephone number of the person towing the vehicle as well as the information listed above.

- Establishes a system to notify all persons listed on ADOT's records as having an ownership interest in the vehicle.
- Increases the maximum charge for storage relating to the impoundment of a vehicle from \$10 to \$15 per day.

HB 2468 – Chapter 233 – *damaged vehicles; insurer repair facilities

Specifies that a person has the right to choose any repair facility for repair of motor vehicle loss and requires the insurer to inform a person of this right.

- Prohibits an insurance adjuster from being employed by or having direct authority over vehicle repair decisions or recommendations in a repair facility in which an insurer has an ownership interest.
- Contains a reporting requirement for insurer-owned repair facilities relating to the number of vehicles repaired and dollar amounts of the repairs.
- Exempts auto glass repair facilities from these provisions.

HB 2469 – Chapter 124 – *regulation transfer; vehicle dealers; report

Requires ADOT to complete and distribute, by October 1, 2004, a detailed report of its regulatory operations and expenditures for licensing and regulatory activities relating to vehicle dealers, manufacturers and automotive recyclers. Specifies that the report shall include a plan for transferring ADOT's duties to a newly established board.

HB 2483 – Chapter 145 – off-highway vehicles

Allows a local authority to designate routes on certain streets and highways to allow off-highway vehicle operators to gain access to or from a designated off-highway recreation facility. Exempts off-highway vehicle special event participants from vehicle registration and insurance requirements.

HB 2507 – Chapter 147 – regional transportation authority; excise tax.

Authorizes an election, in a county with more than 400,000 but less than 1.2 million persons, seeking approval of a 20-year regional transportation plan and a 20-year transportation excise tax. Additionally, expands the membership of the board of directors of the regional transportation authority in the county and extends the regional transportation planning horizon to 20 years.

HB 2628 – Chapter 97 – DUI; ignition interlock devices

Requires ADOT to suspend a person's driver license for at least 12 months if ADOT receives a report that the person tampered with, or circumvented the ignition interlock device (IID.)

- Includes *tampering* or *circumventing* as two of the reportable items.
- Specifies that the IID requirement period begins on the concluding date of the person's license suspension or revocation, or on receipt of the report of Driving Under the Influence (DUI) conviction from the court – whichever occurs later.
- Requires a person to provide proof of interlock installation within 30 days of notice by ADOT that the person is subject to interlock requirements in the event a person's driving privilege has already been reinstated.

SB 1020 – Chapter 302 – aircraft license taxes; antique classic

Expands the definition of antique aircraft and classic aircraft pertaining to the Aircraft License Tax.

SB 1123 – Chapter 182 – *county highway improvements; tax diversion

Allows Maricopa County to bond for the costs of the design and reconstruction of a county highway approaching a bridge that was constructed with bridge construction bond revenues.

SB 1174 – Chapter 249 – use fuel refunds; use taxes

Authorizes ADOT to retain a refund for use fuel taxes paid on tax exempt use fuel pursuant to Arizona Revised Statutes, Title 28, until ADOT determines the amount of use tax due under Arizona Revised Statutes, Title 42.

SB 1230 – Chapter 82 – public airport police officers

Expands the definition of *police officers* to include public airport police officers.

SB 1231 – Chapter 261 – *traffic control; preemption emitter; accidents

Prohibits unauthorized persons from possessing a traffic preemption emitter. In addition, imposes additional civil penalties on drivers who are convicted of lack of due care, not observing the right of way at a crosswalk, and school crossing violations if the driver causes serious physical injury, or if it results in a death.

SB 1233 – Chapter 333 – license plate to owner; refund

Allows a person to claim a refund of vehicle registration fees and taxes from ADOT for the unexpired portion of the vehicle fees and taxes if the person is transferring vehicle ownership and the refund amount exceeds the \$12.00 fee to process the refund.

SB 1239 – Chapter 306 – vehicle license tax exemptions; veterans

Extends the VLT exemption for the widow of a disabled veteran until the widow's remarriage or death.

COMMITTEE ON UTILITIES AND MUNICIPALITIES

*Representative John B. Nelson, Committee Chairman
Todd Sanders, Legislative Research Analyst*



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2062	197	*property exchanges; municipalities	
HB 2099	136	fire fighters; pensions	
HB 2132	110	[E] power entities; confidentiality	
HB 2134	137	[E] natural gas storage facilities; restrictions	
HB 2140	235	*military airport planning; appropriation (See <i>Commerce and Military Affairs</i>)	
HB 2141	111	*military airports; development; planning; zoning (See <i>Commerce and Military Affairs</i>)	
HB 2158	112	shooting range preservation	
HB 2559	150	fire districts; fire code	
HB 2560	151	fire districts; budget filings	
SB 1099	173	municipal expenditure limitations; penalty waiver	
SB 1244	132	automatic recount; cities and towns	

HB 2062 – Chapter 197 – *property exchanges; municipalities

Allows flood control districts to sell property to a school district, charter school, community college or university without being subject to the public bidding process. Stipulates that if any property acquired from a flood control district is subsequently sold for a price exceeding the original sale price, the district shall be paid the difference.

HB 2099 – Chapter 136 – fire fighters; pensions

Increases the maximum pension for volunteer fire fighters from \$200 to \$400 per month.

HB 2132 – Chapter 110 [E] – power entities; confidentiality

Provides that an electric utility cannot release customer-specific information without prior written consent from the customer unless it is for the purposes of collection activities, credit analysis or to provide safe and reliable services to the customer.

HB 2134 – Chapter 137 [E] – natural gas storage facilities; restrictions

States that a natural gas storage facility with a capacity exceeding five hundred thousand cubic feet, shall not be located within nine miles of an active duty military air force base whose primary mission is pilot training. This restriction applies only if the base is situated within a county with a population of more than one million five hundred thousand inhabitants.

HB 2158 – Chapter 112 – shooting range preservation

Requires a city with a population over one million persons to revise the land use element of its general plan on or before January 1, 2004 to protect shooting ranges from encroaching development, within or adjacent to the exterior municipal boundaries.

HB 2559 – Chapter 150 – fire districts; fire code

Eliminates the requirement that fire districts adopt the Uniform Fire Code and allows districts to adopt a *nationally recognized fire code* approved by the State Fire Marshal.

HB 2560 – Chapter 151 – fire districts; budget filings

Extends the date that fire districts must submit a budget estimate of the amount of money required for the equipment and maintenance of the district for the ensuing year to the county board of supervisors from July 10 to August 1 of each year.

SB 1099 – Chapter 173 – municipal expenditure limitations; penalty waiver

Establishes a penalty of \$100,000 on the City of Somerton to be paid over five years for exceeding its expenditure limitation in all fiscal years previous to FY 2003-04.

SB 1244 – Chapter 132 – automatic recount; cities and towns

Requires an automatic recount in a municipal election if the margin of votes between the top two candidates for office is less than, or equal to, ten votes.

COMMITTEE ON WAYS AND MEANS

**Representative Steve Huffman, Committee Chairman
Kitty Decker, Legislative Research Analyst**



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2040	61	2004 tax corrections act	
HB 2045	289	income tax credit review schedule	
HB 2086	242	motor vehicle warranties; tax refunds	
HB 2225	161	probation absconders; taxpayer information	
HB 2258	295	property taxes; exemption; corrections	
HB 2259	232	county treasurers; procedures	
HB 2270	317	rental car insurance; damage waiver (See <i>FII Committee</i>)	
HB 2346	70	spousal maintenance; taxpayer information	
SB 1001	240	*fertilizer transport; transaction privilege tax	
SB 1003	214	income tax exemption; stillborn children	
SB 1004	329	property tax exemption; widows	
SB 1141	234	*preexisting transactions; sales tax	
SB 1274	83	taxpayer bill of rights; amnesty	
SB 1288	337	bundled telecommunications services	
SB 1293	309	*design-build contracts; prime contracting	
SB 1361	84	tax disputes; burden of proof	
SB 1386	85	state board of equalization; members	
SB 1387	86	board of equalization; continuation	
SB 1398	196	internal revenue code; partial conformity	

HB 2040 – Chapter 61 – 2004 tax corrections act

HB 2040 is the annual bill that makes technical, conforming and clarifying changes to Arizona tax statutes.

HB 2045 – Chapter 289 – income tax credit review schedule

HB 2045 is the annual bill to update the income tax credit review schedule based on the recommendations of the Joint Legislative Income Tax Credit Review Committee. Specifically, the bill contains the following provisions:

- Removes the income tax credits that were reviewed in 2003 and adds these credits to the review schedule in 2008. These include the credit for taxes paid for coal consumed in generating electrical power, the research and development credit and pollution control equipment credit.
- Repeals the individual and the corporate income tax credit for corrective action costs for underground storage tanks and makes conforming changes.
- Stipulates that the requirement to claim an enterprise zone credit on the original tax return does not apply to any qualified employment positions created before January 1, 2002 and were certified by the Department of Commerce. This provision is retroactive to the beginning of the 2004 calendar year.
- Modifies the retail activities allowed in an enterprise zone by redefining and clarifying the terms *retail sales* and *retail sales activities*.

HB 2086 – Chapter 242 – motor vehicle warranties; tax refunds

Allows motor vehicle manufacturers who accept returned or exchanged nonconforming motor vehicles under the state's lemon law to apply for a transaction privilege tax refund as follows:

- Provides that if a manufacturer repurchases a vehicle because it is subject to the state lemon law, and then refunds the amount of tax previously collected back to the consumer, a refund from DOR is allowable to the manufacturer if proof is submitted to DOR that the tax to the consumer was refunded.
- Clarifies that allowable refunds to the manufacturer are only for the tax amounts attributable to the sale of the vehicles.
- Specifies that a manufacturer must apply for the refund within four years after repurchasing the vehicle.
- Provides clarifying changes regarding the tax refund calculation amounts for circumstances regarding any replacement vehicle.
- Defines *consumer*, *motor vehicle manufacturer*, and *satisfactory proof*.

HB 2225 – Chapter 161 – probation absconders; taxpayer information

Allows DOR to notify the court if a match is made with an absconder's home addresses and any tax identification numbers regardless of whether or not a tax refund is due.

HB 2258 – Chapter 295 – property taxes; exemption; corrections

Makes changes regarding the county assessor's procedures for tax assessments and appeals. The provisions of the bill include:

- Allows property tax agents to act on behalf of the taxpayer to discuss tax matters with the county assessors, DOR or the County or State Board of Equalization.
- Requires the county assessor to make any necessary changes in the tax roll and records from reviews or corrections of errors and omissions, in addition to any changes from judicial and administrative appeals.
- Clarifies that the value of property will remain the same in the following year only in cases where the value of property is decreased or the classification changes, except that changes may continue to be made for construction or structural changes or on properties with valuation formulas.
- Removes the requirement for the court to hear property appeals within 270 days.
- Includes in the property tax exemption for institutions for the relief of indigent of afflicted any administrative buildings or property.
- Establishes a new property tax exemption for any non-profit organizations that provide financial support for public libraries.

HB 2259 – Chapter 232 – county treasurers; procedures

This is the annual bill that makes changes to the administrative procedures regarding county treasurers. Specifically, the bill provides:

- The monthly statement of fees collected by the county will be filed on the first day of the month, instead of the last day of the month and the requirement that the statement be filed under oath is removed.
- Changes the fee for a certified copy of a judgment foreclosing the right to redeem from \$10 to \$50 dollars and requires that \$15 of this fee is designated to the county Taxpayers' Information Fund.
- Designates that thirty days after medical examination of a deceased indigent, the public fiduciary of the county, rather than the county treasurer, will receive any monies and properties found upon the body.
- Clarifies that checks drawn on the county general fund not presented for payment within one year will revert to the county general fund or other appropriate fund.
- Retroactive to September 18, 2003, the board of supervisors may allow a claim for the amount of an uncashed check or warrant that is older than one year if they find that the claim is legitimate.
- Allows the county treasurer to require additional supporting information for any person who is making electronic property tax payments in excess of \$25,000. If the electronic fund does not balance with the tax parcel information, the funds will not be accepted and clarifies that if payments are delinquent, interest will accrue.

- Removes the six-month time limit for the sheriff's seizure of property after receiving a tax bill.
- Requires monies derived from the levy of the tax on issued bonds to be deposited to the Debt Service Fund rather than the Interest Fund and the Principal Fund.

HB 2346 – Chapter 70 – spousal maintenance; taxpayer information

Requires DOR to notify the court if a match is made with a taxpayer that has overdue debt for spousal maintenance regardless of whether or not a tax refund is due. The bill adds spousal maintenance to the definition of overdue support.

SB 1001 – Chapter 240 – *fertilizer transport; transaction privilege tax

Effective October 1, 2004, creates an exemption from the transaction privilege (sales) tax for fertilizer that is transported by rail within Arizona borders.

SB 1003 – Chapter 214 – income tax exemption; stillborn children

Beginning with the 2004 tax year, SB 1003 creates an income tax exemption for stillborn children. A taxpayer that receives a certificate of birth resulting in stillbirth from the Department of Health Services can claim the dependent exemption if the child would have been a member of the taxpayer's household. The bill limits the claim for the exemption to the year in which the stillbirth occurred.

SB 1004 – Chapter 329 – property tax exemption; widows

Increases the value of a home eligible for a \$3,000 property tax exemption for widows, widowers and disabled persons. Specifically, the bill provides:

- An increase in the value of a residence from \$100,000 or less to \$200,000 or less for widows, widowers, or disabled persons to qualify for a \$3,000 property tax exemption.
- On or before December 31 each year, requires DOR to increase this residence assessment limit of \$200,000 based on annual inflation as determined by the GDP price deflator.

SB 1141 – Chapter 234 – *preexisting transactions; sales tax

Clarifies when a state transaction privilege tax rate increase takes effect for written business contracts other than prime contracts. Any new tax rate increase would not apply until 120 days after the effective date of the rate increase. Other provisions of the bill specify that:

- This does not apply to any taxpayer that has entered into a contract that contains a provision that entitles the taxpayer to recover the increased tax amount from the purchaser.
- These changes apply regardless of the accounting method used by the taxpayer.
- This section does not apply to any rate increases for county excise taxes.

SB 1274 – Chapter 83 – taxpayer bill of rights; amnesty

Makes modifications to the taxpayer bill of rights and clarifies the right of appeal for the tax amnesty program. The bill:

- Limits the duration of an audit of a taxpayer's return or claim for refund to two years from the date of the initial audit contact, with certain exceptions, effective retroactively to January 1, 2004.
- Requires DOR to provide the taxpayer and the taxpayer's authorized representative with a written explanation of all adjustments made, including specific statutory, regulatory and judicial references at the time DOR issues a deficiency assessment or refund claim denial effective retroactively to January 1, 2004.
- Stipulates that a taxpayer that files an application for amnesty retains all administrative and judicial rights of appeal with respect to any additional tax assessed in a subsequent audit by DOR, effective retroactively to September 18, 2003.
- Defines *affected class*.

SB 1288 – Chapter 337 – bundled telecommunications services

Clarifies the taxation of telecommunication services that are bundled together in one plan. Specifically, the bill:

- Establishes an allocation system that will identify the taxable versus nontaxable telecommunication services that are bundled together. If a provider cannot identify the nontaxable transactions of telecommunication sales, then the services are taxable.
- Specifies that taxable services from bundled transactions are based on allocation percentages determined from the entire service area, including territories outside of this state.
- Allows DOR to request the allocation information and an audit may be performed.
- The telecommunications service provider must waive all rights to a refund on taxes if the taxes were based on the allocation percentage deemed reasonable at the beginning of the tax year at issue.
- Defines *bundled transaction*.

SB 1293 – Chapter 309 – *design-build contracts; prime contracting

Clarifies that architecture and engineering services are not subject to transaction privilege tax under the prime contracting classification. The provisions of the bill:

- Clarifies that any actual direct costs attributable to architectural and engineering services that are incorporated into a contract will not be taxed. Defines *direct costs*.

- Contains a retroactivity clause that provides that any refunds are limited to a total of \$100,000. Claims for refunds must be submitted to DOR by December 31, 2004 and:
 - The burden of proof is on the taxpayer to establish evidence to qualify for the refund,
 - DOR will notify taxpayers of their determination and amount of refund,
 - Contains a clause stating the nonseverability of refund provisions.

SB 1361 – Chapter 84 – tax disputes; burden of proof

Clarifies that DOR has the burden of proof by a preponderance of the evidence in any administrative, as well as judicial, proceedings regarding any factual issue that is relevant to ascertaining the tax liability of a taxpayer.

SB 1386 – Chapter 85 – state board of equalization; members

Includes real estate brokers as qualified persons for selection to the State Board of Equalization.

SB 1387 – Chapter 86 – board of equalization; continuation

Continues the State Board of Equalization for ten years until July 1, 2014.

SB 1398 – Chapter 196 – internal revenue code; partial conformity

SB 1389 is the annual bill to make conforming changes to the state income tax code to correspond with the federal changes to the Internal Revenue Code. Specifically, the bill:

- Updates the definition of the Internal Revenue Code for tax year 2004.
- Conforms, retroactive to January 1, 2000, the state income tax code to recently passed federal tax relief acts, excluding provisions relating to additional bonus depreciation of qualified property acquired after May 5, 2003 and the increase in the amount of investment that may be deducted by small businesses in tax years 2003 through 2005.
- Allows a taxpayer to elect to recognize the entire cumulative effect of the retroactive change of depreciation in tax year 2004 in lieu of retroactively reorganizing past returns.

VETOED BILLS



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Short Title	Page
HB 2085	property tax valuation; telecommunications companies	
HB 2129	prisoners; temporary removal; probation length	
HB 2615	*reporting; fuel supplies	
HB 2618	schools; TAPBI program	
SB 1012	nursing care institution administrators; continuation	
SB 1077	abortion; informed consent	
SB 1081	*ecological and animal terrorism	
SB 1278	*psychiatric medication; school employees	
SB 1402	[LIVS] *general appropriations act; 2004-2005 <i>(See Appropriations Committee)</i>	
SB 1406	[LIVS] school facilities; budget reconciliation <i>(See Appropriations Committee)</i>	

HB 2085 – VETOED – property tax valuation; telecommunications companies

HB 2085 would have permitted DOR to consider obsolescence regarding valuations of the telecommunications industry. The bill would have:

- Required DOR to consider documentation by the taxpayer showing the need for obsolescence using standard appraisal methods and techniques.
- Defined *obsolescence* to mean all forms of impairment in the usefulness of an asset, including functional and economic obsolescence.
- Provided an intent clause stating that the changes in the bill were not intended to change existing law, including DOR's authority to allow obsolescence.

HB 2129 – VETOED – prisoners; temporary removal; probation length

This House bill would have allowed an inmate sentenced to probation immediately following a term of incarceration to be eligible for a temporary release and would have required the county probation department to supervise an inmate who was temporarily released for the purpose of preparing the inmate to return to the community. The bill established a new procedure for removing a prisoner from work furlough.

HB 2615 – VETOED – *reporting; fuel supplies

HB 2615 would have established reporting requirements for petroleum-based motor fuel producers, sellers, and pipeline transporters operating in the State of Arizona.

HB 2618 – VETOED – schools; TAPBI program

This bill would have added three reporting requirements for schools selected to participate in the Technology Assisted Project Based Instruction (TAPBI) Program. Additionally, the bill would have required the State Board of Education and the State Board for Charter Schools to randomly select a group of parents to gather feedback and make recommendations to improve the TAPBI Program. The bill would have allowed students in kindergarten and first grade to participate in the TAPBI Program regardless of previous school attendance. Finally, the bill contained a retroactive date of July 1, 2004.

SB 1012 – VETOED – nursing care institution administrators; continuation

This bill would have continued the Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Managers for a period of 10 years, until July 1, 2014.

SB 1077 – VETOED – abortion; informed consent

SB 1077 would have prohibited abortion without the voluntary and informed consent of the woman, except in the case of a medical emergency. The bill would have prescribed criteria for an informed consent and provided penalty of license suspension or revocation for noncompliance by a physician, unless it was the first violation by that physician.

SB 1081 – VETOED – *ecological and animal terrorism

This bill would have added animal and ecological terrorism to the definition of *racateering*.

SB 1278 – VETOED – * psychiatric medication; school employees

This Senate bill would have prohibited school employees from requiring a parent or guardian to seek psychiatric or psychological evaluation, diagnoses, medications or examinations for any pupil. Additionally, the provisions would have prohibited administering psychiatric medication to a pupil or conducting psychiatric, psychological or behavioral health examinations on school grounds without parental/guardian consent.

MEMORIALS AND RESOLUTIONS



* Strike-everything Amendment
[E] Emergency Clause
[P 108] Proposition 108 Clause

Bill	Short Title	Page
HCM 2001	BIA route 60; safety improvement	
HCM 2003	federal gas tax turnback	
HCM 2011	Luke air force base preservation	
HCR 2009	initiatives; filing date	
HCR 2012	Casa Grande; quasquicentennial	
HCR 2043	Congressman Bob Stump; death resolution	
SCM 1002	radiation contamination; compensation; Mohave county	
SCM 1003	victims' rights amendment; federal constitution	
SCM 1005	KC-135E model fleet modernization	
SCM 1008	*F-35 striker fighter; Arizona bases	
SCR 1009	*pro tem qualifications; JPs	
SCR 1022	colleges; state board of education	
SCR 1027	*Arizona comprehensive cancer control plan	
SCR 1028	Chandler national little league team	
SCR 1048	financial literacy for youth month	
SCR 1051	Honorable LeRoy A. Palmer	
SCR 1052	death resolution; Robert Williams	
SJR 1001	Arizona veterans' highway	

HCM 2001 – BIA route 60; safety improvements

Requests that funds be given to the Bureau of Indian Affairs to conduct highway repairs on the U.S. Bureau of Indian Affairs Route 60.

HCM 2003 – federal gas tax turnback

Requests the United States Congress to enact legislation allowing states to retain the full amount of federal gas tax revenues generated in each state.

HCM 2011 – Luke air force base preservation

Requests the United States Congress authorize the Bureau of Land Management to prepare and execute a land trade between the United States and the landowners of vacant and farm land within the *High Noise or Accident Potential Zones* of Luke Air Force Base and the related auxiliary fields. Further, the Memorial requests a land trade of equitable value between the United States, private property owners and the State of Arizona for land outside the boundaries of the Yuma Army Proving Ground testing and training ranges.

HCR 2009 – initiatives; filing date

A referendum measure to amend the Arizona Constitution to allow an initiative petition to be circulated for signatures 27 months before the general election and to require an initiative petition to be filed with the Secretary of State seven months before the election.

HCR 2012 – Casa Grande; quasquicentennial

A House concurrent resolution recognizing the City of Casa Grande on its Quasquicentennial for 125 years of service to its citizens and the State of Arizona.

HCR 2043 – Congressman Bob Stump; death resolution

Extends the Legislature's deepest sympathies over the passing of the Honorable Bob Stump to his family and many friends.

Bob Stump's tenure as an elected official began in 1959 when he was elected to the Arizona House of Representatives where he served for eight years only to next be elected to the Arizona State Senate in 1967. He continued his service to the State when he was elected to the United States House of Representatives in 1976 and subsequently reelected to serve thirteen consecutive congressional terms.

As one of the most senior members of Congress, Congressman Stump is one of the few in the history of the United States House to have served as Chairman of both the House *Veterans' Affairs Committee* and the House *Armed Services Committee*. He retired at the conclusion of the 107th Congress on January 2, 2003 after forty-four years of continuous service as an elected public servant.

Congressman Stump was the proud father of a daughter, Karen Stump, two sons, Dr. Bob Stump and Dr. Bruce Stump, and his five grandchildren, Britt, Morgan, Bailey, Sara and Robert Patrick. He spent nearly thirty joyous years with his longtime friend, companion and wife, Nancy Stump. He will be greatly missed by his family, his many friends and colleagues and the citizens of the State of Arizona.

SCM 1002 – radiation contamination; compensation; Mohave county

Urges Congress and the President of the United States to enact and implement legislation to compensate the residents of Mohave County affected by radiation contamination due to nuclear testing at the Nevada Test Site.

SCM 1003 – victims' rights amendment; federal constitution.

Requests the United States Congress propose an amendment to the Constitution of the United States to provide specific rights to crime victims.

SCM 1005 – KC-135E model fleet modernization

A Senate concurrent memorial requesting the National Guard Bureau, the United States Air Force, Department of Defense and the Congress support funding the Air National Guard for newer and more efficient air refueling aircraft, or procure funding to bring existing aircraft into federal compliance.

SCM 1008 – *F-35 strike fighter; Arizona bases

Endorses and invites the United States Department of Defense to consider making Arizona the home of the F-35 joint strike fighter.

SCR 1009 – *pro tem qualifications; JPs

A referendum measure to amend the Arizona Constitution to state that justices of the peace pro tempore must have the same qualifications as justices of the peace, except that they do not have to reside in the same precinct they serve.

SCR 1022 – colleges; state board of education

Amends the Arizona Constitution to change the membership of the State Board of Education. Conditionally changes the membership as follows:

- Removes a member of the State Junior College Board.
- Adds a president or chancellor of a community college district.
- Adds an owner or administrator of a charter school.
- Adds a lay member.

Requires the Secretary of State to submit the membership changes to the voters.

SCR 1027 – *Arizona comprehensive cancer control plan

A Senate concurrent resolution declaring that the Arizona Legislature supports efforts by the Department of Health Services and other public and private agencies to develop and implement a comprehensive cancer control plan for Arizona

SCR 1028 – Chandler national little league team

A Senate concurrent resolution congratulating the achievements of the Chandler National Little League baseball team. The Chandler National Little League won the right, following victories at the local, state and regional levels, to represent the West Region at the Little League World Series in Williamsport, Pennsylvania. This is the first team from Arizona to do so since 1986.

SCR 1048 – financial literacy for youth month

SCR 1048 mirrors the federal resolution regarding participation in Financial Literacy for Youth Month. The memorial:

- Designates April as Financial Literacy for Youth Month in Arizona in order to increase public and educator awareness of the need to improve financial literacy among the state's youth.
- Encourages parents and educators to participate in the activities and exercises to increase financial literacy.

SCR 1051 – Honorable LeRoy A. Palmer

A Senate concurrent resolution expressing regret at the passing of a former Senate member, the Honorable LeRoy A. Palmer, a former member of the Senate. An Arizona native and lifelong resident, Roy Palmer was born in St. Johns and lived most of his life in Taylor. He devoted his life to agriculture, public service, his church and his family.

Mr. Palmer gave generously of his time and resources in the service of his community and state. He served over 16 years on the Snowflake union high school board, he was a founding member of the Taylor water system, and was elected to the state Senate in 1970. Mr. Palmer then was elected to the Navajo county board of supervisors in 1972 and served on the Taylor town council for 10 years, eight of which he served as Mayor.

Roy Palmer was devoted to his family and will be greatly missed by his surviving family members, including his wife, Ruth, children Arvin, Sybil, Phyllis, Steve and Fred, 26 grandchildren and 23 great-grandchildren.

SCR 1052 – Death resolution; Robert Williams

A Senate concurrent resolution expressing regret at the passing of Brigadier General Robert W. Williams. Born in Tallahassee, Florida, Robert Williams grew up to establish a tremendous record of service to his country through decades of military service that spanning three wars.

Having graduated from Virginia Military Institute, Georgia Tech University, and Air War College, General Williams served in Europe during World War II as a Calvary Officer with General Patton's Third United States Army until he was wounded on March 29, 1945. He went on to serve in Korea and twice in Vietnam as an intelligence officer. He also served with the Joint Chiefs of Staff and was Commanding General with Army Security Agency Europe and Chief of Plans with the National Security Agency until his retirement on September 1, 1974. In recognition of his tremendous military accomplishments, General Williams received the Legion of Merit with two Oak Leaf Clusters, the Purple Heart and the Bronze Star with Oak Leaf Cluster.

General Williams moved to Arizona in 1977 and became a resident of Sun City West in 1979, where he resided until the time of his death. He was elected to the Arizona House of Representatives and served his constituents from 1989 until 1993.

General Williams gave freely of his time, energy and efforts to better the world around him, and he earned the respect and admiration of all who knew him. He will be deeply missed by his family, friends, and the people of the Sun City West community.

SJR 1001 – Arizona veterans’ highway

Dedicates the portion of Interstate 17 between Black Canyon City and Flagstaff as “*Arizona Veterans Highway*.”

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2002	262	honored military special plates; motorcycles.....	102
HB 2004	45	board of chiropractic examiners	71
HB 2005	263	vocational programs; age requirements	36
HB 2006	46	board of physician assistants; omnibus.....	71
HB 2008	87	[E] *Arizona ranger pension (Now: ASRS; health care premium subsidy)	61
HB 2009	288	*state fire marshall (Now: regulatory reform; amendments).....	61
HB 2010	313	*department of public safety; reserves (Now: schools; impact aid revenue bonds)	36
HB 2011	21	[E] Indian gaming; renumbering; conforming change	61
HB 2012	314	reviser's technical corrections; 2004	61
HB 2024	22	assisted living facilities; training programs	71
HB 2025	264	Arizona medical board; omnibus	71
HB 2026	88	community colleges; workforce development monies	36
HB 2029	252	ASRS; service purchase; cost	61
HB 2031	23	child day care; regulations; exception	71
HB 2032	47	performance based incentives; amount	62
HB 2034	265	service animals; classification	71
HB 2038	60	*public road maintenance; technical correction (Now: motorcycle safety advisory council; continuation)	102
HB 2040	61	2004 tax corrections act	110
HB 2043	89	board of appraisal.....	62
HB 2044	48	[P 108] board of appraisal; compensation; fees	29
HB 2045	289	income tax credit review schedule	110
HB 2046	49	*clinical laboratories; examination of specimens (Now: advisory committee; clinical laboratories)	71
HB 2049	246	ASRS; membership; political subdivision entities.....	62
HB 2050	177	firefighter cancer insurance; continuing coverage	62
HB 2052	106	ASRS; retirement incentive costs	62
HB 2054	62	residential care institutions; fingerprinting	71
HB 2056	178	[E] local fire protection; payment.....	98
HB 2059	135	disposition of proceeds; abandoned property.....	98
HB 2062	197	*municipal corporations; property sale (Now: property exchanges; municipalities)	108
HB 2070	90	county planning; definition.....	98
HB 2073	63	fingerprinting; child protective service workers	63
HB 2074	315	*child fatality review teams; reports (Now: K-3 override; carryforward)	36
HB 2076	160	agency bank accounts; custody	63
HB 2077	107	ASRS; long-term disability.....	63
HB 2078	76	ASRS; asset management; limitations	63
HB 2079	24	*ASRS; normal cost; definition (Now: family builders; audits; repeal)	63
HB 2080	64	*CORP; excess benefit account (Now: CORP; prior service redemption)	64
HB 2081	91	PSPRS; disability offset.....	64

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2083	290	*CORP; assignments (Now: accessible voting technology)	64
HB 2086	242	motor vehicle warranties; tax refunds.....	110
HB 2088	179	brownfields program.....	46
HB 2089	253	federal assistance monies; distribution	98
HB 2090	228	dissolution of marriage; community property	78
HB 2091	291	financial transactions; requirements; exemptions	56
HB 2099	136	fire fighters; pensions	108
HB 2102	243	schools; personnel reductions; timeline	36
HB 2104	340	schools; excess utilities funding plan	36
HB 2105	50	schools; procurement; GSA contracts.....	37
HB 2109	229	*CORP; contribution rate (Now: contribution rate; CORP).....	64
HB 2113	65	AHCCCS; assisted living centers	72
HB 2114	92	iceberg lettuce research council	88
HB 2115	108	Arizona citrus research council	88
HB 2116	109	*identity theft; fraud (Now: fraud; theft of identity)	82
HB 2125	66	ADOSH; duties	29
HB 2128	3	small claims court; mail service	82
HB 2132	110	[E] power entities; confidentiality	108
HB 2134	137	[E] natural gas storage facilities; restrictions	108
HB 2138	39	supreme court; performance audit.....	64
HB 2140	235	*military training routes (Now: military airport planning; appropriation)	29
HB 2141	111	*special road districts; technical correction (Now: military airports; development; planning; zoning)	30
HB 2142	218	*Arizona medical board; licensure (Now: gasoline; MTBE)	46
HB 2148	236	San Carlos Apache; license plates.....	102
HB 2149	193	joint powers airport authority	98
HB 2158	112	shooting range preservation	108
HB 2172	219	health care directives; registry	72
HB 2176	113	corporation commission; business entities	30
HB 2177	114	homeowners' associations; meetings; records	52
HB 2180	25	physicians; referrals; reimbursement.....	72
HB 2181	230	school districts; agencies; insurance pools	37
HB 2182	231	alcohol detoxification centers; study committee	98
HB 2184	254	*legislative oversight council; DUI abatement (Now: oversight council; DUI abatement)	102
HB 2185	206	*sick leave pay; direct transfer (Now: enduring freedom memorial)	64
HB 2188	198	school teachers; certification applications	38
HB 2190	247	[P 108] water quality fees.....	46
HB 2191	51	health inspections; food products	72
HB 2193	199	residential settings; regulation; DES; transfer	72
HB 2194	6	*hospital emergency services; access; committee (Now: dentist; dental hygienists; duties)	72
HB 2195	115	*vulnerable adults; emergency assistance; exemption (Now: emergency assistance; vulnerable adults)	72

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2196	116	pharmacy technicians; licensing renewal requirements	72
HB 2197	292	statewide emergency trauma system	72
HB 2198	26	[E] *state hospital; licensed bed capacity (Now: bed capacity; state hospital)	72
HB 2200	117	vital records; public health statistics	73
HB 2202	118	*Arizona wine commission loan repayment (Now: supplemental appropriation; indep. redistricting commission)	8
HB 2206	316	character education license plates	39
HB 2207	293	air quality; fuel formulations	46
HB 2208	52	domestic violence; diversion	82
HB 2209	53	motion pictures; unlawful recording	82
HB 2213	220	*right of attorney; technical correction (Now: liquor licenses; definition; act of violence)	82
HB 2217	207	obtaining utility service fraudulently	82
HB 2220	67	product liability; food products	82
HB 2221	27	UCC; bulk sales; repeal	30
HB 2223	28	forcible entry and detainer appeals	82
HB 2224	68	*insurer claim files; disclosure (Now: insurers; claim files; confidentiality)	56
HB 2225	161	probation absconders; taxpayer information	110
HB 2226	29	criminal code cleanup; internal references	82
HB 2228	30	charitable gift annuities; disclosures	56
HB 2232	162	insurance producer licenses; renewal	56
HB 2233	31	consumer reporting agency; information disclosure	56
HB 2235	32	captive insurers; formation	57
HB 2238	255	vehicle identification number; frame replacement	102
HB 2239	119	annuities; standard nonforfeiture law	57
HB 2240	33	state banking department; continuation	57
HB 2241	188	department of financial institutions	57
HB 2244	93	water rights; Zuni settlement	88
HB 2247	294	tobacco manufacturers; master settlement agreement	83
HB 2250	189	trustee sales	30
HB 2253	54	notaries public	64
HB 2255	120	charter schools; civil penalties	39
HB 2256	121	*certified nursing assistants; pilot program (Now: nursing assistants; pilot program; medication)	73
HB 2258	295	property taxes; exemption; corrections	111
HB 2259	232	county treasurers; procedures	111
HB 2260	69	*court clerks; funds; report (Now: court fees; supreme court; report)	83
HB 2265	237	*schools; desegregation; capital outlay (Now: poison control centers; appropriations)	73
HB 2270	317	*corporate income tax; sales factor (Now: rental car insurance; damage waiver)	57
HB 2276	266	*solid waste management; effective date (Now: waterless urinals; state buildings)	46
HB 2277	318	*water; CAGRD; technical correction (Now: water supply; replenishment; conservation)	88
HB 2278	238	[E] assured water supply certificate; assignment	89
HB 2279	221	*statewide solid waste management plans	

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2301	248	(Now: solid waste management)	46
HB 2305	163	contractors; recovery fund; registrar; license.....	31
HB 2306	200	state personnel board; appeals	64
HB 2309	122	repeal fire districts county reimbursement.....	98
HB 2310	267	fire districts; fingerprint requirements	98
HB 2313	244	animal mistreatment; procedures	98
HB 2317	222	insurance policies; annuity contracts; replacement.....	57
HB 2323	319	landlord tenant; domestic violence	52
HB 2324	201	special plates; spaying; neutering; animals	102
		*life insurance cash value; creditors	
HB 2344	138	(Now: creditors; life insurance proceeds)	57
HB 2345	123	board of osteopathic examiners; omnibus	73
HB 2346	70	nutrition; feeding assistants; training programs	73
HB 2348	320	spousal maintenance; taxpayer information	112
		*dissolution of marriage; misconduct	
HB 2351	190	(Now: dissolution of marriage; criminal conduct)	78
HB 2352	202	procurement code revisions	65
HB 2353	34	school textbooks; alternative format	39
HB 2355	321	schools; measures of academic progress	40
		*driver licenses; source of identification.	
HB 2365	71	(Now: recreational corridors; districts)	52
		*state treasurer investments; funding; appropriation	
HB 2368	94	(Now: state treasurer investments; funding)	65
HB 2369	322	homestead exemption; increase	53
HB 2370	164	university employees; felony convictions; prohibition	40
HB 2373	35	life insurance; association groups	57
		*building and fire safety; exemption	
HB 2379	72	(Now: exemption; building and fire safety)	31
HB 2380	245	homeowners' associations; annual audit.....	53
HB 2381	312	homeowners' associations; written disclosure	53
HB 2382	139	homeowners' associations; board member conflicts	53
HB 2383	180	social security numbers; government use	65
HB 2396	341	public information; confidentiality	65
		*English learner classrooms; bonus fund	
HB 2397	191	(Now: unified school districts; budgets)	40
HB 2399	208	medical records; HIPAA	73
		*workers' compensation; infectious exposures	
HB 2402	342	(Now: structural pest control commission)	31
HB 2403	95	homeowners' associations; liens	53
HB 2419	73	clean bus fleets	46
HB 2421	140	heavy duty diesel engines; extension.....	46
HB 2433	141	water monitoring assistance program; continuation	47
HB 2435	203	political subdivisions; self-insurance	65
HB 2438	165	state veterans' home facility	31
HB 2440	251	workers' compensation; prescription medicine fees	31
		*vehicle license tax exemptions; veterans	
HB 2441	96	(Now: unemployment insurance benefits)	31
HB 2452	142	industrial commission; general powers	32
		*sex offender registration fee; collection	
		(Now: sex offenders; identification; monitoring)	83

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2456	2	[E] transportation excise tax; election	102
HB 2458	323	*taxi; limousines; sedans; regulation (Now: taxi; limousine; livery vehicles; regulation).....	103
HB 2459	143	*supplemental appropriation; taxi license plates (Now: auto dealers; taxation; lease payments)	103
HB 2460	296	*vehicle registration; nonresidents; tax exemption (Now: registration; motor vehicles; nonresidents)	103
HB 2462	36	commercial vehicles; motor carriers; registration	103
HB 2463	144	*towed vehicles; release; insurance companies (Now: towed vehicles; insurance companies; release)	103
HB 2464	324	*motor carriers; commercial driver licenses (Now: commercial motor carriers; license; regulation)	104
HB 2466	297	*laden vehicle test license plates (Now: vehicle registration; electronic third-party providers)	104
HB 2467	268	*unladen vehicle test license plates (Now: vehicle towing; notice).....	105
HB 2468	233	*unladen vehicles; registration exemption (Now: damaged vehicles; insurer repair facilities).....	105
HB 2469	124	*motor vehicle dealer; licensing board (Now: regulation transfer; vehicle dealers; report)	105
HB 2470	298	*state buildings; relifing study (Now: life extension study; state buildings)	8
HB 2471	40	named claimants; appropriations	8
HB 2475	209	schools; impact aid.....	49
HB 2478	299	homeowners' associations; political signs.....	53
HB 2483	145	off-highway vehicles	105
HB 2484	146	*air pollution control; rules; notice (Now: WQARF; revisions)	47
HB 2490	55	Prescott historical society	8
HB 2492	166	homeowners' associations; public safety vehicles	54
HB 2495	269	*AHCCCS; eligibility; redetermination (Now: interpreter training; hearing impaired; appropriation)	73
HB 2502	210	government procurement; set aside program.....	65
HB 2507	147	regional transportation authority; excise tax.....	105
HB 2513	125	high schools; organ donation education.....	78
HB 2516	148	restoration of uniform trust code.....	57
HB 2520	56	chaplain's memorial.....	66
HB 2529	37	board of funeral directors; continuation	32
HB 2539	239	eminent domain; attorney fees; appraisals.....	54
HB 2542	325	PSPRS; pension; limitation	66
HB 2543	270	hearing and speech professions; fund	74
HB 2546	126	A.S.P.I.R.E.; repeal..	42
HB 2547	149	insurance inquiries; use by insurer	57
HB 2549	326	[E] *healthy forest pilot program (Now: healthy forests; tax credits)	89
HB 2551	211	insurance; utilization review agent; qualification	57
HB 2552	38	board of executive clemency; continuation	83
HB 2557	192	organ donation; protocol for requests.....	78
HB 2558	256	special education; foster parent; definition	42
HB 2559	150	fire districts; fire code	108

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
HB 2560	151	fire districts; budget filings	108
HB 2565	212	duty for burial or cremation.....	74
HB 2568	271	ambulance services; hearings on rates	71
HB 2570	77	licensed liquor premises; closing time	32
HB 2573	181	theft; dogs.....	83
HB 2578	74	extradition; recovery of expenses.....	66
HB 2580	257	state board; charter schools; members	42
HB 2590	300	stored water; recovery wells	92
HB 2591	152	retired race horses; adoption; surcharge	92
HB 2593	327	family college savings program	42
HB 2601	336	community colleges board; cleanup	43
HB 2602	272	sex offenders; community notification	83
HB 2609	153	[E] jury duty; lengthy trial fund.....	83
HB 2616	301	department of agriculture; omnibus act	92
HB 2620	41	legislative ethics committee; meetings	66
HB 2626	167	[E] county transportation; acceleration agreements.....	98
HB 2628	97	DUI; ignition interlock devices	106
HB 2637	213	*embalmers; funeral establishments; storing remains (Now: dental hygienists; affiliated practice relationship).....	74
HB 2646	204	community accountability pilot program	99
HB 2651	258	municipal tank closures; counties	47
HB 2662	168	military airports; military training routes	32
HB 2671	127	*ambulances; rural underserved areas (Now: underserved areas; ambulance service).....	99
HB 2680	169	great-grandparents; adoption	78
HB 2681	154	hospital liens; enforcement.....	74
HB 2684	128	vehicle protection product warranties	58
HB 2694	328	cross burning	83
HB 2703	205	state buildings; energy savings	66
SB 1001	240	*liability; emergency services; technical correction (Now: fertilizer transport; transaction privilege tax)	112
SB 1003	214	income tax exemption; stillborn children	112
SB 1004	329	property tax exemption; widows	112
SB 1006	170	*technical corrections; public health (Now: task force; arsenic standards implementation).....	95
SB 1007	7	[E] board of pharmacy; continuation	74
SB 1008	8	state hospital advisory board; continuation	74
SB 1014	9	cotton; pink bollworm eradication; referendum.....	95
SB 1020	302	aircraft license taxes; antique; classic	106
SB 1021	10	board of physical therapy; continuation	74
SB 1023	1	Arizona historical society; continuation	99
SB 1034	171	*justice court; civil jurisdiction (Now: guardianship; foreign citizens)	83
SB 1036	78	jail inmates; meal costs	99
SB 1049	98	presiding justice of the peace	84
SB 1050	330	*JPs; appeals; technical correction (Now: election law amendments)	84
SB 1055	79	independent living programs; tribal agencies	78
SB 1061	11	archaeology advisory commission; continuation	47
SB 1062	12	water infrastructure finance authority; continuation	47

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
SB 1063	13	cotton research council; sunset continuation	96
SB 1064	129	regional haze; penalties	47
SB 1068	331	developmental disabilities; governor's council; continuation	79
SB 1076	80	JPs; pro tem qualifications	84
SB 1079	194	state archives and history building	99
SB 1085	303	solid waste fees	47
SB 1086	14	naturopathic physicians board.....	74
SB 1087	99	board of massage therapists	75
SB 1088	81	*special districts; certificate of necessity (Now: certificate of necessity; special districts)	75
SB 1090	223	state employee compensation study committee.....	67
SB 1091	15	*property tax valuations; corrections (Now: property tax corrections)	99
SB 1093	304	department of commerce; continuation	32
SB 1094	5	unfair claims; medical necessity review	58
SB 1095	305	*excise tax; teratogen funding (Now: teratogen information program; funding; tax)	75
SB 1098	172	board of physical therapy; omnibus.....	75
SB 1099	173	municipal expenditure limitations; penalty waiver	108
SB 1104	215	veterinarians; crematory licensure; animals	32
SB 1106	16	registrar of contractors; continuation	32
SB 1107	17	board of barbers; continuation.....	32
SB 1113	4	*affidavits; expert testimony; health professionals (Now: expert testimony; affidavits; health professionals)	75
SB 1123	182	*state veterans' home facility. (Now: county highway improvements; tax diversion)	106
SB 1125	57	homeowners' associations; designated agent.....	54
SB 1127	174	impersonating a peace officer	84
SB 1133	259	*community colleges board; cleanup (Now: Arizona historical society; private donations)	44
SB 1137	75	*homeowners' associations; corporate actions (Now: homeowners' associations; validity of actions)	33
SB 1140	100	real estate omnibus	33
SB 1141	234	*sales tax increase; preexisting transactions (Now: preexisting transactions; sales tax)	112
SB 1142	101	county prisoner health grievance procedures.....	99
SB 1149	18	healthy families program; marriage classes	79
SB 1156	195	retroactive child support	79
SB 1158	224	*transporting hazardous materials; routing requirements (Now: tuition waivers; guardsmen; correctional officers)	33
SB 1159	102	*cosmetology; aesthetics; nail technology (Now: cosmetology; mobile salons).....	33
SB 1163	42	board of cosmetology; continuation.....	33
SB 1166	332	AHCCCS; healthcare group	75
SB 1167	225	AHCCCS; trusts	75
SB 1168	58	AHCCCS; long-term care system.....	75
SB 1172	43	manufactured housing board; duties	33
SB 1174	249	use fuel refunds; use taxes	106
SB 1182	59	racing; interstate compact	96

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
SB 1197	250	eminent domain; condemnation; leasehold interest	54
SB 1204	130	occupational therapy	75
SB 1213	44	police canine memorial.....	99
SB 1215	19	housing task force report; submission	33
SB 1222	131	victims' rights; statement by judge	85
SB 1230	82	public airport police officers	106
SB 1231	261	*traffic control devices; intersections; accidents (Now: traffic control; preemption emitter; accidents)	106
SB 1232	343	driver licenses; source of identification.....	54
SB 1233	333	license plate to owner; refund	106
SB 1234	183	landlord registration; tenant notice	33
SB 1237	155	*psychologists; judicially ordered examinations (Now: board of psychologist examiners; complaints)	75
SB 1238	156	campaign finance; separate segregated fund	58
SB 1239	306	vehicle license tax exemptions; veterans	106
SB 1241	226	vehicle insurance; loss; vendor choice	58
SB 1242	103	arson; emergency responses; investigations; costs	85
SB 1244	132	automatic recount; cities and towns	108
SB 1246	175	pesticide regulation	47
SB 1247	157	police officer discipline; evidence; discovery	85
SB 1248	104	nursing board; approval of schools	76
SB 1249	133	Arizona aerospace and defense commission.....	34
SB 1250	184	election amendments; help America vote	85
SB 1256	307	*securing workers' compensation; deposits (Now: workers' compensation; insurance carriers)	34
SB 1264	334	tourism and sports; spring training	34
SB 1265	185	JOBS program; welfare; privatization.....	67
SB 1269	158	public records; index	67
SB 1274	83	taxpayer bill of rights; amnesty	112
SB 1275	260	business entity information; confidentiality	67
SB 1288	337	bundled telecommunications services.....	113
SB 1291	308	*income tax; withholding; technical correction (Now: sex offenders; community notification; applicability)	86
SB 1293	309	*property valuation; advisory committee (Now: design-build contracts; prime contracting)	113
SB 1305	176	*PSPRS; accidental disability; eliminate offset (Now: lottery commission; personnel)	34
SB 1306	273	*elections; cities; counties; influence; prohibition (Now: storage tanks; underground; funding)	48
SB 1311	216	purchaser of dwelling actions	34
SB 1327	338	small school districts; budget limit	44
SB 1332	186	uniform interstate family support act.....	79
SB 1334	105	child support; overpayment; reimbursement	79
SB 1335	187	child bigamy.....	86
SB 1336	227	county officials; salaries	99
SB 1343	217	*public monies; investment protection (Now: state investment; security risks; reports).....	67
SB 1345	134	prohibited possessors; misconduct involving weapons	86
SB 1351	310	information technology; access; disabled persons	67
SB 1353	311	cigarettes; delivery sales	34

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
SB 1361	84	tax disputes; burden of proof	113
SB 1365	339	school curriculum; Native american culture	44
SB 1366	335	department of administration; self-insurance; benefits	67
SB 1381	159	group life insurance; eligibility	58
SB 1386	85	state board of equalization; members	114
SB 1387	86	board of equalization; continuation	114
SB 1388	241	state employees; mentoring	67
SB 1389	196	internal revenue code; partial conformity	114
SB 1394	20	committees; commissions; repeal	67
SB 1402	275	[LIV] *general appropriations; fiscal year 2004-2005 (Now: general appropriations act; 2004-2005)	8
SB 1403	276	2004-2005 capital outlay; appropriations	14
SB 1404	277	fiscal year 2003-2004; supplemental appropriations	15
SB 1405	278	department of education; budget reconciliation	16
SB 1406	274	[LIV] school facilities; budget reconciliation	20
SB 1410	279	AHCCCS; health; welfare; budget reconciliation	21
SB 1411	280	environmental protection; budget reconciliation	22
SB 1412	281	criminal justice; budget reconciliation	23
SB 1413	282	highway fund monies; budget reconciliation	24
SB 1414	283	general fund; revenue; budget reconciliation	24
SB 1415	284	withholding tax rates; budget reconciliation	24
SB 1416	285	Ladewig settlement; budget reconciliation	25
SB 1417	286	state fees; budget reconciliation	25
SB 1418	287	election systems funding; budget reconciliation	25

Bill Index

E Emergency
P 108 Proposition 108

LIV Line Item Veto Signed
* Strike-Everything Amendment

Bill	Chapter	Short Title	Page
-------------	----------------	--------------------	-------------

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Chapter Index

E Emergency
 P 108 Proposition 108 * LIV Line Item Veto
 Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 1	SB 1023	Arizona historical society; continuation	99
Chapter 2	HB 2456	transportation excise tax; election.....	102
Chapter 3	HB 2128	small claims court; mail service	82
Chapter 4	SB 1113	*affidavits; expert testimony; health professionals (Now: expert testimony; affidavits; health professionals).....	75
Chapter 5	SB 1094	unfair claims; medical necessity review	58
Chapter 6	HB 2194	*hospital emergency services; access; committee (Now: dentist; dental hygienists; duties)	72
Chapter 7	SB 1007	board of pharmacy; continuation.....	74
Chapter 8	SB 1008	state hospital advisory board; continuation.....	74
Chapter 9	[E] SB 1014	cotton; pink bollworm eradication; referendum	95
Chapter 10	SB 1021	board of physical therapy; continuation	74
Chapter 11	SB 1061	archaeology advisory commission; continuation.....	47
Chapter 12	SB 1062	water infrastructure finance authority; continuation	47
Chapter 13	SB 1063	cotton research council; sunset continuation	96
Chapter 14	SB 1086	naturopathic physicians board	74
Chapter 15	SB 1091	*property tax valuations; corrections (Now: property tax corrections).....	99
Chapter 16	SB 1106	registrar of contractors; continuation.....	32
Chapter 17	SB 1107	board of barbers; continuation	32
Chapter 18	SB 1149	healthy families program; marriage classes.....	79
Chapter 19	SB 1215	housing task force report; submission	33
Chapter 20	SB 1394	committees; commissions; repeal.....	67
Chapter 21	[E] HB 2011	Indian gaming; renumbering; conforming change.....	61
Chapter 22	HB 2024	assisted living facilities; training programs.....	71
Chapter 23	HB 2031	child day care; regulations; exception	71
Chapter 24	HB 2079	*ASRS; normal cost; definition (Now: family builders; audits repeal).....	63
Chapter 25	HB 2180	physicians; referrals; reimbursement	72
Chapter 26	[E] HB 2198	*state hospital; licensed bed capacity (Now: bed capacity; state hospital).....	72
Chapter 27	HB 2221	UCC; bulk sales; repeal	30
Chapter 28	HB 2223	forcible entry and detainer appeals	82
Chapter 29	HB 2226	criminal code cleanup; internal references	82
Chapter 30	HB 2228	charitable gift annuities; disclosures	56
Chapter 31	HB 2233	consumer reporting agency; information disclosure	56
Chapter 32	HB 2235	captive insurers; formation	57
Chapter 33	HB 2240	state banking department; continuation	57
Chapter 34	HB 2353	schools; measures of academic progress.....	40
Chapter 35	HB 2373	*building and fire safety; exemption (Now: exemption; building and fire safety).....	31
Chapter 36	HB 2462	commercial vehicles; motor carriers; registration.....	103
Chapter 37	HB 2529	board of funeral directors; continuation.....	32
Chapter 38	HB 2552	board of executive clemency; continuation	83
Chapter 39	HB 2138	supreme court; performance audit	64
Chapter 40	HB 2471	named claimants; appropriations	8
Chapter 41	HB 2620	legislative ethics committee; meetings.....	66

Chapter Index

E Emergency
 P 108 Proposition 108 * LIV Line Item Veto
 Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 42	SB 1163	board of cosmetology; continuation	33
Chapter 43	SB 1172	manufactured housing board; duties.....	33
Chapter 44	SB 1213	police canine memorial	99
Chapter 45	HB 2004	board of chiropractic examiners	71
Chapter 46	HB 2006	board of physician assistants; omnibus	71
Chapter 47	HB 2032	performance based incentives; amount	62
Chapter 48 [P 108]	HB 2044	board of appraisal; compensation; fees	29
Chapter 49	HB 2046	*clinical laboratories; examination of specimens (Now: advisory committee; clinical laboratories).....	71
Chapter 50	HB 2105	schools; procurement; GSA contracts	37
Chapter 51	HB 2191	health inspections; food products	72
Chapter 52	HB 2208	domestic violence; diversion	82
Chapter 53	HB 2209	motion pictures; unlawful recording	82
Chapter 54	HB 2253	notaries public	64
Chapter 55	HB 2490	Prescott historical society	8
Chapter 56	HB 2520	chaplain's memorial	66
Chapter 57	SB 1125	homeowner' associations; designated agent	54
Chapter 58	SB 1168	AHCCCS; long-term care system	75
Chapter 59	SB 1182	racing; interstate compact.....	96
Chapter 60	HB 2038	*public road maintenance; technical correction (Now: motorcycle safety advisory council; continuation)	102
Chapter 61	HB 2040	2004 tax corrections act.....	110
Chapter 62	HB 2054	residential care institutions; fingerprinting.....	71
Chapter 63	HB 2073	fingerprinting; child protective service workers	63
Chapter 64	HB 2080	*CORP; excess benefit account (Now: CORP; prior service redemption)	64
Chapter 65	HB 2113	AHCCCS; assisted living centers.....	72
Chapter 66	HB 2125	ADOSH; duties.....	29
Chapter 67	HB 2220	product liability; food products	82
Chapter 68	HB 2224	*insurer claim files; disclosure (Now: insurers; claim files; confidentiality).....	56
Chapter 69	HB 2260	*court clerks; fund; report (Now: court fees; supreme court; report)	83
Chapter 70	HB 2346	spousal maintenance; taxpayer information	112
Chapter 71	HB 2365	*state treasurer investments; funding; appropriation (Now: state treasurer investments; funding)	65
Chapter 72	HB 2379	homeowners' associations; annual audit	53
Chapter 73	HB 2419	heavy duty diesel engines; extension	46
Chapter 74	HB 2578	extradition; recovery of expenses	66
Chapter 75	SB 1137	*homeowners' associations; corporate actions (Now: homeowners' associations; validity of actions).....	33
Chapter 76	HB 2078	ASRS; asset management; limitations.....	63
Chapter 77	HB 2570	licensed liquor premises; closing time	32
Chapter 78	SB 1036	jail inmates; meal costs.....	99
Chapter 79	SB 1055	independent living programs; tribal agencies.....	78
Chapter 80	SB 1076	JPs; pro tem qualifications	84

Chapter Index

E Emergency

P 108

Proposition 108

LIV Line Item Veto

* Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 81	SB 1088	*special districts; certificate of necessity (Now: certificate of necessity; special districts).....	75
Chapter 82	SB 1230	public airport police officers	106
Chapter 83	SB 1274	taxpayer bill of rights; amnesty	112
Chapter 84	SB 1361	tax disputes; burden of proof	113
Chapter 85	SB 1386	state board of equalization; members	114
Chapter 86	SB 1387	board of equalization; continuation	114
Chapter 87 [E]	HB 2008	*Arizona ranger pension (Now: ASRS; health care premium subsidy).....	61
Chapter 88	HB 2026	community colleges; workforce development monies.....	36
Chapter 89	HB 2043	board of appraisal	62
Chapter 90	HB 2070	county planning; definition	98
Chapter 91	HB 2081	PSPRS; disability offset	64
Chapter 92	HB 2114	iceberg lettuce research council	88
Chapter 93	SB 2244	water rights; Zuni settlement.....	88
Chapter 94	HB 2368	homestead exemption; increase	53
Chapter 95	HB 2403	clean bus fleets	46
Chapter 96	HB 2441	industrial commission; general powers	32
Chapter 97	HB 2628	DUI; ignition interlock devices.....	106
Chapter 98	SB 1049	presiding justice of the peace	84
Chapter 99	SB 1087	board of massage therapists.....	75
Chapter 100	SB 1140	real estate omnibus.....	33
Chapter 101	SB 1142	county prisoner health grievance procedures	99
Chapter 102	SB 1159	*cosmetology; aesthetics; nail technology (Now: cosmetology; mobile salons)	33
Chapter 103	SB 1242	arson; emergency responses; investigations; costs	85
Chapter 104	SB 1248	nursing board; approval of schools	76
Chapter 105	SB 1334	child support; overpayment; reimbursement	79
Chapter 106	HB 2052	ASRS; retirement incentive costs	62
Chapter 107	HB 2077	ASRS; long-term disability	63
Chapter 108	HB 2115	Arizona citrus research council	88
Chapter 109	HB 2116	*identity theft; fraud (Now: fraud; theft of identity).....	82
Chapter 110 [E]	HB 2132	power entities; confidentiality	108
Chapter 111	HB 2141	*special road districts; technical correction (Now: military airports; development; planning; zoning)	30
Chapter 112	HB 2158	shooting range preservation	108
Chapter 113	HB 2176	corporation commission; business entities	30
Chapter 114	HB 2177	homeowners' associations; meetings; records	52
Chapter 115	HB 2195	*vulnerable adults; emergency assistance; exemption (Now: emergency assistance; vulnerable adults)	72
Chapter 116	HB 2196	pharmacy technicians; licensing renewal requirements	
Chapter 117	HB 2200	vital records; public health statistics.....	72
Chapter 118	HB 2202	*Arizona wine commission loan repayment (Now: supplemental appropriation; independent	73
		redistricting commission	8
Chapter 119	HB 2239	annuities; standard nonforfeiture law	57
Chapter 120	HB 2255	charter schools; civil penalties	39

Chapter Index

E Emergency

P 108 Proposition 108

LIV Line Item Veto

* Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 121	HB 2256	*certified nursing assistants; pilot program (Now: nursing assistants; pilot program; medication)	73
Chapter 122	HB 2309	fire districts; fingerprint requirements	98
Chapter 123	HB 2345	nutrition; feeding assistants; training programs	73
Chapter 124	HB 2469	*motor vehicle dealer; licensing board (Now: regulation transfer; vehicle dealers; report)	105
Chapter 125	HB 2513	high schools; organ donation education	78
Chapter 126	HB 2546	A.S.P.I.R.E.; repeal	42
Chapter 127	HB 2671	*ambulances; rural underserved areas (Now: underserved areas; ambulance service)	99
Chapter 128	HB 2684	vehicle protection product warranties	58
Chapter 129	SB 1064	regional haze; penalties	47
Chapter 130	SB 1204	occupational therapy	75
Chapter 131	SB 1222	victims' rights; statement of judge	85
Chapter 132	SB 1244	automatic recount; cities and towns	108
Chapter 133	SB 1249	Arizona aerospace and defense commission	34
Chapter 134	SB 1345	prohibited possessors; misconduct involving weapons	86
Chapter 135	HB 2059	disposition of proceeds; abandoned property	98
Chapter 136	HB 2099	fire fighters; pensions	108
Chapter 137 [E]	HB 2134	natural gas storage facilities; restrictions	108
Chapter 138	HB 2344	board of osteopathic examiners; omnibus	73
Chapter 139	HB 2382	social security numbers; government use	65
Chapter 140	HB 2421	water monitoring assistance program; continuation	47
Chapter 141	HB 2433	political subdivisions; self-insurance	65
Chapter 142	HB 2452	*sex offender registration fee; collection (Now: sex offenders; identification; monitoring)	83
Chapter 143	HB 2459	*supplemental appropriation; taxi license plates (Now: auto dealers; taxation; lease payments)	103
Chapter 144	HB 2463	*towed vehicles; release; insurance companies (Now: towed vehicles; insurance companies; release)	103
Chapter 145	HB 2483	off-highway vehicles	105
Chapter 146	HB 2484	*air pollution control; rules; notice (Now: WQARF; revisions)	47
Chapter 147	HB 2507	regional transportation authority; excise tax	105
Chapter 148	HB 2516	restoration of uniform trust code	57
Chapter 149	HB 2547	insurance inquiries; use by insurer	57
Chapter 150	HB 2559	fire districts; fire code	108
Chapter 151	HB 2560	fire districts; budget filings	108
Chapter 152	HB 2591	retired race horses; adoption; surcharge	92
Chapter 153 [E]	HB 2609	jury duty; lengthy trial fund	83
Chapter 154	HB 2681	hospital liens; enforcement	74
Chapter 155	SB 1237	*psychologists; judicially ordered examinations (Now: board of psychologist examiners; complaints)	75
Chapter 156	SB 1238	campaign finance; separate segregated fund	58
Chapter 157	SB 1247	police officer discipline; evidence; discovery	85
Chapter 158	SB 1269	public records; index	67
Chapter 159	SB 1381	group life insurance; eligibility	58
Chapter 160	HB 2076	agency bank accounts; custody	63
Chapter 161	HB 2225	probation absconders; taxpayer information	110
Chapter 162	HB 2232	insurance producer licenses; renewal	56
Chapter 163	HB 2305	state personnel board; appeals	64

Chapter Index

E Emergency

P 108

Proposition 108

LIV Line Item Veto

* Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 164	HB 2370	life insurance; association groups	57
Chapter 165	HB 2438	workers' compensation; prescription medicine fees	31
Chapter 166	HB 2492	homeowners' associations; public safety vehicles	54
Chapter 167 [E]	HB 2626	county transportation; acceleration agreements	98
Chapter 168	HB 2662	military airports; military training routes	32
Chapter 169	HB 2680	great-grandparents; adoption	78
Chapter 170	SB 1006	*technical corrections; public health (Now: task force; arsenic standards implementation)	95
Chapter 171	SB 1034	*justice court; civil jurisdiction (Now: guardianship; foreign citizens)	83
Chapter 172	SB 1098	board of physical therapy; omnibus	75
Chapter 173	SB 1099	municipal expenditure limitations; penalty waiver	108
Chapter 174	SB 1127	impersonating a peace officer	84
Chapter 175	SB 1246	pesticide regulation	47
Chapter 176	SB 1305	*PSPRS; accidental disability; eliminate offset (Now: lottery commission; personnel)	34
Chapter 177	HB 2050	firefighter cancer insurance; continuing coverage	62
Chapter 178 [E]	HB 2056	local fire protection; payment	98
Chapter 179 [E]	HB 2088	brownfields program	46
Chapter 180	HB 2383	public information; confidentiality	65
Chapter 181	HB 2573	theft; dogs	83
Chapter 182	SB 1123	*state veterans' home facility (Now: county highway improvements; tax diversion)	106
Chapter 183	SB 1234	landlord registration; tenant notice	33
Chapter 184	SB 1250	election amendments; help America vote	85
Chapter 185	SB 1265	JOBS program; welfare; privatization	79
Chapter 186	SB 1332	uniform interstate family support act	79
Chapter 187	SB 1335	child bigamy	86
Chapter 188	HB 2241	department of financial institutions	57
Chapter 189	HB 2250	trustee sales	30
Chapter 190	HB 2351	procurement code revisions	65
Chapter 191	HB 2397	medical records; HIPAA	73
Chapter 192	HB 2557	organ donation; protocol for requests	78
Chapter 193	HB 2149	joint powers airport authority	98
Chapter 194	SB 1079	state archives and history building	99
Chapter 195	SB 1156	retroactive child support	79
Chapter 196	SB 1389	internal revenue code; partial conformity	114
Chapter 197	HB 2062	*municipal corporations; property sale (Now: property exchanges; municipalities)	108
Chapter 198	HB 2188	school teachers; certification applications	38
Chapter 199	HB 2193	residential settings; regulation; DES; transfer	72
Chapter 200	HB 2306	repeal fire districts county reimbursements	98
Chapter 201	HB 2324	*life insurance cash value; creditors (Now: creditors; life insurance proceeds)	57
Chapter 202	HB 2352	school textbooks; alternative format	39
Chapter 203	HB 2435	state veterans'; home facility	31
Chapter 204	HB 2646	community accountability pilot program	99
Chapter 205	HB 2703	state buildings; energy savings	66
Chapter 206	HB 2185	*sick leave pay; direct transfer (Now: enduring freedom memorial)	64
Chapter 207	HB 2217	obtaining utility service fraudulently	82

Chapter Index

E Emergency
 P 108 Proposition 108 * LIV Line Item Veto
 Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 208	HB 2399	*workers' compensation; infectious exposures (Now: structural pest control commission).....	31
Chapter 209	HB 2475	schools; impact aid	42
Chapter 210	HB 2502	governmental procurement; set aside program	65
Chapter 211	HB 2551	insurance; utilization review agent; qualification	57
Chapter 212	HB 2565	duty for burial or cremation	74
Chapter 213	HB 2637	*embalmers; funeral establishments; storing remains (Now: dental hygienists; affiliated practice relationship)	74
Chapter 214	SB 1003	income tax exemption; stillborn children	112
Chapter 215	SB 1104	veterinarians; crematory licensure; animals.....	32
Chapter 216	SB 1311	purchaser of dwelling actions.....	34
Chapter 217	SB 1343	*public monies; investment protection (Now: state investments; security risks; reports)	67
Chapter 218	HB 2142	*Arizona medical board; licensure (Now: gasoline; MTBE)	46
Chapter 219	HB 2172	health care directives; registry	72
Chapter 220	HB 2213	*right of attorney; technical correction (Now: liquor licenses; definition; act of violence)	82
Chapter 221	HB 2279	*statewide solid waste management plans (Now: solid waste management).....	46
Chapter 222	HB 2317	landlord tenant; domestic violence.....	52
Chapter 223	SB 1090	state employee compensation study committee	67
Chapter 224	SB 1158	*transporting hazardous materials; routing requirements (Now: tuition waivers; guardsmen; correctional officers)	33
Chapter 225	SB 1167	AHCCCS; trusts	75
Chapter 226	SB 1241	vehicle insurance; loss; vendor choice	58
Chapter 227	SB 1336	county officials; salaries	99
Chapter 228	HB 2090	dissolution of marriage; community property	78
Chapter 229	HB 2109	*CORP; contribution rate (Now: contribution rate; CORP	64
Chapter 230	HB 2181	school districts; agencies; insurance pools.....	37
Chapter 231	HB 2182	alcohol detoxification centers; study committee.....	98
Chapter 232	HB 2259	county treasurers; procedures	111
Chapter 233	HB 2468	*unladen vehicles; registration exemption (Now: damaged vehicles; insurer repair facilities)	105
Chapter 234	SB 1141	*sales tax increase; preexisting transactions (Now: preexisting transactions; sales tax)	112
Chapter 235	HB 2140	*military training routes (Now: military airport planning; appropriation)	29
Chapter 236	HB 2148	San Carlos Apache; license plates	102
Chapter 237	HB 2265	*schools; desegregation; capital outlay (Now: poison control centers; appropriations)	73
Chapter 238	HB 2278	assured water supply certificate; assignment	89
Chapter 239	HB 2539	eminent domain; attorney fees; appraisals	54
Chapter 240	SB 1001	*liability; emergency services; technical correction (Now: fertilizer transport; transaction privilege tax).....	112
Chapter 241	SB 1388	state employees; mentoring	67
Chapter 242	HB 2086	motor vehicle warranties; tax refunds	110
Chapter 243	HB 2102	schools; personnel reductions; timeline	36

Chapter Index

E Emergency

P 108

Proposition 108

LIV Line Item Veto

* Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 244	HB 2313	insurance policies; annuity contracts; replacement	57
Chapter 245	HB 2380	homeowners' associations; written disclosure	53
Chapter 246	HB 2049	ASRS; membership; political subdivision entities	62
Chapter 247 [P 108]	HB 2190	water quality fees	46
Chapter 248	HB 2301	contractors; recovery fund; registrar; license	31
Chapter 249	SB 1174	use fuel refunds; use taxes	106
Chapter 250	SB 1197	eminent domain; condemnation; leasehold interest.....	54
Chapter 251	HB 2440	*vehicle license tax exemptions; veterans (Now: unemployment insurance benefits).....	31
Chapter 252	HB 2029	ASRS; service purchase; cost	61
Chapter 253	HB 2089	federal assistance monies; distribution	98
Chapter 254	HB 2184	*legislative oversight council; DUI abatement (Now: oversight council; DUI abatement)	102
Chapter 255	HB 2238	vehicle identification number; frame replacement.....	102
Chapter 256	HB 2558	special education; foster parent; definition.....	42
Chapter 257	HB 2580	state board; charter schools; members.....	42
Chapter 258	HB 2651	municipal tank closures; counties	47
Chapter 259	SB 1133	*community colleges board; cleanup (Now: Arizona historical society; private donations)	44
Chapter 260	SB 1275	business entity information; confidentiality.....	67
Chapter 261	SB 1231	*traffic control devices; intersections; accidents (Now: traffic control; preemption emitter; accidents).....	106
Chapter 262	HB 2002	honored military special plates; motorcycles	102
Chapter 263	HB 2005	vocational programs; age requirements.....	36
Chapter 264	HB 2025	Arizona medical board; omnibus.....	71
Chapter 265	HB 2034	service animals; classification	71
Chapter 266	HB 2276	*solid waste management; effective date (Now: waterless urinals; state buildings).....	46
Chapter 267	HB 2310	animal mistreatment; procedures.....	98
Chapter 268	HB 2467	*unladen vehicle test license plates (Now: vehicle towing; notice)	105
Chapter 269	HB 2495	*AHCCCS; eligibility; redetermination (Now: interpreter training; hearing impaired; appropriation)	73
Chapter 270	HB 2543	hearing and speech professions; fund	74
Chapter 271	HB 2568	ambulance services; hearings on rates	74
Chapter 272	HB 2602	sex offenders; community notification	83
Chapter 273	SB 1306	*elections; cities; counties; influence; prohibition (Now: storage tanks; underground; funding).....	48
Chapter 274 [LIV]	SB 1406	school facilities; budget reconciliation	20
Chapter 275 [LIV]	SB 1402	*general appropriations; fiscal year 2004-2005 (Now: general appropriations act; 2004-2005).....	8
Chapter 276	SB 1403	2004-2005 capital outlay; appropriations	14
Chapter 277	SB 1404	fiscal year 2003-2004; supplemental appropriations	15
Chapter 278	SB 1405	department of education; budget reconciliation	16
Chapter 279	SB 1410	AHCCCS; health; welfare; budget reconciliation	21
Chapter 280	SB 1411	environmental protection; budget reconciliation.....	22
Chapter 281	SB 1412	criminal justice; budget reconciliation	23
Chapter 282	SB 1413	highway fund monies; budget reconciliation	24
Chapter 283	SB 1414	general fund; revenue; budget reconciliation	24

Chapter Index

E Emergency

P 108

Proposition 108

LIV Line Item Veto

* Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 284	SB 1415	withholding tax rates; budget reconciliation	24
Chapter 285	SB 1416	Ladewig settlement; budget reconciliation	25
Chapter 286	SB 1417	state fees; budget reconciliation	25
Chapter 287	SB 1418	election systems funding; budget reconciliation.....	25
Chapter 288	HB 2009	*state fire marshal (Now: regulatory reform; amendments)	61
Chapter 289	HB 2045	income tax credit review schedule	110
Chapter 290	HB 2083	*CORP; assignments (Now: accessible voting technology).....	64
Chapter 291	HB 2091	financial transactions; requirements; exemptions	56
Chapter 292	HB 2197	statewide emergency trauma system	72
Chapter 293	HB 2207	air quality; fuel formulations	46
Chapter 294	HB 2247	tobacco manufacturers; master settlement agreement.....	83
Chapter 295	HB 2258	property taxes; exemption; corrections	111
Chapter 296	HB 2460	*vehicle registration; nonresidents; tax exemption (Now: registration; motor vehicles; nonresidents).....	103
Chapter 297	HB 2466	*laden vehicle test license plates (Now: vehicle registration; electronic third-party providers).....	104
Chapter 298	HB 2470	*state buildings; relifing study (Now: life extension study; state buildings).....	8
Chapter 299	HB 2478	homeowners' associations; political signs	53
Chapter 300	HB 2590	stored water; recovery wells	92
Chapter 301	HB 2616	department of agriculture; omnibus act.....	92
Chapter 302	SB 1020	aircraft license taxes; antique; classic.....	106
Chapter 303	SB 1085	solid waste fees	47
Chapter 304	SB 1093	department of commerce; continuation.....	32
Chapter 305	SB 1095	*excise tax; teratogen funding (Now: teratogen information program; funding; tax)	75
Chapter 306	SB 1239	vehicle license tax exemptions; veterans.....	106
Chapter 307	SB 1256	*securing workers' compensation; deposits (Now: workers' compensation; insurance carriers).....	34
Chapter 308	SB 1291	*income tax; withholding; technical correction (Now: sex offenders; community notification; applicability	86
Chapter 309	SB 1293	*property valuation; advisory committee (Now: design-build contract; prime contracting).....	113
Chapter 310	SB 1351	information technology; access; disabled persons	67
Chapter 311	SB 1353	cigarettes; delivery sales.....	34
Chapter 312	HB 2381	homeowners' associations; board member conflicts	53
Chapter 313	HB 2010	*department of public safety; reserves (Now: schools; impact aid revenue bonds)	36
Chapter 314	HB 2012	reviser's technical corrections; 2004	61
Chapter 315	HB 2074	*child fatality review teams; reports (Now: K-3 override; carryforward).....	36
Chapter 316	HB 2206	character education license plates.....	39
Chapter 317	HB 2270	*corporate income tax; sales factor (Now: rental car insurance; damage waiver)	57
Chapter 318	HB 2277	*water; CAGRD; technical correction (Now: water supply; replenishment; conservation)	88
Chapter 319	HB 2323	special plates; spaying; neutering; animals	102
Chapter 320	HB 2348	*dissolution of marriage; misconduct	

Chapter Index

E Emergency

P 108

Proposition 108

LIV Line Item Veto

*

Strike Everything Amendment

Chapter Number	Bill Number	Short Title	Page
Chapter 321	HB 2355	(Now: dissolution of marriage; criminal conduct)	78
		*driver licenses; source of identification	
		(Now: recreational corridors; districts)	52
Chapter 322	HB 2369	university employees; felony convictions; prohibition	40
Chapter 323	HB 2458	*taxis; limousines; sedans; regulation	
		(Now: taxi; limousine; livery vehicle; regulation)	103
Chapter 324	HB 2464	*motor carriers; commercial driver licenses	
		(Now: commercial motor carriers; license; regulation)	104
Chapter 325	HB 2542	PSPRS; pension; limitation	66
Chapter 326 [E]	HB 2549	*healthy forest pilot program	
		(Now: healthy forests; tax credits)	89
Chapter 327	HB 2593	family college savings program	42
Chapter 328	HB 2694	cross burning	83
Chapter 329	SB 1004	property tax exemption; widows	112
Chapter 330	SB 1050	*JPs; appeals; technical correction	
		(Now: election law amendments)	84
Chapter 331	SB 1068	developmental disabilities; governor's council; continuation	79
Chapter 332	SB 1166	AHCCCS; healthcare group	75
Chapter 333	SB 1233	license plate to owner; refund	106
Chapter 334	SB 1264	tourism and sports; spring training	34
Chapter 335	SB 1366	department of administration; self-insurance; benefits	67
Chapter 336	HB 2601	community colleges board; cleanup	43
Chapter 337	SB 1288	bundled telecommunications services	113
Chapter 338	SB 1327	small school districts; budget limit	44
Chapter 339	SB 1365	school curriculum; Native American culture	44
Chapter 340	HB 2104	schools; excess utilities funding plan	36
Chapter 341	HB 2396	*English learner classrooms; bonus fund	
		(Now: unified school districts; budgets)	40
Chapter 342	HB 2402	homeowner's associations; liens	53
Chapter 343	SB 1232	driver licenses; source of identification	54