

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2600

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 28-304, Arizona Revised Statutes, is amended to  
3 read:

4 28-304. Powers and duties of the board; transportation facilities

5 A. The board shall:

6 1. Develop and adopt a statewide transportation policy statement. The  
7 policy statement shall be adopted as described in section 28-306.

8 2. Adopt a long-range statewide transportation plan. The plan shall  
9 be adopted as described in section 28-307.

10 3. Adopt uniform transportation planning practices and performance  
11 based planning processes for use by the department. The practices and  
12 processes shall be developed as described in sections 28-502 and 28-503.

13 4. Adopt transportation system performance measures and factors and  
14 data collection standards to be used by the department. The performance  
15 measures, factors and standards shall be developed as described in sections  
16 28-504 and 28-505.

17 B. With respect to highways, the board shall:

18 1. Establish a complete system of state highway routes.

19 2. Determine which state highway routes or portions of the routes are  
20 accepted into the state highway system and which state highway routes to  
21 improve.

22 3. Establish, open, relocate or alter a portion of a state route or  
23 state highway.

1           4. Vacate or abandon a portion of a state route or state highway as  
2 prescribed in section 28-7209.

3           5. Sell board funding obligations to the state treasurer as provided  
4 in section 28-7678.

5           C. The board shall:

6           1. Establish policies to guide the development or modification of the  
7 five year transportation facilities construction program that are consistent  
8 with the principles of performance based planning developed pursuant to  
9 article 7 of this chapter. The percentage of department discretionary monies  
10 allocated to the region in the regional transportation plan approved pursuant  
11 to chapter 17, article 1 of this title shall not increase or decrease unless  
12 the board, in cooperation with the regional planning agency, agrees to change  
13 the percentage of the discretionary monies.

14           2. Award all construction contracts for transportation facilities.

15           3. Monitor the status of these construction projects.

16           ~~D. Consistent with the board's responsibilities, the board shall:~~

17           ~~1. Consider the citizens transportation oversight committee's~~  
18 ~~recommendations on the five year construction program for the regional~~  
19 ~~transportation plan pursuant to chapter 17 of this title.~~

20           ~~2. Respond to any complaint and approve, disapprove or modify~~  
21 ~~recommendations regarding a complaint forwarded to it by the citizens~~  
22 ~~transportation oversight committee within ninety days after the citizens~~  
23 ~~transportation oversight committee forwards a complaint to the board.~~

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

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

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

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

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

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

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

14          28-6308. Regional planning agency transportation policy  
15                                   committee; regional transportation plan; plan review  
16                                   process; committee termination

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

20          1. Seventeen members of the regional planning agency, including ~~the~~  
21          ~~chairperson of the citizens transportation oversight committee~~, one member of  
22          the state transportation board who represents the county, one member of the  
23          county board of supervisors and one member representing Indian communities in  
24          the county.

25          2. Six members who represent regionwide business interests, one of  
26          whom must represent transit interests, one of whom must represent freight  
27          interests and one of whom must represent construction interests. The  
28          president of the senate and the speaker of the house of representatives shall  
29          each appoint three members to the committee pursuant to this paragraph.  
30          Members who are appointed pursuant to this paragraph serve six-year terms.  
31          The chairman of the regional planning agency may submit names to the

1 president of the senate and the speaker of the house of representatives for  
2 consideration for appointment to the transportation policy committee.

3 B. Through the regional planning agency, the transportation policy  
4 committee shall:

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

10 2. Develop the plan in cooperation with the regional public  
11 transportation authority in the county and the department of transportation  
12 and in consultation with the county board of supervisors, Indian communities  
13 and cities and towns in the county.

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

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

29 5. By majority vote, approve, disapprove or further modify each  
30 proposed plan modification.

31 6. Provide a written response to the regional public transportation  
32 authority, the state board of transportation, the county board of supervisors

1 and the entity that submitted the proposed modification within thirty days  
2 after the vote on the proposed modification explaining the affirmation,  
3 rejection or further modification of each proposed modification.

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

6 C. The regional transportation plan:

7 1. Shall include the following transportation mode classifications  
8 with a revenue allocation to each classification consistent with section  
9 42-6105, subsection D:

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

11 (b) Major arterial streets and intersection improvements.

12 (c) Public transportation systems.

13 2. Shall provide a suggested construction schedule for the  
14 transportation projects contained in the plan.

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

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

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

27 E. The committee established pursuant to this section ends on July 1,  
28 2024 pursuant to section 41-3103.

1           Sec. 3. Section 28-6313, Arizona Revised Statutes, is amended to read:

2           28-6313. Performance audits of proposed transportation projects  
3                                   and systems

4           A. Beginning in 2010 and every fifth year thereafter, the auditor  
5           general shall contract with a nationally recognized independent auditor with  
6           expertise in evaluating multimodal transportation systems and in regional  
7           transportation planning to conduct a performance audit, as defined in section  
8           41-1278, of the regional transportation plan and projects scheduled for  
9           funding during the next five years.

10           B. With respect to light rail systems, the audit shall consider the  
11           criteria used by the federal transit administration pursuant to 49 United  
12           States Code section 5309(e)(1)(B) and the interrelationship among the  
13           criteria to provide federal funding for light rail systems. For light rail  
14           systems, the audit shall also consider:

- 15           1. Service levels.
- 16           2. Capital costs.
- 17           3. Operation and maintenance costs.
- 18           4. Transit ridership.
- 19           5. Farebox revenues.

20           C. The audit shall:

21           1. Examine the regional transportation plan and projects scheduled for  
22           funding within each transportation mode based on the performance factors  
23           established in section 28-505, subsection A, in the context of the  
24           transportation system.

25           2. Review past expenditures of the regional transportation plan and  
26           examine the performance of the system in relieving congestion and improving  
27           mobility.

28           3. Make recommendations regarding whether further implementation of a  
29           project or transportation system is warranted, warranted with modifications  
30           or not warranted.

1 D. The auditor general or the auditors contracted to conduct the audit  
2 shall periodically update the transportation policy committee regarding the  
3 progress of the audit.

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

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

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

- 15 1. The regional planning agency.
- 16 2. The transportation policy committee.
- 17 ~~3. The citizens transportation oversight committee.~~
- 18 ~~4.~~ 3. The regional public transportation authority in the county.
- 19 ~~5.~~ 4. The county board of supervisors.
- 20 ~~6.~~ 5. The state transportation board.
- 21 ~~7.~~ 6. The governor, secretary of state, president of the senate and  
22 speaker of the house of representatives.
- 23 ~~8.~~ 7. The Arizona state library, archives and public records.
- 24 ~~9.~~ 8. Any other person who requests a copy pursuant to title 39,  
25 **CHAPTER 1**, article 2.

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

31 I. The cost incurred by the auditor general in contracting with  
32 independent auditors for conducting performance audits under subsection A of

1 this section shall be paid from revenues of the county transportation excise  
2 tax under section 42-6105. When due, the payments have priority over any  
3 other distribution authorized by section 42-6105. The auditor general shall  
4 deposit the payments in the audit services revolving fund established by  
5 section 41-1279.06.

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

7 28-6353. Regional transportation plan and project enhancements  
8 and changes

9 A. The regional planning agency in the county shall approve any change  
10 in the regional transportation plan and the projects funded in the regional  
11 transportation plan that affect the planning agency's transportation  
12 improvement program, including project priorities.

13 B. Requests for changes to transportation projects funded in the  
14 regional transportation plan that would materially increase costs shall be  
15 submitted to the regional planning agency for approval and submitted by the  
16 regional planning agency to the board for approval.

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

20 D. The process prescribed in subsection E of this section is required  
21 if:

22 1. An audit finding pursuant to section 28-6313 recommends that a  
23 project or system in the regional transportation plan is not warranted or  
24 requires a modification that is a major amendment as defined in section  
25 28-6301.

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

29 E. A major amendment requires the following:

30 1. Consideration by the transportation policy committee of  
31 alternatives in the same modal category that will relieve congestion and



1 improve mobility in the same general corridor addressed by the originally  
2 planned project or system.

3 2. If a reasonable option is identified as an alternative for the  
4 originally planned project or system, the transportation policy committee  
5 shall submit the proposed amendment for review by the regional public  
6 transportation authority in the county, the state board of transportation,  
7 the county board of supervisors, Indian communities, ~~AND~~ cities and towns in  
8 the county ~~and the citizens transportation oversight committee~~. After  
9 reviewing the proposed amendment, the board of directors of the regional  
10 public transportation authority, the state board of transportation and the  
11 county board of supervisors, by a majority vote of the members of each board  
12 within thirty days after receiving the proposed amendment, shall submit a  
13 written recommendation to the transportation policy committee that the  
14 proposed amendment be approved, modified or disapproved. Within thirty days  
15 after receiving the amendment, ~~the citizens transportation oversight~~  
16 ~~committee and~~ the Indian communities, ~~AND~~ cities and towns may also submit  
17 written recommendations to the transportation policy committee that the  
18 proposed amendment be approved, modified or disapproved.

19 3. If no reasonable option for an alternative to the originally  
20 planned project or system is identified, the transportation policy committee  
21 shall submit an amendment to delete the original project for review by the  
22 regional public transportation authority, the state board of transportation,  
23 the county board of supervisors, Indian communities, ~~AND~~ cities and towns in  
24 the county ~~and the citizens transportation oversight committee~~. After  
25 reviewing the proposed amendment the board of directors of the regional  
26 public transportation authority, the state board of transportation and the  
27 county board of supervisors, by a majority vote of the members of each board  
28 within thirty days after receiving the proposed amendment, shall submit a  
29 written recommendation to the transportation policy committee that the  
30 proposed amendment be approved, modified or disapproved. Within thirty days  
31 after receiving the proposed amendment, ~~the citizens transportation oversight~~  
32 ~~committee and~~ Indian communities, ~~AND~~ cities and towns in the county may

1 also submit written recommendations to the transportation policy committee  
2 that the proposed amendment be approved, modified or disapproved.

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

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

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

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

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

18 Sec. 5. Repeal

19 Sections 28-6356, 28-6357, 28-6358 and 41-151.02, Arizona Revised  
20 Statutes, are repealed.

21 Sec. 6. Heading repeal

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

24 Sec. 7. Repeal

25 Sections 41-511, 41-511.01 and 41-511.14, Arizona Revised Statutes, are  
26 repealed.

27 Sec. 8. Transfer and renumber

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

	<u>Former Sections</u>	<u>New Sections</u>
1		
2	41-511.02.....	41-5301
3	41-511.03.....	41-5302
4	41-511.04.....	41-5303
5	41-511.05.....	41-5304
6	41-511.06.....	41-5305
7	41-511.07.....	41-5306
8	41-511.08.....	41-5307
9	41-511.09.....	41-5308
10	41-511.10.....	41-5309
11	41-511.11.....	41-5310
12	41-511.12.....	41-5311
13	41-511.13.....	41-5312
14	41-511.15.....	41-5313
15	41-511.16.....	41-5314
16	41-511.17.....	41-5315
17	41-511.18.....	41-5316
18	41-511.19.....	41-5317
19	41-511.20.....	41-5318
20	41-511.21.....	41-5319
21	41-511.22.....	41-5320
22	41-511.23.....	41-5321

23 Sec. 9. Section 41-1279.03, Arizona Revised Statutes, is amended to  
24 read:

25 41-1279.03. Powers and duties

26 A. The auditor general shall:

27 1. Prepare an audit plan for approval by the committee and report to  
28 the committee the results of each audit and investigation and other reviews  
29 conducted by the auditor general.

30 2. Conduct or cause to be conducted at least biennial financial and  
31 compliance audits of financial transactions and accounts kept by or for all  
32 state agencies subject to the single audit act of 1984 (P.L. 98-502). The

1 audits shall be conducted in accordance with generally accepted governmental  
2 auditing standards and accordingly shall include tests of the accounting  
3 records and other auditing procedures as may be considered necessary in the  
4 circumstances. The audits shall include the issuance of suitable reports as  
5 required by the single audit act of 1984 (P.L. 98-502) so the legislature,  
6 federal government and others will be informed as to the adequacy of  
7 financial statements of the state in compliance with generally accepted  
8 governmental accounting principles and to determine whether the state has  
9 complied with laws and regulations that may have a material effect on the  
10 financial statements and on major federal assistance programs.

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

14 4. Perform special research requests, special audits and related  
15 assignments as designated by the committee and conduct performance audits,  
16 special audits, special research requests and investigations of any state  
17 agency, whether created by the constitution or otherwise, as may be requested  
18 by the committee.

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

22 6. In the tenth year and in each fifth year thereafter in which a  
23 transportation excise tax is in effect in a county as provided in section  
24 42-6106 or 42-6107, conduct a performance audit that:

25 (a) Reviews past expenditures and future planned expenditures of the  
26 transportation excise revenues and determines the impact of the expenditures  
27 in solving transportation problems within the county and, for a  
28 transportation excise tax in effect in a county as provided in section  
29 42-6107, determines whether the expenditures of the transportation excise  
30 revenues comply with section 28-6392, subsection B.

31 (b) Reviews projects completed to date and projects to be completed  
32 during the remaining years in which a transportation excise tax is in effect.

1 Within six months after each review period the auditor general shall present  
2 a report to the speaker of the house of representatives and the president of  
3 the senate detailing findings and making recommendations. ~~If the parameters  
4 of the performance audit are set by the citizens transportation oversight  
5 committee, the auditor general shall also present the report to the citizens  
6 transportation oversight committee.~~

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

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

17 8. Perform special audits designated pursuant to law if the auditor  
18 general determines that there are adequate monies appropriated for the  
19 auditor general to complete the audit. If the auditor general determines the  
20 appropriated monies are inadequate, the auditor general shall notify the  
21 committee.

22 9. Beginning on July 1, 2001, establish a school-wide audit team in  
23 the office of the auditor general to conduct performance audits and monitor  
24 school districts to determine the percentage of every dollar spent in the  
25 classroom by a school district. The performance audits shall determine  
26 whether school districts that receive monies from the Arizona structured  
27 English immersion fund established by section 15-756.04 and the statewide  
28 compensatory instruction fund established by section 15-756.11 are in  
29 compliance with title 15, chapter 7, article 3.1. The auditor general shall  
30 determine, through random selection, the school districts to be audited each  
31 year, subject to review by the joint legislative audit committee. A school  
32 district that is subject to an audit pursuant to this paragraph shall notify

1 the auditor general in writing as to whether the school district agrees or  
2 disagrees with the findings and recommendations of the audit and whether the  
3 school district will implement the findings and recommendations, implement  
4 modifications to the findings and recommendations or refuse to implement the  
5 findings and recommendations. The school district shall submit to the  
6 auditor general a written status report on the implementation of the audit  
7 findings and recommendations every six months for two years after an audit  
8 conducted pursuant to this paragraph. The auditor general shall review the  
9 school district's progress toward implementing the findings and  
10 recommendations of the audit every six months after receipt of the district's  
11 status report for two years. The auditor general may review a school  
12 district's progress beyond this two-year period for recommendations that have  
13 not yet been implemented by the school district. The auditor general shall  
14 provide a status report of these reviews to the joint legislative audit  
15 committee. The school district shall participate in any hearing scheduled  
16 during this review period by the joint legislative audit committee or by any  
17 other legislative committee designated by the joint legislative audit  
18 committee.

19 B. The auditor general may:

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

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

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

29 D. The department of transportation, the board of supervisors of a  
30 county that has approved a county transportation excise tax as provided in  
31 section 42-6106 or 42-6107 and the governing bodies of counties, cities and  
32 towns receiving highway user revenue fund monies shall cooperate with and

1 provide necessary information to the auditor general or the auditor general's  
2 consultant.

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

6 1. For the cost of conducting the studies or hiring a consultant to  
7 conduct the studies required by subsection A, paragraph 6, subdivisions (a)  
8 and (b) of this section, from monies collected pursuant to a county  
9 transportation excise tax levied pursuant to section 42-6106 or 42-6107.

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

13 Sec. 10. Repeal

14 Sections 41-2148 and 41-3023.06, Arizona Revised Statutes, are  
15 repealed.

16 Sec. 11. Title 41, Arizona Revised Statutes, is amended by adding  
17 chapter 53, to read:

18 CHAPTER 53

19 STATE PARKS

20 ARTICLE 1. GENERAL PROVISIONS

21 Sec. 12. Section 41-5301, Arizona Revised Statutes, as transferred and  
22 renumbered, is amended to read:

23 41-5301. State parks director; qualifications; state historic  
24 preservation officer

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

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

28 ~~2.~~ 1. Serve at the pleasure of the governor.

29 ~~3.~~ 2. Be qualified by successful experience in administration in  
30 business or in government.

31 ~~4.~~ 3. Have a knowledge of or training in the multiple use of lands  
32 and the conservation of natural resources.

1           B. The governor shall designate a full-time employee ~~of the board~~ with  
2 professional competence and expertise in the field of historic preservation  
3 as the "state historic preservation officer" to administer the state historic  
4 preservation program.

5           Sec. 13. Section 41-5302, Arizona Revised Statutes, as transferred and  
6 renumbered, is amended to read:

7           41-5302. Purposes; objectives

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

13           Sec. 14. Section 41-5303, Arizona Revised Statutes, as transferred and  
14 renumbered, is amended to read:

15           41-5303. Duties; director; partnership fund; state historic  
16 preservation officer; definition

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

18           1. Select areas of scenic beauty, natural features and historical  
19 properties now owned by the state, except properties in the care and custody  
20 of other agencies by virtue of agreement with the state or as established by  
21 law, for management, operation and further development as state parks and  
22 historical monuments.

23           2. Manage, develop and operate state parks, monuments or trails  
24 established or acquired pursuant to law, or previously granted to the state  
25 for park or recreation purposes, except those falling under the jurisdiction  
26 of other state agencies as established by law.

27           3. Investigate lands owned by the state to determine in cooperation  
28 with the agency that manages the land which tracts should be set aside and  
29 dedicated for use as state parks, monuments or trails.

30           4. Investigate federally owned lands to determine their desirability  
31 for use as state parks, monuments or trails and negotiate with the federal



1 agency having jurisdiction over such lands for the transfer of title to ~~the~~  
2 ~~Arizona state parks board~~ THIS STATE.

3 5. Investigate privately owned lands to determine their desirability  
4 as state parks, monuments or trails and negotiate with private owners for the  
5 transfer of title to ~~the Arizona state parks board~~ THIS STATE.

6 6. Enter into agreements with the United States, other states or local  
7 governmental units, private societies or persons for the development and  
8 protection of state parks, monuments and trails.

9 7. Plan, coordinate and administer a state historic preservation  
10 program, including the program established pursuant to the national historic  
11 preservation act of 1966, as amended.

12 8. Advise, assist and cooperate with federal and state agencies,  
13 political subdivisions of this state and other persons in identifying and  
14 preserving properties of historic or prehistoric significance.

15 9. Keep and administer an Arizona register of historic places composed  
16 of districts, sites, buildings, structures and objects significant in this  
17 state's history, architecture, archaeology, engineering and culture ~~which~~  
18 ~~THAT~~ meet criteria ~~which~~ ~~THAT~~ the ~~board~~ DIRECTOR establishes or ~~which~~ ~~THAT~~  
19 are listed on the national register of historic places. Entry on the  
20 register requires nomination by the state historic preservation officer and  
21 owner notification in accordance with rules ~~which~~ ~~THAT~~ the ~~board~~ DIRECTOR  
22 adopts.

23 10. Accept, on behalf of the state historic preservation officer,  
24 applications for classification as historic property received from the county  
25 assessor.

26 11. Adopt rules with regard to classification of historic property  
27 including:

- 28 (a) Minimum maintenance standards for the property.
- 29 (b) Requirements for documentation.

30 12. Monitor the performance of state agencies in the management of  
31 historic properties as provided in chapter 4.2 of this title.

32 13. Advise the governor on historic preservation matters.

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

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

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

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

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

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

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

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

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

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

7           D. The state historic preservation officer shall:

8           1. In cooperation with federal and state agencies, political  
9 subdivisions of this state and other persons, direct and conduct a  
10 comprehensive statewide survey of historic properties and historic private  
11 burial sites and historic private cemeteries and maintain inventories of  
12 historic properties and historic private burial sites and historic private  
13 cemeteries.

14           2. Identify and nominate eligible properties to the national register  
15 of historic places and the Arizona register of historic places and otherwise  
16 administer applications for listing historic properties on the national and  
17 state registers.

18           3. Administer grants-in-aid for historic preservation projects within  
19 this state.

20           4. Advise, assist and monitor, as appropriate, federal and state  
21 agencies and political subdivisions of this state in carrying out their  
22 historic preservation responsibilities and cooperate with federal and state  
23 agencies, political subdivisions of this state and other persons to ensure  
24 that historic properties and historic private burial sites and historic  
25 private cemeteries are taken into consideration at all levels of planning and  
26 development.

27           5. Develop and make available information concerning professional  
28 methods and techniques for the preservation of historic properties and  
29 historic private burial sites and historic private cemeteries.

30           6. Make recommendations on the certification, classification and  
31 eligibility of historic properties and historic private burial sites and  
32 historic private cemeteries for property tax and investment tax incentives.

1 E. The state historic preservation officer may:

2 1. Collect and receive information for historic private burial sites  
3 and historic private cemeteries from public and private sources and maintain  
4 a record of the existence and location of such burial sites and cemeteries  
5 located on private or public lands in this state.

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

9 3. Make the records available to assist in locating the families of  
10 persons buried in the historic private burial sites and historic private  
11 cemeteries.

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

17 Sec. 15. Section 41-5304, Arizona Revised Statutes, as transferred and  
18 renumbered, is amended to read:

19 41-5304. Powers; compensation

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

22 1. Subject to chapter 4, article 4 and, as applicable, article 5 of  
23 this title, employ, determine conditions of employment and specify the duties  
24 of such administrative, secretarial and clerical workers and technical  
25 employees such as naturalists, archaeologists, landscape architects, rangers,  
26 park supervisors, caretakers, guides, skilled tradesmen, laborers, historians  
27 and engineers, and contract to have the services of such advisors or  
28 consultants as are reasonably necessary or desirable to enable ~~it~~ THE  
29 DIRECTOR to perform adequately ~~its~~ THE DIRECTOR'S duties. The compensation  
30 of the director and of all workers and employees shall be as determined  
31 pursuant to section 38-611.

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

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

18           4. Sell, lease, exchange or otherwise dispose of real and personal  
19 property. Any disposition of real property shall be submitted for approval  
20 of the joint committee on capital review. The disposition of office  
21 equipment, furnishings, vehicles and other materials is subject to chapter  
22 23, article 8 of this title. The disposition of artifacts and other property  
23 of scientific, archaeological, historical or sociological interest is exempt  
24 from chapter 23, article 8 of this title, but the ~~board~~ DIRECTOR shall  
25 consult with the Arizona historical society in disposing of property of  
26 historical interest.

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

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

4           7. Solicit and work in cooperation with the department of  
5           transportation and the highway departments of various counties and the United  
6           States federal highway administration for necessary roads and trails within  
7           the state parks and monuments and access roads to state parks and monuments.  
8           For the purposes of this paragraph, the ~~board~~ DIRECTOR may designate roads,  
9           spurs and other traffic related appurtenances within state park boundaries as  
10          public highways. Designation of roads, spurs or other traffic related  
11          appurtenances as public highways shall not prohibit the ~~board~~ DIRECTOR from  
12          closing such public highways when the park is closed, charging for admission  
13          to the park to persons using the public highway within the park or otherwise  
14          managing such public highways in the same manner as other lands within the  
15          park.

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

25          9. Make reasonable rules for the protection of, and maintain and keep  
26          the peace in, state parks and monuments. Such rules adopted by the ~~parks~~  
27          ~~board~~ DIRECTOR are subject to review and approval by the legislature. After  
28          a ~~board~~ DIRECTOR'S rule has been finally adopted pursuant to chapter 6 of  
29          this title, the ~~board~~ DIRECTOR shall immediately forward a certified copy of  
30          the rule to the legislature. The legislature may review and, by concurrent  
31          resolution, approve, disapprove or modify such rule. However, such rule  
32          shall be given full force and effect pending legislative review. If no

1 concurrent resolution is passed by the legislature with respect to the rule  
2 within one year following receipt of a certified copy of the rule, the rule  
3 shall be deemed to have been approved by the legislature. If the legislature  
4 disapproves a rule or a section of a rule, the ~~board~~ DIRECTOR shall  
5 immediately discontinue the use of any procedure, action or proceeding  
6 authorized or required by the rule or section of the rule. If the  
7 legislature modifies a rule or section of a rule, the ~~board~~ DIRECTOR shall  
8 immediately suspend the use of any procedure, action or proceeding authorized  
9 or required by the rule or section of the rule until the modified rule has  
10 been adopted in accordance with chapter 6 of this title, after which all  
11 proceedings pursuant to the rule shall be conducted in accordance with the  
12 modified version of the rule.

13 10. Furnish advisory services to city and county park or recreation  
14 boards and organizations.

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

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

23 13. In consultation with the conservation acquisition board, develop a  
24 grant program and adopt guidelines for allocating and obligating monies in  
25 the land conservation fund pursuant to section ~~41-511.23~~ 41-5321. The  
26 guidelines shall include consideration of both qualification issues relating  
27 to applicants for grants and issues relating to the proposed use of the grant  
28 money in a manner consistent with existing municipal, county and regional  
29 land use plans.

1           Sec. 16. Section 41-5305, Arizona Revised Statutes, as transferred and  
2 renumbered, is amended to read:

3           41-5305. Eminent domain

4           A. In acquiring property by eminent domain, no water, watering  
5 facilities or water right of any person shall be taken separate and apart  
6 from the land served by such water, watering facilities or water rights,  
7 without fair and adequate compensation to be awarded for such land and water,  
8 watering facilities or water rights.

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

28           Sec. 17. Section 41-5306, Arizona Revised Statutes, as transferred and  
29 renumbered, is amended to read:

30           41-5306. Parks and monuments on state lands

31           The ~~board~~ DIRECTOR may take over state lands and improvements thereon  
32 pursuant to ~~article 9, chapter 2,~~ title 37, CHAPTER 2, ARTICLE 9, except that



1 the application to and approval by the governor shall not be required if the  
2 legislature has created the park or monument, and in determining the amount  
3 of compensation to be received by a lessee or permittee all of the elements  
4 of damage set forth in ~~subsection B of~~ section ~~41-511.06~~ 41-5305,  
5 **SUBSECTION B** shall be considered.

6 Sec. 18. Section 41-5307, Arizona Revised Statutes, as transferred and  
7 renumbered, is amended to read:

8 **41-5307. Judicial review**

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

13 Sec. 19. Section 41-5308, Arizona Revised Statutes, as transferred and  
14 renumbered, is amended to read:

15 **41-5308. Park ranger law enforcement officers; training**

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

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

27 **41-5309. Rejection of gifts**

28 The ~~board~~ **DIRECTOR** may reject any donation, bequest, or gift or  
29 property deemed by ~~it~~ **THE DIRECTOR** to be unsuitable as a state park or  
30 monument.

1           Sec. 21. Section 41-5310, Arizona Revised Statutes, as transferred and  
2 renumbered, is amended to read:

3           41-5310. Disposition of gifts; state parks donations fund

4           Monies from unconditional gifts, donations, bequests and endowments,  
5 which are not specifically designated to the state parks revenue fund, shall  
6 be deposited, pursuant to sections 35-146 and 35-147, by the ~~board~~ DIRECTOR  
7 in a fund to be known as the state parks donations fund, for use by the ~~board~~  
8 DIRECTOR in accomplishing ~~its~~ THE DIRECTOR'S objectives and duties. All  
9 expenditures from the state parks donations fund shall be made ~~upon~~ ON claims  
10 duly itemized, verified and approved by the ~~Arizona state parks board~~  
11 DIRECTOR.

12          Sec. 22. Section 41-5311, Arizona Revised Statutes, as transferred and  
13 renumbered, is amended to read:

14          41-5311. Annual report

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

19          Sec. 23. Section 41-5312, Arizona Revised Statutes, as transferred and  
20 renumbered, is amended to read:

21          41-5312. Violations; classification

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

25          B. It is unlawful for a person to violate any provision of this  
26 article or rule or regulation prescribed under ~~the provisions of~~ this  
27 article.

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

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

4 Sec. 24. Section 41-5313, Arizona Revised Statutes, as transferred and  
5 renumbered, is amended to read:

6 41-5313. Arizona trail; fund; definition

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

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

11 1. Participate in planning, establishing, developing, maintaining and  
12 preserving the trail.

13 2. Provide information to any person involved in planning,  
14 establishing, developing or maintaining the trail regarding the design,  
15 corridors, signs, interpretive markers highlighting special areas and  
16 historic uses and any other aspect of the trail to promote uniformity of  
17 development, maintenance and preservation.

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

22 4. In cooperation with federal and state land management agencies,  
23 prepare a trail management plan and a plan for interpretive markers for the  
24 trail.

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

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

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

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

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

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

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

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

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

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

26 Sec. 25. Section 41-5314, Arizona Revised Statutes, as transferred and  
27 renumbered, is amended to read:

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

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

1           1. The conveyance of approximately two thousand acres of bureau of  
2 land management land by the United States secretary of the interior, pursuant  
3 to the recreational and public purposes act (43 United States Code sections  
4 869 through 869-4), to ~~the Arizona state parks board~~ THIS STATE. The land is  
5 located in Gila county and is generally described as: the south 1/2 of  
6 section 4, township 4 south, range 15 east; southeast 1/4 of section 5,  
7 township 4 south, range 15 east; all of section 8, township 4 south, range 15  
8 east, except north 1/2, of the southwest 1/4 and southeast 1/4, southeast  
9 1/4; north 1/2, and the north 1/2 of the southwest 1/4 of section 9, township  
10 4 south, range 15 east; north 1/2 section 16, township 4 south, range 15  
11 east, except southeast 1/4 of the northeast 1/4; the north 1/2 of section 17,  
12 township 4 south, range 15 east.

13           2. The conveyance or lease of three parcels of state trust land  
14 totaling approximately one hundred sixty acres to ~~the Arizona state parks~~  
15 ~~board~~ THIS STATE. The trust lands are located in Gila county and are  
16 generally described as: the southeast 1/4 of the southeast 1/4 of section 8,  
17 township 4 south, range 15 east; south 1/2 of the southeast 1/4, section 9,  
18 township 4 south, range 15 east; southeast 1/4 of the northeast 1/4, section  
19 16, township 4 south, range 15 east.

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

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

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

30           D. The ~~Arizona state parks board~~ DIRECTOR may charge user fees and  
31 concession fees and collect monies from other revenue generating activities.  
32 The ~~state parks board~~ DIRECTOR shall deposit, pursuant to sections 35-146 and

1 35-147, all monies collected in the state parks revenue fund established by  
2 section ~~41-511.21~~ 41-5319.

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

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

11 G. Nothing in the establishment of the rock climbing state park shall  
12 be construed to impose any new or additional management requirements,  
13 restrictions or regulations under the laws of this state on the permitting,  
14 management of or the conduct of activities on any lands outside the state  
15 park, or to impose restrictions on these activities in addition to those  
16 applicable to the same land within and outside the state park, before its  
17 designation as a state park.

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

21 Sec. 26. Section 41-5315, Arizona Revised Statutes, as transferred and  
22 renumbered, is amended to read:

23 41-5315. Sustainable state parks and roads fund

24 The sustainable state parks and roads fund is established consisting of  
25 monies received pursuant to section 43-622. The ~~Arizona state parks board~~  
26 DIRECTOR shall administer the fund. Monies in the fund are continuously  
27 appropriated. The ~~Arizona state parks board~~ DIRECTOR shall use the monies in  
28 the fund to operate, maintain and make capital improvements to buildings,  
29 roads, parking lots, highway entrances and any related structure used to  
30 operate state parks.

1           Sec. 27. Section 41-5316, Arizona Revised Statutes, as transferred and  
2 renumbered, is amended to read:

3           41-5316. Spur Cross Ranch state park

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

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

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

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

28           B. If funding is provided for the acquisition of Spur Cross Ranch  
29 other than from sources administered by an agency of this state or a county  
30 with a population of more than one million two hundred thousand persons  
31 ~~according to the most recent United States decennial census~~, the obligation  
32 of this state and that county is reduced proportionately by the amount of

1 other funding sources. The use of federal monies for any portion of the  
2 costs of acquisition of the Spur Cross Ranch shall not affect this state's  
3 jurisdiction over the acquisition, operation or maintenance of the Spur Cross  
4 Ranch as a state park.

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

11 D. Spur Cross Ranch state park consists of all or part of the  
12 following described property:

13 1. Lots 3, 4, 5 and 6; the south half of the northwest quarter; the  
14 northwest quarter of the southwest quarter; and the southeast quarter of the  
15 northeast quarter, all lying in and being a part of section 4, township 6  
16 north, range 4 east of the Gila and salt river base and meridian, Maricopa  
17 county, Arizona.

18 2. All of section 5, township 6 north, range 4 east of the Gila and  
19 salt river base and meridian, Maricopa county, Arizona; except the southeast  
20 quarter of the southeast quarter of section 5.

21 3. All of section 6, township 6 north, range 4 east of the Gila and  
22 salt river base and meridian, Maricopa county, Arizona.

23 4. The southwest quarter of the southwest quarter of section 4,  
24 township 6 north, range 4 east of the Gila and salt river base and meridian,  
25 Maricopa county, Arizona.

26 5. The southeast quarter of the southeast quarter of section 5,  
27 township 6 north, range 4 east of the Gila and salt river base and meridian,  
28 Maricopa county, Arizona.

29 6. The northeast quarter of the northeast quarter of section 8,  
30 township 6 north, range 4 east of the Gila and salt river base and meridian,  
31 Maricopa county, Arizona.



1           7. The northwest quarter of the northwest quarter of section 9,  
2 township 6 north, range 4 east of the Gila and salt river base and meridian,  
3 Maricopa county, Arizona.

4           8. Lots 1 and 2; and the southwest quarter of the northeast quarter,  
5 all lying in and being a part of section 4, township 6 north, range 4 east of  
6 the Gila and salt river base and meridian, Maricopa county, Arizona.

7           9. The north half of the north half of section 7, township 6 north,  
8 range 4 east of the Gila and salt river base and meridian, Maricopa county,  
9 Arizona.

10          10. The south half of the southeast quarter of section 7, township 6  
11 north, range 4 east of the Gila and salt river base and meridian, Maricopa  
12 county, Arizona.

13          11. The south half of the northeast quarter of section 8, township 6  
14 north, range 4 east of the Gila and salt river base and meridian, Maricopa  
15 county, Arizona.

16          12. The Catherine lode mining claim, designated by the surveyor  
17 general as survey number 4096 embracing a portion of section 4, township 6  
18 north, range 4 east of the Gila and salt river base and meridian, Maricopa  
19 county, Arizona, in the cave creek mining district, as conveyed and more  
20 particularly described in patent recorded in book 248 of deeds, page 400.

21          13. The Columbian lode mining claim, designated by the surveyor  
22 general as survey number 2685, embracing a portion of the unsurveyed domain  
23 in the cave creek mining district, as conveyed and more particularly  
24 described in patent recorded in book 99 of deeds, page 10.

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

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

1           Sec. 28. Section 41-5317, Arizona Revised Statutes, as transferred and  
2 renumbered, is amended to read:

3           41-5317. Catalina state park

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

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

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

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

1           Sec. 29. Section 41-5318, Arizona Revised Statutes, as transferred and  
2 renumbered, is amended to read:

3           41-5318. Authorized emergency use of water from Lake Patagonia  
4                           by city of Nogales

5           A. Notwithstanding any provision of law to the contrary, whenever an  
6 emergency exists, as determined by the mayor of the city of Nogales, Arizona,  
7 and concurred in by the director of water resources, that there is not  
8 sufficient water for use by ~~such~~ THE city and that there is no other water  
9 available from any other practical source, ~~then the state parks board shall~~  
10 DIRECTOR, ~~upon~~ ON request by ~~such~~ THE mayor, SHALL authorize ~~such~~ THE city to  
11 remove from Lake Patagonia such amount of water as needed to supply the city  
12 with sufficient water. The city of Nogales shall provide the means for  
13 transferring such water.

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

18           Sec. 30. Section 41-5319, Arizona Revised Statutes, as transferred and  
19 renumbered, is amended to read:

20           41-5319. State parks revenue fund; purpose; exemption

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

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

25           2. Monies appropriated by the legislature for the purpose of enhancing  
26 state parks.

27           3. Unconditional gifts and donations specifically designated to the  
28 revenue fund, except for unconditional gifts, donations, bequests and  
29 endowments deposited in the state parks donations fund pursuant to section  
30 ~~41-511.11~~ 41-5310.

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

1           5. Surcharges on park reservations.

2           6. Sale of park assets.

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

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

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

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

11           D. The ~~board~~ DIRECTOR may collect monies as a surcharge on park  
12 reservations and shall determine the surcharge rate as provided in section  
13 ~~41-511.05~~ 41-5304, paragraph 8 after considering the costs to plan and  
14 administer the reservation system.

15           E. On notice from the ~~board~~ DIRECTOR, the state treasurer shall invest  
16 and divest the monies in the state parks revenue fund as provided by section  
17 35-313, and monies earned from investment shall be credited to the fund.

18           F. Monies in the state parks revenue fund are exempt from section  
19 35-190, relating to lapsing of appropriations. The purposes for which monies  
20 were expended during the preceding fiscal year shall be delineated in the  
21 agency's annual report pursuant to section ~~41-511.12~~ 41-5311.

22           Sec. 31. Section 41-5320, Arizona Revised Statutes, as transferred and  
23 renumbered, is amended to read:

24           41-5320. Trail systems plan; deposit of monies; definition

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

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

28           2. Assesses the physical condition of the systems.

29           3. Assesses usage of trails.

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

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

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

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

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

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

16           Sec. 32. Section 41-5321, Arizona Revised Statutes, as transferred and  
17 renumbered, is amended to read:

18           41-5321. Conservation acquisition board; land conservation  
19 fund; conservation donation and public conservation  
20 accounts; livestock and crop conservation fund

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

25           1. One state land lessee.

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

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

30           4. One real estate appraiser who is licensed or certified under title  
31 32, chapter 36.

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

1           6. One representative of a conservation organization.

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

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

7           C. The conservation acquisition board shall:

8           1. Solicit donations to the conservation donation account.

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

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

15          D. The land conservation fund is established consisting of the  
16 following accounts:

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

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

1 equal expenditure of monies from the conservation donation account or from  
2 other private or governmental sources.

3 E. If the legislature fails to appropriate monies to the public  
4 conservation account in a fiscal year, and if there are no other monies in  
5 the public conservation account, the ~~Arizona state parks board~~ DIRECTOR may  
6 either grant nothing from the fund in that year or, on recommendation by the  
7 conservation acquisition board, may grant available monies in the  
8 conservation donation account for purposes authorized in subsection G of this  
9 section.

10 F. The monies in the fund are exempt from the provisions of section  
11 35-190 relating to lapsing of appropriations.

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

14 1. A total of two million dollars each fiscal year to the livestock  
15 and crop conservation fund. The fund is established for the purposes of this  
16 paragraph. Monies in the fund are continuously appropriated to the Arizona  
17 department of agriculture for the exclusive purpose of granting monies to  
18 individual landowners and grazing and agricultural lessees of state or  
19 federal land who contract with the Arizona department of agriculture to  
20 implement conservation based management alternatives using livestock or crop  
21 production practices, or reduce livestock or crop production, to provide  
22 wildlife habitat or other public benefits that preserve open space and for  
23 administrative expenses as provided by this paragraph. The department shall  
24 administer the fund. On notice from the director of the department, the  
25 state treasurer shall invest and divest monies in the fund as provided by  
26 section 35-313, and monies earned from investment shall be credited to the  
27 fund. Monies in the fund are exempt from the provisions of section 35-190  
28 relating to lapsing of appropriations. For the purposes of granting monies  
29 from the fund pursuant to this paragraph, the department:

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

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

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

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

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

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

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

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

25 2. The remainder of the monies to the ~~Arizona state parks board~~  
26 DIRECTOR for the exclusive purpose of granting monies to the state or any of  
27 its political subdivisions, or to a nonprofit organization that is exempt  
28 from federal income taxation under section 501(c) of the internal revenue  
29 code and that has the purpose of preserving open space, for the following  
30 purposes only:

31 (a) To purchase or lease state trust lands that are classified as  
32 suitable for conservation purposes pursuant to title 37, chapter 2, article



1 4.2. A grant of money under this subdivision to a nonprofit organization is  
2 conditioned on the organization providing reasonable public access to any  
3 land that is wholly or partly purchased with that money. The organization  
4 shall agree with the ~~Arizona state parks board~~ DIRECTOR that it will impose a  
5 restrictive covenant, running with the title to the land, granting such  
6 access and providing for reversion to this state of any interest in the  
7 property acquired with money granted under this subdivision on the failure to  
8 comply with the terms of the covenant. The ~~Arizona state parks board~~  
9 DIRECTOR and the state land commissioner have standing to either enforce the  
10 covenant or recover the amount of the grant from the current owner, with  
11 interest from the date the grant was awarded to the nonprofit organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           Sec. 33. Section 45-618, Arizona Revised Statutes, is amended to read:

27           45-618. Arizona water quality fund

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

1           B. The Arizona water quality fund ~~consist~~ **CONSISTS** of monies from  
2 legislative appropriations, grants, contributions and transfers from other  
3 public agencies.

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

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

8           E. Before December 31 of each year, the director shall submit to the  
9 speaker of the house of representatives, ~~AND~~ the president of the senate ~~and~~  
10 ~~the advisory board established by section 49-289.04~~ a written report  
11 describing the activities of the department for the preceding fiscal year  
12 relating to expenditures from the fund. The report shall include an  
13 accounting for expenditures from the fund and how the monies were used to  
14 perform duties in cooperation with the department of environmental quality  
15 pursuant to title 49, chapter 2, article 5. The report shall address the  
16 department of water ~~resources~~ **RESOURCES'** sharing and management of data with  
17 the department of environmental quality, well inspection activities conducted  
18 pursuant to this fund, measures to remediate wells pursuant to section  
19 45-605, duties performed pursuant to agreements with the department of  
20 environmental quality and the status of other departmental participation in  
21 water quality assurance revolving fund activities.

22           Sec. 34. Section 49-281, Arizona Revised Statutes, is amended to read:

23           **49-281. Definitions**

24           In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

22           8. "Hazardous substance" has the same meaning prescribed in section  
23 49-201 but does not include petroleum as defined in section 49-1001, except  
24 to the extent that a constituent of petroleum is subject to the provisions of  
25 section 49-283.02.

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

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

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

2 (c) For water monitoring activities conducted pursuant to section  
3 49-225.

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

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

8 ~~(f)~~ (e) For ~~rule making~~ RULEMAKING.

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

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

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

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

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

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

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

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

28 (c) Release of source, by-product or special nuclear material, as  
29 those terms are defined in section 30-651, resulting from the operation of a  
30 production or utilization facility as defined in the atomic energy act of  
31 1954 (68 Stat. 919; 42 United States Code sections 2011 through 2297), which  
32 is subject to the regulatory authority of the United States nuclear

1 regulatory commission as specified in that act, and the agreement, dated  
2 March 30, 1967, entered into between the governor of this state and the  
3 United States atomic energy commission pursuant to section 30-656 and section  
4 274 of the atomic energy act of 1954, as amended.

5 (d) The normal application of fertilizer.

6 12. "Remedial actions" means those actions that are reasonable,  
7 necessary, cost-effective and technically feasible in the event of the  
8 release or threat of release of hazardous substances into the environment,  
9 such actions as may be necessary to investigate, monitor, assess and evaluate  
10 such release or threat of release, actions of remediation, removal or  
11 disposal of hazardous substances or taking such other actions as may be  
12 necessary to prevent, minimize or mitigate damage to the public health or  
13 welfare or to the environment ~~which~~ THAT may otherwise result from a release  
14 or threat of release of a hazardous substance. Remedial actions include the  
15 use of biostimulation with indigenous microbes and bioaugmentation using  
16 microbes that are nonpathogenic, that are nonopportunistic and that are  
17 naturally occurring. Remedial actions may include community information and  
18 participation costs and providing an alternative drinking water supply.

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

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

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

25 Sec. 35. Section 49-282, Arizona Revised Statutes, is amended to read:  
26 49-282. Water quality assurance revolving fund

27 A. A water quality assurance revolving fund is established to be  
28 administered by the director. The fund consists of monies from the following  
29 sources:

30 1. Monies appropriated by the legislature.

31 2. Fertilizer license fees allocated under section 3-272, subsection  
32 B, paragraph 2.

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

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

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

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

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

8           8. Hazardous waste facility registration fees collected under section  
9 49-929.

10          9. Hazardous waste resource recovery facility registration fees  
11 collected under section 49-930.

12          10. Monies recovered from responsible parties as remedial action  
13 costs.

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

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

19          13. Prospective purchaser agreement fees collected under section  
20 49-285.01.

21          B. The water quality assurance revolving fund shall be assured of an  
22 annual funding amount of eighteen million dollars. ~~Beginning July 1, 1999,~~  
23 ~~as soon as practicable~~ At the beginning of each fiscal year, the state  
24 treasurer shall transfer the sum of fifteen million dollars to the water  
25 quality assurance revolving fund from the corporate income tax as collected  
26 pursuant to title 43, chapter 11, article 2. As custodian of the fund, the  
27 director shall certify to the governor, the state treasurer, the president of  
28 the senate and the speaker of the house of representatives at the end of that  
29 fiscal year the amount of monies deposited in the water quality assurance  
30 revolving fund pursuant to subsection A, paragraphs 1 through 9 of this  
31 section. At the end of the fiscal year the state treasurer shall adjust the  
32 fifteen million dollar transfer of corporate income tax so that, when

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

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

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

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

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

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

29 (a) Taking remedial actions.

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



1 (c) Conducting remedial investigations, feasibility studies, health  
2 effect studies and risk assessments.

3 (d) Identifying and investigating potentially responsible parties and  
4 allocating liability among the responsible parties.

5 (e) Funding orphan shares.

6 (f) Participating in the allocation process, administrative appeals  
7 and court actions.

8 (g) Funding the community advisory boards and other community  
9 involvement activities ~~and the water quality assurance revolving fund~~  
10 ~~advisory board.~~

11 (h) Remediating pollutants if necessary to remediate a hazardous  
12 substance.

13 3. For the reasonable and necessary costs of monitoring, assessing,  
14 identifying, locating and evaluating the degradation, destruction, loss of or  
15 threat to the waters of the state resulting from a release of a hazardous  
16 substance to the environment.

17 4. For the reasonable and necessary costs of administering the fund.

18 5. For the reasonable and necessary costs of administering the  
19 industrial discharge registration program under section 49-209.

20 6. For the costs of the water quality monitoring program described in  
21 section 49-225.

22 7. For compliance monitoring, investigation and enforcement activities  
23 pertaining to generating, transporting, treating, storing and disposing of  
24 hazardous waste. The amount to be used pursuant to chapter 5 of this title  
25 is limited to the amount received in the prior fiscal year from the hazardous  
26 waste facility registration fee.

27 8. For emergency response use as prescribed in section 49-282.02.

28 9. For all reasonable and necessary costs of the preparation and  
29 execution of prospective purchaser agreements.

30 10. For all reasonable and necessary costs of the voluntary  
31 remediation program.

1           11. To reimburse a political subdivision of this state for its  
2 reasonable, necessary and cost-effective remedial action costs incurred in  
3 response to a release or threat of a release of a hazardous substance or  
4 pollutants that presents an immediate and substantial endangerment to the  
5 public health or the environment. The political subdivision is not eligible  
6 for reimbursement until it has taken all reasonable efforts to obtain  
7 reimbursement from the responsible party and the federal government. No more  
8 than two hundred fifty thousand dollars may be spent from the fund for this  
9 purpose in any fiscal year.

10           12. For all reasonable and necessary costs incurred by the department  
11 pursuant to section 49-282.04 and the department of water resources pursuant  
12 to section 45-605 for well inspections, remedial actions and review and  
13 approval of well construction necessary to prevent vertical  
14 cross-contamination. The director of environmental quality and the director  
15 of water resources shall enter into an agreement for the transfer of these  
16 costs.

17           13. For actions that are taken pursuant to section 49-282.03 before  
18 the selection of a remedy.

19           14. For the reasonable and necessary costs of the conveyance, use or  
20 discharge of water remediated as part of a remedy under this article.

21           15. For the reasonable and necessary costs incurred by the department  
22 of health services at the request of the director of environmental quality to  
23 assess and evaluate the effect of a release or threatened release of  
24 hazardous substances to the public health or welfare and the environment.  
25 The director of environmental quality and the director of the department of  
26 health services shall enter into an agreement for the transfer of these  
27 costs. The assessment and evaluation by the department of health services  
28 may include:

- 29           (a) Performing health effect studies and risk assessments.
- 30           (b) Evaluating and calculating cleanup standards.
- 31           (c) Assisting in communicating health and risk issues to the public.

1           16. For the reasonable and necessary costs incurred by the department  
2 of law to provide legal services at the request of the director of  
3 environmental quality.

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

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

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

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

30           Sec. 36. Repeal

31           Sections 49-289.04 and 49-289.05, Arizona Revised Statutes, are  
32 repealed.

1           Sec. 37. Conforming legislation  
2           The legislative council staff shall prepare proposed legislation  
3           conforming the Arizona Revised Statutes to the provisions of this act for  
4           consideration in the Fifty-third legislature, First regular session."  
5 Amend title to conform

BOB THORPE

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