

REFERENCE TITLE: **repeal; state boards and committees**

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2369

Introduced by
Representatives Shope: Allen J

AN ACT

REPEALING TITLE 3, CHAPTER 18, ARIZONA REVISED STATUTES; AMENDING SECTIONS 5-382, 17-301, 28-304, 28-1176, 28-1177, 28-2512, 28-6308, 28-6313 AND 28-6353, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6356, 28-6357 AND 28-6358, ARIZONA REVISED STATUTES; AMENDING SECTIONS 37-281.03 AND 37-312, ARIZONA REVISED STATUTES; REPEALING SECTION 37-316, ARIZONA REVISED STATUTES; AMENDING SECTIONS 37-904, 37-1123, 37-1156, 37-1302, 38-842, 38-847, 38-848 AND 39-125, ARIZONA REVISED STATUTES; REPEALING SECTION 41-151.02, ARIZONA REVISED STATUTES; AMENDING SECTION 41-151.20, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-511, 41-511.01 AND 41-511.14, ARIZONA REVISED STATUTES; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 41-511.25, 41-512, 41-514, 41-519, 41-519.02, 41-881, 41-1005 AND 41-1279.03, ARIZONA REVISED STATUTES; REPEALING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 341, SECTION 4; AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 214, SECTION 2 AND CHAPTER 312, SECTION 7; REPEALING SECTIONS 41-3022.18 AND 41-3023.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 55; AMENDING SECTIONS 41-5601, 41-5602, 41-5603, 41-5604, 41-5605, 41-5606, 41-5607, 41-5608, 41-5609, 41-5610, 41-5611, 41-5612, 41-5613, 41-5614, 41-5615, 41-5616, 41-5617, 41-5618, 41-5619, 41-5620 AND 41-5621, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 42-11110, 42-12101, 42-12105, 43-622, 45-469, 45-472, 45-483, 45-618, 49-202.01 AND

49-247, ARIZONA REVISED STATUTES; REPEALING SECTION 49-248, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-281 AND 49-282, ARIZONA REVISED STATUTES; REPEALING SECTIONS 49-289.04 AND 49-289.05, ARIZONA REVISED STATUTES; RELATING TO STATE BOARDS AND COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Title 3, chapter 18, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 5-382, Arizona Revised Statutes, is amended to
5 read:

6 5-382. State lake improvement fund; administration; report

7 A. ~~THE~~ state lake improvement fund is established. Monies
8 deposited in the fund shall be used only as provided in this section.

9 B. All monies in the state lake improvement fund are appropriated
10 to the Arizona state parks ~~board~~ DIRECTOR solely for the purposes provided
11 in this section. Interest earned on monies in the fund shall be credited
12 to the fund. Monies in the state lake improvement fund are exempt from
13 the provisions of section 35-190 relating to lapsing of appropriations.

14 C. The Arizona state parks ~~board~~ DIRECTOR shall administer the
15 monies in the fund as follows:

16 1. To fund staff support to plan and administer the state lake
17 improvement fund in conjunction with other administrative tasks and
18 recreation plans of the ~~board~~ DIRECTOR.

19 2. To fund projects on waters where gasoline powered boats are
20 permitted and shall be limited to the following:

21 (a) Public launching ramps.

22 (b) Public piers, marinas or marina stadia.

23 (c) Public toilets, sanitation facilities and domestic waters.

24 (d) Public picnic tables and facilities.

25 (e) Public parking areas.

26 (f) Lake construction or improvement.

27 (g) Marking buoys and other safety facilities.

28 (h) Watercraft.

29 (i) Public campgrounds.

30 (j) Acquisition of real and personal property through purchase,
31 lease, agreement or otherwise for the purpose of providing access to
32 waters where boating is permitted.

33 (k) Design and engineering projects.

34 D. Projects involving expenditure of monies from such fund may be
35 accomplished by the Arizona state parks ~~board~~ DIRECTOR, by the Arizona
36 game and fish commission, by the board of supervisors of any county or by
37 the governing body of a city or town, provided such projects do not
38 interfere with any vested water rights, or the operation or maintenance of
39 water projects, including domestic, municipal, irrigation district,
40 drainage district, flood control district or reclamation projects. The
41 Arizona outdoor recreation coordinating commission, established by section
42 41-511.25, shall examine applications for eligible projects, determine the
43 amount of funding, if any, for each project and submit a list of projects,
44 subject to prior review by the joint committee on capital review, to the
45 Arizona state parks ~~board~~ DIRECTOR for allocation from the fund. The

1 ~~board~~ DIRECTOR shall annually report to the legislature the expenditures
2 made for such projects in conjunction with the report required by section
3 ~~41-511.12~~ 41-5611.

4 E. State lake improvement funds may be used on projects where
5 matching funds are made available.

6 Sec. 3. Section 17-301, Arizona Revised Statutes, is amended to
7 read:

8 17-301. Times when wildlife may be taken; exceptions; methods
9 of taking

10 A. A person may take wildlife, except aquatic wildlife, only during
11 daylight hours unless otherwise prescribed by the commission. A person
12 shall not take any species of wildlife by the aid or with the use of a
13 jacklight, other artificial light, or illegal device, except as provided
14 by the commission.

15 B. A person shall not take wildlife, except aquatic wildlife, or
16 discharge a firearm or shoot any other device from a motor vehicle,
17 including an automobile, aircraft, train or powerboat, or from a sailboat,
18 A boat under sail, or a floating object towed by powerboat or sailboat
19 except as expressly permitted by the commission. ~~no~~ A person may NOT
20 knowingly discharge any firearm or shoot any other device ~~upon~~ ON, from,
21 across or into a road or railway.

22 C. Fish may be taken only by angling unless otherwise provided by
23 the commission. The line shall be constantly attended. In every case the
24 hook, fly or lure shall be used in such manner that the fish voluntarily
25 take or attempt to take it in their mouths.

26 D. It shall be unlawful to take wildlife with any leghold trap,
27 WITH any instant kill body gripping design trap, or by a poison or a snare
28 on any public land, including state owned or state leased land, AND lands
29 administered by the United States forest service, the federal bureau of
30 land management, the national park service, the United States department
31 of defense, the ARIZONA state parks ~~board~~ DIRECTOR and any county or
32 municipality. This subsection shall not prohibit:

33 1. The use of the devices prescribed in this subsection by federal,
34 state, county, city, or other local departments of health ~~which~~ THAT have
35 jurisdiction in the geographic area of such use, for the purpose of
36 protection from or surveillance for threats to human health or safety.

37 2. The taking of wildlife with firearms, with fishing equipment,
38 with archery equipment, or WITH other implements in hand as may be defined
39 or regulated by the Arizona game and fish commission, including but not
40 limited to the taking of wildlife pursuant to a hunting or fishing license
41 issued by the Arizona game and fish department.

42 3. The use of snares, traps not designed to kill, or nets to take
43 wildlife for scientific research projects, FOR sport falconry, or for
44 relocation of the wildlife as may be defined or regulated by the Arizona
45 game and fish commission or the government of the United States, or both.

1 3. Monitor the status of these construction projects.

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

3 ~~1. Consider the citizens transportation oversight committee's~~

4 ~~recommendations on the five year construction program for the regional~~

5 ~~transportation plan pursuant to chapter 17 of this title.~~

6 ~~2. Respond to any complaint and approve, disapprove or modify~~

7 ~~recommendations regarding a complaint forwarded to it by the citizens~~

8 ~~transportation oversight committee within ninety days after the citizens~~

9 ~~transportation oversight committee forwards a complaint to the board.~~

10 ~~F.~~ D. The board shall determine priority program planning with

11 respect to transportation facilities using the performance based methods

12 developed pursuant to article 7 of this chapter.

13 ~~F.~~ E. With respect to transportation facilities other than

14 highways, the board shall establish, open, relocate, alter, vacate or

15 abandon all or portions of the facilities.

16 ~~G.~~ F. With respect to aeronautics, the board shall perform the

17 functions prescribed in chapter 25 of this title.

18 ~~H.~~ G. The board shall not spend any monies, adopt any rules or

19 implement any policies or programs to convert signs to the metric system

20 or to require the use of the metric system with respect to designing or

21 preparing plans, specifications, estimates or other documents for any

22 highway project before the conversion or use is required by federal law,

23 except that the board may:

24 1. Spend monies and require the use of the metric system with

25 respect to designing or preparing plans, specifications, estimates or

26 other documents for a highway project that is awarded before October 1,

27 1997 and that is exclusively metric from its inception.

28 2. Prepare for conversion to and use of the metric system not more

29 than six months before the conversion or use is required by federal law.

30 Sec. 5. Section 28-1176, Arizona Revised Statutes, is amended to

31 read:

32 28-1176. Off-highway vehicle recreation fund; annual reports;

33 definition

34 A. An off-highway vehicle recreation fund is established. The fund

35 consists of:

36 1. Monies appropriated by the legislature.

37 2. Monies deposited pursuant to sections 28-1177 and 28-5927.

38 3. Federal grants and private gifts.

39 B. Monies in the off-highway vehicle recreation fund are

40 appropriated to the Arizona state parks ~~board~~ DIRECTOR solely for the

41 purposes provided in this article. Interest earned on monies in the fund

42 shall be credited to the fund. Monies in the off-highway vehicle

43 recreation fund are exempt from the provisions of section 35-190 relating

44 to lapsing of appropriations.

1 C. The Arizona game and fish department shall spend thirty-five ~~per~~
2 ~~cent~~ PERCENT of the monies in the off-highway vehicle recreation fund for
3 informational and educational programs related to safety, the environment
4 and responsible use with respect to off-highway vehicle recreation and law
5 enforcement activities relating to this article and for off-highway
6 vehicle law enforcement pursuant to title 17, chapter 4, article 3,
7 including seven full-time employees to enforce this article and title 17,
8 chapter 4, article 3.

9 D. The state land department shall spend five ~~per cent~~ PERCENT of
10 the monies in the off-highway vehicle recreational fund to allow occupants
11 of off-highway vehicles with user indicia to cross state trust land on
12 existing roads, trails and designated routes. The state land department
13 shall use these monies for costs associated with off-highway vehicle use
14 of lands within its jurisdiction, to mitigate damage to the land, for
15 necessary environmental, historical and cultural clearance or compliance
16 activities and to fund enforcement of off-highway vehicle laws.

17 E. The Arizona state parks ~~board~~ DIRECTOR shall spend sixty ~~per~~
18 ~~cent~~ PERCENT of the monies in the off-highway vehicle recreation fund for
19 the following purposes:

20 1. No more than twelve ~~per cent~~ PERCENT to fund staff support to
21 plan and administer the off-highway vehicle recreation fund.

22 2. To establish an off-highway vehicle program based on the
23 priorities established in the off-highway vehicle recreational plan.

24 3. To designate, construct, maintain, renovate, repair or connect
25 off-highway vehicle routes and trails and to designate, manage and acquire
26 land for access roads, off-highway vehicle recreation facilities and
27 off-highway vehicle use areas. After expenditures pursuant to paragraph 1
28 of this subsection, the Arizona state parks ~~board~~ DIRECTOR shall not spend
29 more than thirty-five ~~per cent~~ PERCENT of the remaining monies received
30 pursuant to this subsection for construction of new off-highway vehicle
31 trails.

32 4. For enforcement of off-highway vehicle laws.

33 5. For off-highway vehicle related informational and environmental
34 education programs, information, signage, maps and responsible use
35 programs.

36 6. For the mitigation of damages to land, revegetation and the
37 prevention and restoration of damages to natural and cultural resources,
38 including the closure of existing access roads, off-highway vehicle use
39 areas and off-highway vehicle routes and trails.

40 7. For necessary environmental, historical and cultural clearance
41 or compliance activities.

42 F. The allocation of the monies in subsection E, paragraphs 3
43 through 7 of this section and the percentages allocated to each of the
44 purposes prescribed in subsection E, paragraphs 3 through 7 of this
45 section shall be based on an off-highway vehicle recreational plan.

1 G. Monies in the off-highway vehicle recreation fund shall not be
2 used to construct new off-highway vehicle trails or routes on
3 environmentally or culturally sensitive land unless the appropriate land
4 management agency determines that certain new trail construction would
5 benefit or protect cultural or sensitive sites. For the purposes of this
6 subsection, "environmentally or culturally sensitive land" means areas of
7 lands that are either:

8 1. Administratively or legislatively designated by the federal
9 government as any of the following:

10 (a) A national monument.

11 (b) An area of critical environmental concern.

12 (c) A conservation area.

13 (d) An inventoried roadless area.

14 2. Determined by the applicable land management agency to contain
15 significant natural or cultural resources or values.

16 H. The Arizona state parks ~~board~~ DIRECTOR shall examine
17 applications for eligible projects and determine the amount of funding, if
18 any, for each project. In determining the amount of monies for eligible
19 projects, the Arizona state parks ~~board~~ DIRECTOR shall give preference to
20 applications for projects with mitigation efforts and for projects that
21 encompass a large number of purposes described in subsection E, paragraphs
22 3 through 7 of this section.

23 I. Beginning September 1, 2011, and on or before September 1 of
24 each subsequent year, each agency that receives monies from the
25 off-highway vehicle recreation fund shall submit an off-highway vehicle
26 report to the president of the senate, the speaker of the house of
27 representatives, the chairperson of the senate natural resources and rural
28 affairs committee, or its successor committee, and the chairperson of the
29 house of representatives natural resources and public safety committee, or
30 its successor committee. The report shall be made available to the
31 public. The report shall include information on all of the following if
32 applicable:

33 1. The amount of monies spent or encumbered in the fund during the
34 preceding fiscal year for the purposes of off-highway vehicle law
35 enforcement activities.

36 2. The amount of monies spent from the off-highway vehicle
37 recreation fund during the preceding fiscal year for employee services.

38 3. The number of full-time employees employed in the preceding
39 fiscal year in connection with off-highway vehicle law enforcement
40 activities.

41 4. The amount of monies spent from the off-highway vehicle
42 recreation fund during the preceding fiscal year for information and
43 education.

44 5. The number and specific location of verbal warnings, written
45 warnings and citations given or issued during the preceding fiscal year.

1 6. A specific and detailed accounting for all monies spent in
2 accordance with this section for construction of new off-highway vehicle
3 trails, mitigation of damages to lands, revegetation, the prevention and
4 restoration of damages to natural and cultural resources, signage, maps
5 and necessary environmental, historical and cultural clearance or
6 compliance activities.

7 J. For the purposes of this section, "off-highway vehicle
8 recreational plan" means a plan that is maintained by the Arizona state
9 parks ~~board~~ DIRECTOR pursuant to section ~~41-511.04~~ 41-5603.

10 Sec. 6. Section 28-1177, Arizona Revised Statutes, is amended to
11 read:

12 28-1177. Off-highway vehicle user fee; indicia; registration;
13 state trust land recreational permit; exception

14 A. A person shall not operate an all-terrain vehicle or an
15 off-highway vehicle in this state without an off-highway vehicle user
16 indicia issued by the department if the all-terrain vehicle or off-highway
17 vehicle meets both of the following criteria:

18 1. Is designed by the manufacturer primarily for travel over
19 unimproved terrain.

20 2. Has an unladen weight of eighteen hundred pounds or less.

21 B. A person shall apply to the department of transportation for the
22 off-highway vehicle user indicia by submitting an application prescribed
23 by the department of transportation and a user fee for the indicia in an
24 amount to be determined by the director of the department of
25 transportation in cooperation with the director of the Arizona game and
26 fish department and the Arizona state parks ~~board~~ DIRECTOR. The user
27 indicia is valid for one year from the date of issuance and may be
28 renewed. The department shall prescribe by rule the design and placement
29 of the indicia.

30 C. When a person pays for an off-highway vehicle user indicia
31 pursuant to this section, the person may request a motor vehicle
32 registration if the vehicle meets all equipment requirements to be
33 operated on a highway pursuant to article 16 of this chapter. If a person
34 submits a signed affidavit to the department affirming that the vehicle
35 meets all of the equipment requirements for highway use and that the
36 vehicle will be operated primarily off of highways, the department shall
37 register the vehicle for highway use and the vehicle owner is not required
38 to pay the registration fee prescribed in section 28-2003. This
39 subsection does not apply to vehicles that as produced by the manufacturer
40 meet the equipment requirements to be operated on a highway pursuant to
41 article 16 of this chapter.

1 D. The director shall deposit, pursuant to sections 35-146 and
2 35-147, seventy ~~per cent~~ PERCENT of the user fees collected pursuant to
3 this section in the off-highway vehicle recreation fund established by
4 section 28-1176 and thirty ~~per cent~~ PERCENT of the user fees collected
5 pursuant to this section in the Arizona highway user revenue fund.

6 E. An occupant of an off-highway vehicle with a user indicia issued
7 pursuant to this section who crosses state trust lands must comply with
8 all of the rules and requirements under a state trust land recreational
9 permit. All occupants of an off-highway vehicle with a user indicia shall
10 obtain a state trust land recreational permit from the state land
11 department for all other authorized recreational activities on state trust
12 land.

13 F. This section does not apply to off-highway vehicles, all-terrain
14 vehicles or off-road recreational motor vehicles that are used off-highway
15 exclusively for agricultural, ranching, construction, mining or building
16 trade purposes.

17 Sec. 7. Section 28-2512, Arizona Revised Statutes, is amended to
18 read:

19 28-2512. All-terrain motor vehicles; off-highway vehicles;
20 off-road recreational motor vehicles; license
21 plates

22 A. Every owner of an all-terrain vehicle, off-highway vehicle as
23 defined in section 28-1171 or off-road recreational motor vehicle shall
24 apply to the department for a license plate.

25 B. The department shall furnish to an owner of an all-terrain
26 vehicle, off-highway vehicle as defined in section 28-1171 or off-road
27 recreational motor vehicle one license plate for each vehicle.

28 C. The fee for a plate issued pursuant to this section is eight
29 dollars.

30 D. The license plate assigned to a motor vehicle pursuant to this
31 section shall be:

- 32 1. Attached to the rear of the vehicle.
- 33 2. Securely fastened to the vehicle in a clearly visible position.

34 E. An owner of an off-highway vehicle as defined in section 28-1171
35 participating in an off-highway vehicle special event as defined in
36 section 28-1171 is exempt from the requirements of this section.

37 F. On or before July 1, 2009, the director shall establish
38 procedures to systematically replace license plates issued for all-terrain
39 vehicles, off-highway vehicles and off-road recreational motor vehicles
40 before January 1, 2009 with the license plate prescribed in this section.

41 G. In consultation with the Arizona game and fish department and
42 the Arizona state parks ~~board~~ DIRECTOR, the director OF THE DEPARTMENT OF
43 TRANSPORTATION shall design the license plate prescribed by this section.

1 Sec. 8. Section 28-6308, Arizona Revised Statutes, is amended to
2 read:

3 28-6308. Regional planning agency transportation policy
4 committee; regional transportation plan; plan
5 review process; committee termination

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

9 1. Seventeen members of the regional planning agency, including ~~the~~
10 ~~chairperson of the citizens transportation oversight committee~~, one member
11 of the state transportation board who represents the county, one member of
12 the county board of supervisors and one member representing Indian
13 communities in the county.

14 2. Six members who represent regionwide business interests, one of
15 whom must represent transit interests, one of whom must represent freight
16 interests and one of whom must represent construction interests. The
17 president of the senate and the speaker of the house of representatives
18 shall each appoint three members to the committee pursuant to this
19 paragraph. Members who are appointed pursuant to this paragraph serve
20 six-year terms. The chairman of the regional planning agency may submit
21 names to the president of the senate and the speaker of the house of
22 representatives for consideration for appointment to the transportation
23 policy committee.

24 B. Through the regional planning agency, the transportation policy
25 committee shall:

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

31 2. Develop the plan in cooperation with the regional public
32 transportation authority in the county and the department of
33 transportation and in consultation with the county board of supervisors,
34 Indian communities and cities and towns in the county.

35 3. Submit the plan for review by the regional public transportation
36 authority in the county, the state board of transportation, the county
37 board of supervisors, Indian communities and cities and towns in the
38 county at the alternatives stage of the plan and the final draft stage of
39 the plan. After reviewing the plan, the regional public transportation
40 authority in the county, the county board of supervisors and the state
41 board of transportation, by majority vote of the members of each entity
42 within thirty days after receiving the plan, shall submit a written
43 recommendation to the transportation policy committee that the plan be
44 approved, modified or disapproved. Within thirty days after receiving the
45 plan, Indian communities and cities and towns in the county may submit a

1 written recommendation to the transportation policy committee that the
2 plan be approved, modified or disapproved.

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

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

7 6. Provide a written response to the regional public transportation
8 authority, the state board of transportation, the county board of
9 supervisors and the entity that submitted the proposed modification within
10 thirty days after the vote on the proposed modification explaining the
11 affirmation, rejection or further modification of each proposed
12 modification.

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

15 C. The regional transportation plan:

16 1. Shall include the following transportation mode classifications
17 with a revenue allocation to each classification consistent with section
18 42-6105, subsection D:

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

20 (b) Major arterial streets and intersection improvements.

21 (c) Public transportation systems.

22 2. Shall provide a suggested construction schedule for the
23 transportation projects contained in the plan.

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

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

29 D. Transportation excise tax revenues that are distributed pursuant
30 to section 42-6105, subsection D shall not be redistributed or used for
31 other transportation modes. Except as provided by section 28-6353,
32 subsections D, E and F, transportation excise tax revenues that are
33 dedicated in the plan to a specific project or transportation system may
34 only be redistributed to or otherwise used for another project within the
35 same transportation mode if approved by a majority vote of the
36 transportation policy committee.

37 E. The committee established pursuant to this section ends on July
38 1, 2024 pursuant to section 41-3103.

39 Sec. 9. Section 28-6313, Arizona Revised Statutes, is amended to
40 read:

41 28-6313. Performance audits of proposed transportation
42 projects and systems

43 A. Beginning in 2010 and every fifth year thereafter, the auditor
44 general shall contract with a nationally recognized independent auditor
45 with expertise in evaluating multimodal transportation systems and in

1 regional transportation planning to conduct a performance audit, as
2 defined in section 41-1278, of the regional transportation plan and
3 projects scheduled for funding during the next five years.

4 B. With respect to light rail systems, the audit shall consider the
5 criteria used by the federal transit administration pursuant to 49 United
6 States Code section 5309(e)(1)(B) and the interrelationship among the
7 criteria to provide federal funding for light rail systems. For light
8 rail systems, the audit shall also consider:

- 9 1. Service levels.
- 10 2. Capital costs.
- 11 3. Operation and maintenance costs.
- 12 4. Transit ridership.
- 13 5. Farebox revenues.

14 C. The audit shall:

15 1. Examine the regional transportation plan and projects scheduled
16 for funding within each transportation mode based on the performance
17 factors established in section 28-505, subsection A, in the context of the
18 transportation system.

19 2. Review past expenditures of the regional transportation plan and
20 examine the performance of the system in relieving congestion and
21 improving mobility.

22 3. Make recommendations regarding whether further implementation of
23 a project or transportation system is warranted, warranted with
24 modifications or not warranted.

25 D. The auditor general or the auditors contracted to conduct the
26 audit shall periodically update the transportation policy committee
27 regarding the progress of the audit.

28 E. Within forty-five days after the release of the audit, the
29 regional public transportation authority, ~~the citizens transportation~~
30 ~~oversight committee~~, the state transportation board and the county board
31 of supervisors, by a majority vote of each entity, shall submit written
32 recommendations to the transportation policy committee that the findings
33 are agreed to or disagreed with and the recommendations should be
34 implemented, ~~BE~~ implemented with modification or not be implemented.

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

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

- 39 1. The regional planning agency.
- 40 2. The transportation policy committee.
- 41 ~~3. The citizens transportation oversight committee.~~
- 42 ~~4.~~ 3. The regional public transportation authority in the county.
- 43 ~~5.~~ 4. The county board of supervisors.
- 44 ~~6.~~ 5. The state transportation board.

1 ~~7.~~ 6. The governor, secretary of state, president of the senate
2 and speaker of the house of representatives.

3 ~~8.~~ 7. The Arizona state library, archives and public records.

4 ~~9.~~ 8. Any other person who requests a copy pursuant to title 39,
5 CHAPTER 1, article 2.

6 H. The state transportation board, regional planning agency,
7 regional public transportation authority and county board of supervisors
8 shall cooperate with and submit to the auditor general and the auditors
9 contracted to conduct the audit information necessary to conduct the
10 audits under this section.

11 I. The cost incurred by the auditor general in contracting with
12 independent auditors for conducting performance audits under subsection A
13 of this section shall be paid from revenues of the county transportation
14 excise tax under section 42-6105. When due, the payments have priority
15 over any other distribution authorized by section 42-6105. The auditor
16 general shall deposit the payments in the audit services revolving fund
17 established by section 41-1279.06.

18 Sec. 10. Section 28-6353, Arizona Revised Statutes, is amended to
19 read:

20 28-6353. Regional transportation plan and project
21 enhancements and changes

22 A. The regional planning agency in the county shall approve any
23 change in the regional transportation plan and the projects funded in the
24 regional transportation plan that affect the planning agency's
25 transportation improvement program, including project priorities.

26 B. Requests for changes to transportation projects funded in the
27 regional transportation plan that would materially increase costs shall be
28 submitted to the regional planning agency for approval and submitted by
29 the regional planning agency to the board for approval.

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

33 D. The process prescribed in subsection E of this section is
34 required if:

35 1. An audit finding pursuant to section 28-6313 recommends that a
36 project or system in the regional transportation plan is not warranted or
37 requires a modification that is a major amendment as defined in section
38 28-6301.

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

42 E. A major amendment requires the following:

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

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

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

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

41 5. The transportation policy committee shall recommend approval,
42 disapproval or modification of the proposed amendment to the regional
43 planning agency for consideration.

1 F. The affirmative vote of seventeen members of the transportation
2 policy committee is required to approve and proceed with either of the
3 following:

4 1. Recommendation of a major amendment to the regional planning
5 agency that fails to receive approval of either the regional public
6 transportation authority in the county, the state board of transportation
7 or the county board of supervisors as prescribed in this section.

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

10 Sec. 11. Repeal

11 Sections 28-6356, 28-6357 and 28-6358, Arizona Revised Statutes, are
12 repealed.

13 Sec. 12. Section 37-281.03, Arizona Revised Statutes, is amended to
14 read:

15 37-281.03. Leasing land along Colorado river from United
16 States; subleasing requirements; limitations

17 A. The state land department may lease from the United States or
18 its authorized agencies, for park, recreational and wildlife purposes,
19 lands under the jurisdiction of the bureau of reclamation, ~~which~~ THAT are
20 located along the Colorado river embracing the area from Davis dam to the
21 international line, for such terms and under such conditions as the United
22 States or its agencies may provide.

23 B. The state land department may sublease lands leased to the
24 department, as provided in subsection A OF THIS SECTION, for park,
25 recreational and wildlife purposes to the ARIZONA state parks ~~board~~
26 DIRECTOR, the game and fish commission or ~~to~~ any political subdivision of
27 ~~the~~ THIS state.

28 C. The provisions of section ~~41-511.05~~ 41-5604, paragraph 3,
29 restricting the creation of a state park or monument or additions thereto
30 to one hundred sixty acres, shall not apply to any land leased or acquired
31 from the state land department for park and recreational purposes ~~which~~
32 THAT are under the jurisdiction of the bureau of reclamation on lands
33 located along the Colorado river embracing the area from Davis dam to the
34 international line.

35 D. ~~The provisions of~~ Sections 37-281 and 37-281.02 ~~shall~~ DO not
36 apply to sublease of lands leased to the state under ~~the provisions of~~
37 subsection A of this section.

38 E. The ARIZONA state parks ~~board~~ DIRECTOR, the game and fish
39 commission or a political subdivision of ~~the~~ THIS state ~~which~~ THAT leases
40 land from the state land department as provided by this section may
41 sublease such lands according to the terms of the lease executed between
42 the state land department and the ARIZONA state parks ~~board~~ DIRECTOR, the
43 game and fish commission or the political subdivision of ~~the~~ THIS state.

1 Sec. 13. Section 37-312, Arizona Revised Statutes, is amended to
2 read:

3 37-312. Nominating and classifying trust land as suitable for
4 conservation purposes

5 A. On the commissioner's initiative, on petition as provided by
6 subsection C of this section or as provided by section 37-332, the
7 commissioner may nominate certain trust lands as being under consideration
8 for classification as trust lands suitable for conservation purposes. The
9 commissioner shall not nominate trust lands as being under consideration
10 for classification as trust lands suitable for conservation purposes
11 unless the trust lands are eligible for classification under this section
12 and are located within:

13 1. One mile of the corporate boundaries of an incorporated city or
14 town having a population of less than ten thousand persons ~~according to~~
15 ~~the most recent United States decennial census.~~

16 2. Three miles of the corporate boundaries of an incorporated city
17 or town having a population of ten thousand persons or more ~~according to~~
18 ~~the most recent United States decennial census.~~

19 3. Ten miles of the boundaries that are established in paragraph 1
20 or 2 of this subsection and that are located within counties with a
21 population greater than five hundred thousand persons ~~according to the~~
22 ~~most recent United States decennial census~~ and are adjacent to lands that
23 are eligible for conservation and share with them a specific physical
24 characteristic such as a reach of a river, a mountain slope or an
25 archaeological feature.

26 B. In addition to the lands identified in subsection A, paragraphs
27 1 through 3 of this section, the following lands may be nominated for
28 reclassification by the commissioner:

29 1. Those lands within the Tortolita mountain park in Pinal county
30 located within T10S, R12E and T10S, R13E.

31 2. Those lands in the vicinity of the Superstition mountains in
32 Pinal county located within T1N, R9E; T1N, R10E; T1S, R9E; and T1S, R10E.

33 3. Those lands in the vicinity of the San Tan mountains in Pinal
34 county located within T3S, R7E, section 10, the northwest quarter of the
35 southeast quarter and the south half of the southeast quarter; section 15,
36 the north half and southeast quarter.

37 4. The following lands located in Coconino county:

38 (a) T19N, R5E, section 3.

39 (b) T19N, R6E, sections 5 and 6.

40 (c) T20N, R5E, sections 2, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28,
41 30, 32, 34 and 36.

42 (d) T20N, R6E, sections 4, 5, 6, 8, 10, 14, 17, 18, 20, 22, 26, 28,
43 30, 32 and 34.

44 (e) T21N, R6E, sections 21, 22, 28, 31, 32 and 33.

1 C. The commissioner shall receive a petition to nominate trust
2 lands as being under consideration for classification as trust lands
3 suitable for conservation purposes from:

4 1. A state agency that leases the land or intends to lease or
5 purchase the land.

6 2. The board of supervisors of the county in which the land is
7 located.

8 3. The governing body of a city or town if the land is located
9 within:

10 (a) The corporate boundaries of the city or town.

11 (b) One mile outside the corporate boundaries and the city or town
12 has a population of less than ten thousand persons.

13 (c) Three miles outside the corporate boundaries and the city or
14 town has a population of ten thousand persons or more.

15 4. Ten or more private individuals who:

16 (a) Reside in the county in which the land is located.

17 (b) Have the financial capability to lease or purchase the land.

18 5. A nonprofit corporation or trust, the purpose or powers of which
19 include conservation of natural, scenic, open space or other conservation
20 values.

21 6. The current lessee of the land.

22 7. A business or corporation that is legally empowered to own or
23 manage real property in this state and that intends to lease or purchase
24 the land.

25 D. A petitioner who requests the commissioner to reclassify the
26 land pursuant to this article solely or partially on grounds that the land
27 contains cultural resources worthy of conservation shall provide, on the
28 commissioner's request, a report on the results of a cultural resources
29 survey of the petitioned land for the commissioner's consideration before
30 determining if the reclassification is in the best interest of the trust.

31 E. Unless the commissioner nominates the trust lands under section
32 37-332, a petitioner shall post a bond or other security sufficient to
33 cover the costs of the planning, notice, advertisement and public hearing
34 as required by this article and as determined by the commissioner. The
35 bond or security is forfeit to this state if the commissioner reclassifies
36 the land pursuant to this article.

37 F. The commissioner shall not nominate or classify trust land as
38 suitable for conservation purposes if a development plan was approved for
39 the land pursuant to article 5.1 of this chapter before July 26, 1996.
40 The commissioner may nominate and classify trust land as suitable for
41 conservation purposes in an area within a development plan approved after
42 July 26, 1996 if appropriate conservation purposes are incorporated within
43 the development plan prepared for the commissioner's approval. In
44 nominating and classifying trust land as suitable for conservation
45 purposes under this subsection, the commissioner shall follow the

1 procedures for requesting local government zoning pursuant to section
2 37-334, subsection E.

3 G. Unless the commissioner nominates the trust lands under section
4 37-332, after nominating the trust lands under subsection A or B of this
5 section, the commissioner shall:

6 1. Mail notice of intent to classify the lands as trust lands
7 suitable for conservation purposes to the beneficiary or beneficiaries for
8 whom the lands are held in trust, existing lessees, local planning
9 authorities, the appropriate regional planning authorities and owners of
10 private land that consists of forty or more acres and that is located
11 within three hundred feet of the trust land. The notice shall include the
12 date, time and place of the public hearing to be held pursuant to
13 subsection H of this section and a request for written comments on the
14 proposed classification within thirty days after the date of notice.

15 2. Within thirty days after giving the notice under paragraph 1 of
16 this subsection:

17 (a) Publish the notice stating a date, time and place of a public
18 hearing for six publications in a newspaper of general circulation in the
19 county in which the designated lands are located.

20 (b) Mail the notice to any person who has requested notice of any
21 classification under this article.

22 (c) Mail the notice to the Arizona game and fish department, the
23 Arizona department of agriculture, the Arizona state parks ~~board~~ DIRECTOR,
24 the Arizona department of transportation and any other affected state
25 agency.

26 H. Within sixty days after the last date of publication of notice
27 under subsection G of this section, the commissioner or the commissioner's
28 designee shall conduct a public hearing in a location in this state as
29 close as conveniently possible to the trust land to receive and record
30 oral and written testimony concerning the proposed classification.

31 I. In determining whether reclassification is in the best interest
32 of the trust, the commissioner shall:

33 1. Consult with the governing body of each city or town in which
34 the land proposed for reclassification is located or to which the land is
35 contiguous, the county board of supervisors of each county in which the
36 land is located if the land is not located within the boundaries of a city
37 or town and the local planning and zoning authorities, including the
38 affected regional planning authorities.

39 ~~2. Consider recommendations of the conservation advisory committee.~~

40 ~~3.~~ 2. Consider all evidence and testimony that are submitted at
41 the hearing that was held pursuant to:

42 (a) Subsection H of this section if the commissioner nominated the
43 trust lands under this section.

44 (b) Section 37-332, subsections B, C and D if the commissioner
45 nominated the trust lands under section 32-332.

1 ~~4.~~ 3. Consider the physical and economic impacts that the
2 reclassification would have on other lands owned or controlled by the
3 current lessee and the physical and economic impacts on the local
4 community.

5 ~~5.~~ 4. Consider the existence of any holding lease on the lands.

6 ~~6.~~ 5. Consider the existence of any planning permit issued by the
7 commissioner for the lands pursuant to article 5.1 of this chapter.

8 ~~7.~~ 6. Consider the amount of progress on any development plans
9 being completed for the lands pursuant to article 5.1 of this chapter.

10 ~~8.~~ 7. Evaluate the mineral potential of the land.

11 J. The commissioner shall determine whether the reclassification is
12 in the best interest of the trust and, in making the determination, shall
13 state in writing the reasons why the classification is or is not in the
14 best interests of the trust.

15 K. If the commissioner reclassifies the trust land as suitable for
16 conservation purposes, the commissioner shall adopt a plan to allow
17 existing and conservation uses to be coordinated in a manner that will
18 protect both existing uses and conservation and open space values. If the
19 reclassified trust land is unleased or the petitioner is the lessee
20 pursuant to subsection C, paragraph 6 of this section, the commissioner
21 may require a plan from the petitioners describing how the property is to
22 be managed. In adopting the plan, the commissioner shall consult with:

23 ~~1. The conservation advisory committee.~~

24 ~~2.~~ 1. The governing body of the city or town if the land is
25 located in a city or town.

26 ~~3.~~ 2. The county board of supervisors if the land is not located
27 in a city or town.

28 ~~4.~~ 3. Existing lessees of the trust land, local and regional
29 planning authorities and owners of private land who provided written
30 comments pursuant to subsection G, paragraph 1 of this section.

31 ~~5.~~ 4. Any other person or entity that the commissioner considers
32 to be necessary.

33 L. The classification of state land as suitable for conservation
34 does not affect the designation or use of adjacent federal, state or
35 private land.

36 M. A person who is adversely affected by the commissioner's
37 decision to reclassify land as suitable for conservation purposes may
38 appeal the decision to the board of appeals pursuant to section 37-215.

39 N. On classifying trust lands suitable for conservation purposes,
40 existing leases shall not be canceled or modified as a result of any
41 actions taken pursuant to this article, and renewals of existing leases
42 shall be pursuant to section 37-291.

43 Sec. 14. Repeal

44 Section ~~37-316~~, Arizona Revised Statutes, is repealed.

1 Sec. 15. Section 37-904, Arizona Revised Statutes, is amended to
2 read:

3 37-904. Public lands board of review; members; powers and
4 duties; staff and officers; service of process

5 A. ~~There is established a~~ THE public lands board of review IS
6 ESTABLISHED consisting of the following members:

- 7 1. THE state land commissioner.
- 8 2. THE director of environmental quality.
- 9 3. THE state geologist.
- 10 4. THE director of the Arizona state parks ~~board~~.
- 11 5. THE director of the department of transportation.
- 12 6. THE deputy state forester.
- 13 7. THE director of water resources.
- 14 8. THE director of the Arizona game and fish department.
- 15 9. As provided in subsection F OF THIS SECTION, the chairman of the
16 board of supervisors of a county in which public lands are located.
- 17 10. One county supervisor, appointed by the governor to serve at
18 the pleasure of the governor.

19 B. The board shall elect one of its members to serve as chairman.
20 The chairman shall call meetings of the board and prescribe the time and
21 place of each meeting.

22 C. Members of the board are not eligible to receive compensation
23 but are eligible for reimbursement of expenses pursuant to title 38,
24 chapter 4, article 2.

25 D. The board:

- 26 1. Shall review and approve or disapprove all rules and regulations
27 proposed by the commissioner under this chapter.
- 28 2. May review any decision of the commissioner relating to public
29 lands under this chapter and affirm, modify or reverse the decision.

30 E. The state land department shall provide the administrative staff
31 and offices needed by the board, and the state land commissioner shall be
32 deemed the clerk of the board upon ON which notices of appeal and other
33 process shall be served.

34 F. The chairman of the county board of supervisors of a county in
35 which public lands are located and which are the subject of the board
36 action shall serve as a member of the board for the purposes of the
37 action.

38 Sec. 16. Section 37-1123, Arizona Revised Statutes, is amended to
39 read:

40 37-1123. Receiving and compiling evidence and records

41 A. The commission shall receive, review and consider all relevant
42 historical and other evidence presented to the commission by the state
43 land department and by other persons regarding the navigability or
44 nonnavigability of watercourses in this state as of February 14, 1912,
45 together with associated public trust values, except for evidence with

1 respect to the Colorado river, and, after public hearings conducted
2 pursuant to section 37-1126:

3 1. Based only on evidence of navigability or nonnavigability,
4 determine which watercourses were not navigable as of February 14, 1912.

5 2. Based only on evidence of navigability or nonnavigability,
6 determine which watercourses were navigable as of February 14, 1912.

7 3. In a separate, subsequent proceeding pursuant to section
8 37-1128, subsection B, consider evidence of public trust values and then
9 identify and make a public report of any public trust values that are now
10 associated with the navigable watercourses.

11 B. Before receiving, reviewing or considering any evidence pursuant
12 to subsection A of this section for a particular watercourse, the
13 commission shall publish notice once each week for three consecutive weeks
14 in a newspaper of general circulation in each county in which the
15 watercourse is located. The notice shall include:

16 1. A statement of the intent to receive, review and consider
17 evidence.

18 2. An address to which interested parties may submit evidence for
19 the commission's review.

20 3. A date by which evidence must be submitted.

21 4. A general description of the procedures the commission will use
22 to review the evidence.

23 C. Private citizens, clubs, organizations, corporations,
24 partnerships, unincorporated associations, municipal corporations and
25 public entities may present evidence to the commission at a hearing
26 according to commission rules. The submission of evidence by any party
27 pursuant to the commission's notice under subsection B of this section
28 does not preclude that party from submitting additional evidence at any
29 hearing before the commission.

30 D. The state land department shall consult and coordinate its
31 efforts to gather evidence of navigability and public trust values with
32 the department of water resources, the game and fish department, the
33 ARIZONA state parks ~~board~~ DIRECTOR and other interested persons and public
34 and private entities. The commission shall consider the information that
35 those persons and entities have compiled regarding the navigability of
36 watercourses.

37 E. After public notice, the commission shall set priorities for
38 investigating and conduct hearings on the navigability of the watercourses
39 in this state. In setting the priorities, the commission shall consider:

40 1. The number and value of parcels of real property that are
41 affected by a state claim of sovereign ownership to the bed of the
42 watercourse.

43 2. The degree of hardship to private parties and political
44 subdivisions due to title uncertainties relating to the bed of the
45 watercourse.

1 3. The significance of the public trust values associated with the
2 watercourse and the degree to which those values are threatened.

3 4. The potential viability of this state's sovereign claims to the
4 watercourse, giving higher priority consideration to more viable claims.

5 F. A person who is aggrieved by the undetermined navigability
6 status of a watercourse may petition the commission to modify the priority
7 set under subsection E of this section and grant expedited consideration
8 for a particular watercourse. The commission shall grant the petition if
9 justified by the factors listed in subsection E of this section.

10 G. No judicial action seeking a determination of navigability of a
11 watercourse, to establish or obtain ownership of land within the bed and
12 banks of a watercourse or to determine any public trust values associated
13 with a watercourse may be commenced, continued or completed unless the
14 commission has made a final determination with respect to the watercourse
15 pursuant to section 37-1128. This subsection does not preclude the
16 department from seeking a temporary restraining order or injunctive relief
17 at any time to prevent loss or damage to public trust resources.

18 H. Notwithstanding subsection G of this section, any condemnation
19 action by this state or a political subdivision of this state may proceed
20 to trial and conclusion, including the payment of compensation, regardless
21 of the potential claim of title by this state based on the navigability of
22 the watercourse. In any action commenced or continued pursuant to this
23 subsection, the court shall not consider or decide the navigability of the
24 watercourse. Any judgment in any action commenced or continued pursuant
25 to this subsection shall be subject to a potential claim of title by this
26 state based on the navigability of the watercourse.

27 Sec. 17. Section 37-1156, Arizona Revised Statutes, is amended to
28 read:

29 37-1156. Riparian trust fund; acquisition and management of
30 riparian lands

31 A. The riparian trust fund is established consisting of monies
32 received from the sale or use of sovereign streambed lands and resources
33 under this chapter, damages collected from the United States pursuant to
34 section 37-1131 and any other appropriations, gifts, grants or donations
35 designated by the donor for that purpose. The state shall maintain the
36 fund separate and apart from all other funds. On notice from the
37 commissioner the state treasurer shall invest and divest monies in the
38 riparian trust fund as provided by section 35-313, and monies earned from
39 investment shall be credited to the riparian trust fund.

40 B. The state land commissioner shall use the income, other proceeds
41 and not more than seventy-five ~~per cent~~ PERCENT of any added principal of
42 the fund in a fiscal year pursuant to this section:

43 1. To acquire, from willing sellers, land or interests in land
44 located in riparian areas in this state for public purposes consistent
45 with conservation of wildlife and recreation.

1 2. For such other expenditures as promote the purposes of the
2 public trust.

3 C. The state land commissioner shall consult with and receive
4 advice from the Arizona state parks ~~board~~ DIRECTOR and the Arizona game
5 and fish department regarding the acquisition and management of land and
6 interests in land under this section.

7 Sec. 18. Section 37-1302, Arizona Revised Statutes, is amended to
8 read:

9 37-1302. Powers and duties of state forester; rules;
10 legislative presentation; acceptance of federal
11 law

12 A. The state forester is designated as the agent of the state of
13 Arizona and shall administer this chapter. The state forester shall:

14 1. Exercise and perform all powers and duties vested in or imposed
15 on the Arizona department of forestry and fire management.

16 2. Adopt rules necessary to discharge the powers and duties of the
17 Arizona department of forestry and fire management, including rules that
18 create efficiencies, protect the public health and safety and prescribe
19 budgetary obligations.

20 3. Subject to title 41, chapter 4, article 4, employ, determine the
21 terms and conditions of employment of and prescribe the duties and powers
22 of administrative, professional, technical, secretarial, clerical and
23 other persons as may be necessary in the performance of the Arizona
24 department of forestry and fire management's duties. The compensation of
25 department employees shall be as determined pursuant to section 38-611.

26 4. Contract for the services of outside advisors, consultants and
27 aides as may be reasonably necessary.

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

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

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

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

42 9. Monitor forestry projects and wildfire activities.

43 10. Assist in the development of the forestry products industry in
44 this state.

1 11. Intervene on behalf of this state and its citizens in
2 administrative and judicial appeals and litigation that challenge
3 governmental efforts supported by the state forester if the state forester
4 determines that intervention is in the best interests of this state.

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

20 13. Provide necessary oversight to ensure standardized training and
21 certification for all classifications of wildfire firefighters to be
22 deployed, through cooperator agreement with the state forester, to any
23 federal or state wildfire incident.

24 14. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR SAFEGUARDING
25 LIFE AND PROPERTY FROM WILDLAND FIRES AND FIRE HAZARDS, PREVENTING
26 WILDLAND FIRES AND ALLEVIATING FIRE HAZARDS.

27 15. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE STORAGE,
28 SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS, COMBUSTIBLES, FLAMMABLE
29 LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS IN WILDLAND-URBAN INTERFACE
30 AREAS.

31 16. CONSULT WITH THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF
32 EMERGENCY AND MILITARY AFFAIRS AND LOCAL GOVERNMENTS REGARDING THE
33 ESTABLISHMENT OF FIRE EVACUATION ROUTES AND COMMUNITY ALERT SYSTEMS.

34 17. MAKE RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE CREATION OF
35 DEFENSIBLE SPACES IN AND AROUND WILDLAND-URBAN INTERFACE AREAS AS
36 AUTHORIZED BY EXISTING COUNTY AND MUNICIPAL LAWS AND ORDINANCES.

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

43 1. Forestry management, including the current conditions of the
44 forests in this state on federal, state and private property as affected
45 by federal, state and local public policies, climatic conditions, wildfire

1 hazards, pest infestations, overgrowth and overgrowth control policies and
2 methods and the effects of current federal policy on forest management and
3 impacts on forest land management.

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

7 3. Wildfire emergency management and all hazard response issues,
8 including:

9 (a) Intergovernmental and interagency primacy, cooperation,
10 coordination, roles and training of federal, state and local forestry,
11 firefighting and law enforcement agencies.

12 (b) Channels and methods of communicating emergency information to
13 the public.

14 (c) The roles of governmental and nongovernmental disaster relief
15 agencies and organizations.

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

17 C. The state forester may:

18 1. Furnish technical advice to the people of this state on forestry
19 and land management matters.

20 2. Do all other acts necessary to take advantage of and carry out
21 the provisions of the act of Congress described in subsection D of this
22 section.

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

26 Sec. 19. Section 38-842, Arizona Revised Statutes, is amended to
27 read:

28 38-842. Definitions

29 In this article, unless the context otherwise requires:

30 1. "Accidental disability" means a physical or mental condition
31 that the local board finds totally and permanently prevents an employee
32 from performing a reasonable range of duties within the employee's job
33 classification and that was incurred in the performance of the employee's
34 duty.

35 2. "Accumulated contributions" means, for each member, the sum of
36 the amount of the member's aggregate contributions made to the fund and
37 the amount, if any, attributable to the employee's contributions before
38 the member's effective date under another public retirement system, other
39 than the federal social security act, and transferred to the fund minus
40 the benefits paid to or on behalf of the member.

41 3. "Actuarial equivalent" means equality in present value of the
42 aggregate amounts expected to be received under two different forms of
43 payment, based on mortality and interest assumptions adopted by the board.

44 4. "Alternate payee" means the spouse or former spouse of a
45 participant as designated in a domestic relations order.

1 5. "Alternate payee's portion" means benefits that are payable to
2 an alternate payee pursuant to a plan approved domestic relations order.

3 6. "Annuitant" means a person who is receiving a benefit pursuant
4 to section 38-846.01.

5 7. "Average monthly benefit compensation" means the result obtained
6 by dividing the total compensation paid to an employee during a considered
7 period by the number of months, including fractional months, in which such
8 compensation was received. For an employee who becomes a member of the
9 system:

10 (a) Before January 1, 2012, the considered period shall be the
11 three consecutive years within the last twenty completed years of credited
12 service that yield the highest average.

13 (b) On or after January 1, 2012 and before July 1, 2017, the
14 considered period is the five consecutive years within the last twenty
15 completed years of credited service that yield the highest average. In
16 the computation under this paragraph, a period of nonpaid or partially
17 paid industrial leave shall be considered based on the compensation the
18 employee would have received in the employee's job classification if the
19 employee was not on industrial leave.

20 (c) On or after July 1, 2017, the considered period is the five
21 consecutive years within the last fifteen completed years of credited
22 service that yield the highest average. In the computation under this
23 paragraph, a period of nonpaid or partially paid industrial leave shall be
24 considered based on the compensation the employee would have received in
25 the employee's job classification if the employee was not on industrial
26 leave.

27 8. "Board" means the board of trustees of the system, who are the
28 persons appointed to invest and operate the fund.

29 9. "Catastrophic disability" means a physical and not a
30 psychological condition that the local board determines prevents the
31 employee from totally and permanently engaging in any gainful employment
32 and that results from a physical injury incurred in the performance of the
33 employee's duty.

34 10. "Certified peace officer" means a peace officer certified by
35 the Arizona peace officer standards and training board.

36 11. "Claimant" means any member or beneficiary who files an
37 application for benefits pursuant to this article.

38 12. "Compensation" means, for the purpose of computing retirement
39 benefits, base salary, overtime pay, shift differential pay, military
40 differential wage pay, compensatory time used by an employee in lieu of
41 overtime not otherwise paid by an employer and holiday pay paid to an
42 employee by the employer for the employee's performance of services in an
43 eligible group on a regular monthly, semimonthly or biweekly payroll basis
44 and longevity pay paid to an employee at least every six months for which
45 contributions are made to the system pursuant to section 38-843,

1 subsection D. Compensation does not include, for the purpose of computing
2 retirement benefits, payment for unused sick leave, payment in lieu of
3 vacation, payment for unused compensatory time or payment for any fringe
4 benefits. In addition, compensation does not include, for the purpose of
5 computing retirement benefits, payments made directly or indirectly by the
6 employer to the employee for work performed for a third party on a
7 contracted basis or any other type of agreement under which the third
8 party pays or reimburses the employer for the work performed by the
9 employee for that third party, except for third party contracts between
10 public agencies for law enforcement, criminal, traffic and crime
11 suppression activities training or fire, wildfire, emergency medical or
12 emergency management activities or where the employer supervises the
13 employee's performance of law enforcement, criminal, traffic and crime
14 suppression activities training or fire, wildfire, emergency medical or
15 emergency management activities. For the purposes of this paragraph,
16 "base salary" means the amount of compensation each employee is regularly
17 paid for personal services rendered to an employer before the addition of
18 any extra monies, including overtime pay, shift differential pay, holiday
19 pay, longevity pay, fringe benefit pay and similar extra payments.

20 13. "Credited service" means the member's total period of service
21 before the member's effective date of participation, plus those
22 compensated periods of the member's service thereafter for which the
23 member made contributions to the fund.

24 14. "Cure period" means the ninety-day period in which a
25 participant or alternate payee may submit an amended domestic relations
26 order and request a determination, calculated from the time the system
27 issues a determination finding that a previously submitted domestic
28 relations order did not qualify as a plan approved domestic relations
29 order.

30 15. "Depository" means a bank in which all monies of the system are
31 deposited and held and from which all expenditures for benefits, expenses
32 and investments are disbursed.

33 16. "Determination" means a written document that indicates to a
34 participant and alternate payee whether a domestic relations order
35 qualifies as a plan approved domestic relations order.

36 17. "Determination period" means the ninety-day period in which the
37 system must review a domestic relations order that is submitted by a
38 participant or alternate payee to determine whether the domestic relations
39 order qualifies as a plan approved domestic relations order, calculated
40 from the time the system mails a notice of receipt to the participant and
41 alternate payee.

42 18. "Direct rollover" means a payment by the system to an eligible
43 retirement plan that is specified by the distributee.

1 19. "Distributee" means a member, a member's surviving spouse or a
2 member's spouse or former spouse who is the alternate payee under a plan
3 approved domestic relations order.

4 20. "Domestic relations order" means an order of a court of this
5 state that is made pursuant to the domestic relations laws of this state
6 and that creates or recognizes the existence of an alternate payee's right
7 to, or assigns to an alternate payee the right to, receive a portion of
8 the benefits payable to a participant.

9 21. "Effective date of participation" means July 1, 1968, except
10 with respect to employers and their covered employees whose contributions
11 to the fund commence thereafter, the effective date of their participation
12 in the system is as specified in the applicable joinder agreement.

13 22. "Effective date of vesting" means the date a member's rights to
14 benefits vest pursuant to section 38-844.01.

15 23. "Eligible child" means an unmarried child of a deceased member
16 or retired member who meets one of the following qualifications:

17 (a) Is under eighteen years of age.

18 (b) Is at least eighteen years of age and under twenty-three years
19 of age only during any period that the child is a full-time student.

20 (c) Is under a disability that began before the child attained
21 twenty-three years of age and remains a dependent of the surviving spouse
22 or guardian.

23 24. "Eligible groups" means only the following who are regularly
24 assigned to hazardous duty:

25 (a) Municipal police officers who are certified peace officers.

26 (b) Municipal firefighters.

27 (c) Paid full-time firefighters employed directly by a fire
28 district organized pursuant to section 48-803 or 48-804 or a joint powers
29 authority pursuant to section 48-805.01 with three or more full-time
30 firefighters, but not including firefighters employed by a fire district
31 pursuant to a contract with a corporation.

32 (d) State highway patrol officers who are certified peace officers.

33 (e) State firefighters.

34 (f) County sheriffs and deputies who are certified peace officers.

35 (g) Game and fish wardens who are certified peace officers.

36 (h) Police officers who are certified peace officers and
37 firefighters of a nonprofit corporation operating a public airport
38 pursuant to sections 28-8423 and 28-8424. A police officer shall be
39 designated pursuant to section 28-8426 to aid and supplement state and
40 local law enforcement agencies and a firefighter's sole duty shall be to
41 perform firefighting services, including services required by federal
42 regulations.

43 (i) Police officers who are certified peace officers and who are
44 appointed by the Arizona board of regents.

- 1 (j) Police officers who are certified peace officers and who are
2 appointed by a community college district governing board.
- 3 (k) State attorney general investigators who are certified peace
4 officers.
- 5 (l) County attorney investigators who are certified peace officers.
- 6 (m) Police officers who are certified peace officers and who are
7 employed by an Indian reservation police agency.
- 8 (n) Firefighters who are employed by an Indian reservation
9 firefighting agency.
- 10 (o) Department of liquor licenses and control investigators who are
11 certified peace officers.
- 12 (p) Arizona department of agriculture officers who are certified
13 peace officers.
- 14 (q) Arizona state parks ~~board~~ rangers and managers who are
15 certified peace officers.
- 16 (r) County park rangers who are certified peace officers.
- 17 25. "Eligible retirement plan" means any of the following that
18 accepts a distributee's eligible rollover distribution:
- 19 (a) An individual retirement account described in section 408(a) of
20 the internal revenue code.
- 21 (b) An individual retirement annuity described in section 408(b) of
22 the internal revenue code.
- 23 (c) An annuity plan described in section 403(a) of the internal
24 revenue code.
- 25 (d) A qualified trust described in section 401(a) of the internal
26 revenue code.
- 27 (e) An annuity contract described in section 403(b) of the internal
28 revenue code.
- 29 (f) An eligible deferred compensation plan described in section
30 457(b) of the internal revenue code that is maintained by a state, a
31 political subdivision of a state or any agency or instrumentality of a
32 state or a political subdivision of a state and that agrees to separately
33 account for amounts transferred into the eligible deferred compensation
34 plan from this plan.
- 35 26. "Eligible rollover distribution" means a payment to a
36 distributee, but does not include any of the following:
- 37 (a) Any distribution that is one of a series of substantially equal
38 periodic payments made not less frequently than annually for the life or
39 life expectancy of the member or the joint lives or joint life
40 expectancies of the member and the member's beneficiary or for a specified
41 period of ten years or more.
- 42 (b) Any distribution to the extent the distribution is required
43 under section 401(a)(9) of the internal revenue code.
- 44 (c) The portion of any distribution that is not includable in gross
45 income.

1 (d) Any distribution made to satisfy the requirements of section
2 415 of the internal revenue code.

3 (e) Hardship distributions.

4 (f) Similar items designated by the commissioner of the United
5 States internal revenue service in revenue rulings, notices and other
6 guidance published in the internal revenue bulletin.

7 27. "Employee" means any person who is employed by a participating
8 employer and who is a member of an eligible group but does not include any
9 persons compensated on a contractual or fee basis. If an eligible group
10 requires certified peace officer status or firefighter certification and
11 at the option of the local board, employee may include a person who is
12 training to become a certified peace officer or firefighter.

13 28. "Employers" means:

14 (a) Cities contributing to the fire fighters' relief and pension
15 fund as provided in sections 9-951 through 9-971 or statutes amended
16 thereby and antecedent thereto, as of June 30, 1968 on behalf of their
17 full-time paid firefighters.

18 (b) Cities contributing under the state police pension laws as
19 provided in sections 9-911 through 9-934 or statutes amended thereby and
20 antecedent thereto, as of June 30, 1968 on behalf of their municipal
21 policemen.

22 (c) The state highway patrol covered under the state highway patrol
23 retirement system.

24 (d) The state, or any political subdivision of this state,
25 including towns, cities, fire districts, joint powers authorities,
26 counties and nonprofit corporations operating public airports pursuant to
27 sections 28-8423 and 28-8424, that has elected to participate in the
28 system on behalf of an eligible group of public safety personnel pursuant
29 to a joinder agreement entered into after July 1, 1968.

30 (e) Indian tribes that have elected to participate in the system on
31 behalf of an eligible group of public safety personnel pursuant to a
32 joinder agreement entered into after July 1, 1968.

33 29. "Fund" means the public safety personnel retirement fund, which
34 is the fund established to receive and invest contributions accumulated
35 under the system and from which benefits are paid.

36 30. "Local board" means the retirement board of the employer, who
37 are the persons appointed to administer the system as it applies to their
38 members in the system.

39 31. "Member":

40 (a) Means any full-time employee who meets all of the following
41 qualifications:

42 (i) Who is either a paid municipal police officer, a paid
43 firefighter, a law enforcement officer who is employed by this state
44 including the director thereof, a state firefighter who is primarily
45 assigned to firefighting duties, a firefighter or police officer of a

1 nonprofit corporation operating a public airport pursuant to sections
2 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
3 merit system council, a state attorney general investigator who is a
4 certified peace officer, a county attorney investigator who is a certified
5 peace officer, a department of liquor licenses and control investigator
6 who is a certified peace officer, an Arizona department of agriculture
7 officer who is a certified peace officer, an Arizona state parks ~~board~~
8 ranger or manager who is a certified peace officer, a county park ranger
9 who is a certified peace officer, a person who is a certified peace
10 officer and who is employed by an Indian reservation police agency, a
11 firefighter who is employed by an Indian reservation firefighting agency
12 or an employee included in a group designated as eligible employees under
13 a joinder agreement entered into by their employer after July 1, 1968 and
14 who is or was regularly assigned to hazardous duty or, beginning
15 retroactively to January 1, 2009, who is a police chief or a fire chief.

16 (ii) Who, on or after the employee's effective date of
17 participation, is receiving compensation for personal services rendered to
18 an employer or would be receiving compensation except for an authorized
19 leave of absence.

20 (iii) Whose customary employment is at least forty hours per week
21 or, for those employees who customarily work fluctuating workweeks, whose
22 customary employment averages at least forty hours per week.

23 (iv) Who is engaged to work for more than six months in a calendar
24 year.

25 (v) Who, if economic conditions exist, is required to take furlough
26 days or reduce the hours of the employee's normal workweek below forty
27 hours but not less than thirty hours per pay cycle, and maintain the
28 employee's active member status within the system as long as the hour
29 change does not extend beyond twelve consecutive months.

30 (vi) Who has not attained age sixty-five before the employee's
31 effective date of participation or who was over age sixty-five with
32 twenty-five years or more of service prior to the employee's effective
33 date of participation.

34 (b) Does not include an employee who is hired on or after July 1,
35 2017, who makes the irrevocable election to participate solely in the
36 public safety personnel defined contribution retirement plan established
37 pursuant to article 4.1 of this chapter and who was not an active, an
38 inactive or a retired member of the system or a member of the system with
39 a disability on June 30, 2017.

40 32. "Normal retirement date" means:

41 (a) For an employee who becomes a member of the system before
42 January 1, 2012, the first day of the calendar month immediately following
43 the employee's completion of twenty years of service or the employee's
44 sixty-second birthday and the employee's completion of fifteen years of
45 service.

1 (b) For an employee who becomes a member of the system on or after
2 January 1, 2012 and before July 1, 2017, the first day of the calendar
3 month immediately following the employee's completion of twenty-five years
4 of service if the employee is at least fifty-two and one-half years of
5 age.

6 (c) For an employee who becomes a member of the system on or after
7 July 1, 2017, the first day of the calendar month immediately following
8 the employee's completion of fifteen years of credited service if the
9 employee is at least fifty-five years of age.

10 33. "Notice of receipt" means a written document that is issued by
11 the system to a participant and alternate payee and that states that the
12 system has received a domestic relations order and a request for a
13 determination that the domestic relations order is a plan approved
14 domestic relations order.

15 34. "Ordinary disability" means a physical condition that the local
16 board determines will prevent an employee totally and permanently from
17 performing a reasonable range of duties within the employee's department
18 or a mental condition that the local board determines will prevent an
19 employee totally and permanently from engaging in any substantial gainful
20 activity.

21 35. "Participant" means a member who is subject to a domestic
22 relations order.

23 36. "Participant's portion" means benefits that are payable to a
24 participant pursuant to a plan approved domestic relations order.

25 37. "Pension" means a series of monthly amounts that are payable to
26 a person who is entitled to receive benefits under the plan but does not
27 include an annuity that is payable pursuant to section 38-846.01.

28 38. "Personal representative" means the personal representative of
29 a deceased alternate payee.

30 39. "Physician" means a physician who is licensed pursuant to title
31 32, chapter 13 or 17.

32 40. "Plan approved domestic relations order" means a domestic
33 relations order that the system approves as meeting all the requirements
34 for a plan approved domestic relations order as otherwise prescribed in
35 this article.

36 41. "Plan year" or "fiscal year" means the period beginning on July
37 1 of any year and ending on June 30 of the next succeeding year.

38 42. "Regularly assigned to hazardous duty" means regularly assigned
39 to duties of the type normally expected of municipal police officers,
40 municipal or state firefighters, eligible fire district firefighters,
41 state highway patrol officers, county sheriffs and deputies, fish and game
42 wardens, firefighters and police officers of a nonprofit corporation
43 operating a public airport pursuant to sections 28-8423 and 28-8424,
44 police officers who are appointed by the Arizona board of regents or a
45 community college district governing board, state attorney general

1 investigators who are certified peace officers, county attorney
2 investigators who are certified peace officers, department of liquor
3 licenses and control investigators who are certified peace officers,
4 Arizona department of agriculture officers who are certified peace
5 officers, Arizona state parks ~~board~~ rangers and managers who are certified
6 peace officers, county park rangers who are certified peace officers,
7 police officers who are certified peace officers and who are employed by
8 an Indian reservation police agency or firefighters who are employed by an
9 Indian reservation firefighting agency. Those individuals who are
10 assigned solely to support duties such as secretaries, stenographers,
11 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
12 dispatchers are not assigned to hazardous duty regardless of their
13 position classification title. Since the normal duties of those jobs
14 described in this paragraph are constantly changing, questions as to
15 whether a person is or was previously regularly assigned to hazardous duty
16 shall be resolved by the local board on a case-by-case basis. Resolutions
17 by local boards are subject to rehearing and appeal.

18 43. "Retirement" or "retired" means termination of employment after
19 a member has fulfilled all requirements for a pension, for an employee who
20 becomes a member of the system on or after January 1, 2012 and before July
21 1, 2017, attains the age and service requirements for a normal retirement
22 date or for an employee who becomes a member of the system on or after
23 July 1, 2017 attains the age and credited service requirements for a
24 normal retirement date. Retirement shall be considered as commencing on
25 the first day of the month immediately following a member's last day of
26 employment or authorized leave of absence, if later.

27 44. "Segregated funds" means the amount of benefits that would
28 currently be payable to an alternate payee pursuant to a domestic
29 relations order under review by the system, or a domestic relations order
30 submitted to the system that failed to qualify as a plan approved domestic
31 relations order, if the domestic relations order were determined to be a
32 plan approved domestic relations order.

33 45. "Service" means the last period of continuous employment of an
34 employee by the employers before the employee's retirement, except that if
35 such period includes employment during which the employee would not have
36 qualified as a member had the system then been effective, such as
37 employment as a volunteer firefighter, then only twenty-five percent of
38 such noncovered employment shall be considered as service. Any absence
39 that is authorized by an employer shall not be considered as interrupting
40 continuity of employment if the employee returns within the period of
41 authorized absence. Transfers between employers also shall not be
42 considered as interrupting continuity of employment. Any period during
43 which a member is receiving sick leave payments or a temporary disability
44 pension shall be considered as service. Notwithstanding any other
45 provision of this paragraph, any period during which a person was employed

1 as a full-time paid firefighter for a corporation that contracted with an
2 employer to provide firefighting services on behalf of the employer shall
3 be considered as service if the employer has elected at its option to
4 treat part or all of the period the firefighter worked for the company as
5 service in its applicable joinder agreement. Any reference in this system
6 to the number of years of service of an employee shall be deemed to
7 include fractional portions of a year.

8 46. "State" means the state of Arizona, including any department,
9 office, board, commission, agency or other instrumentality of the state.

10 47. "System" means the public safety personnel retirement system
11 established by this article.

12 48. "Temporary disability" means a physical or mental condition
13 that the local board finds totally and temporarily prevents an employee
14 from performing a reasonable range of duties within the employee's
15 department and that was incurred in the performance of the employee's
16 duty.

17 Sec. 20. Section 38-847, Arizona Revised Statutes, is amended to
18 read:

19 38-847. Local boards

20 A. The administration of the system and responsibility for making
21 the provisions of the system effective for each employer are vested in a
22 local board. The department of public safety, the Arizona game and fish
23 department, the department of emergency and military affairs, the
24 university of Arizona, Arizona state university, northern Arizona
25 university, each county sheriff's office, each county attorney's office,
26 each county parks department, each municipal fire department, each
27 eligible fire district, each community college district, each municipal
28 police department, the department of law, the department of liquor
29 licenses and control, the Arizona department of agriculture, the Arizona
30 state parks ~~board~~ DIRECTOR, each Indian reservation police agency and each
31 Indian reservation firefighting agency shall have a local board. A
32 nonprofit corporation operating pursuant to sections 28-8423 and 28-8424
33 shall have one local board for all of its members. Each local board shall
34 be constituted as follows:

35 1. For political subdivisions or Indian tribes, the mayor or chief
36 elected official or a designee of the mayor or chief elected official
37 approved by the respective governing body as chairman, two members elected
38 by secret ballot by members employed by the appropriate employer and two
39 citizens, one of whom shall be the head of the merit system, or the head's
40 designee from among the other members of the merit system, if it exists
41 for the group of members, appointed by the mayor or chief elected official
42 and with the approval of the governing body of the city or the governing
43 body of the employer. The appointed two citizens shall serve on both
44 local boards in a city or Indian tribes where both fire and police
45 department employees are members.

1 2. For state agencies and nonprofit corporations operating pursuant
2 to sections 28-8423 and 28-8424, two members elected by secret ballot by
3 the members employed by the appropriate employer and three citizens
4 appointed by the governor. Each state agency local board shall elect a
5 chairman.

6 3. For fire districts, the chairperson of the fire district
7 governing board or the chairperson's designee, two members elected by
8 secret ballot by members employed by the fire district and two citizens
9 appointed by the chairperson of the fire district governing board, one of
10 whom is a resident of the fire district and one of whom has experience in
11 personnel administration but who is not required to be a resident of the
12 fire district.

13 4. For joint powers authorities organized pursuant to section
14 48-805.01, the joint powers authority board chairman or a designee
15 approved by the governing body, two members elected by secret ballot by
16 members employed by the joint powers authority and two citizens, one of
17 whom is a resident of one of the partner entities and one of whom has
18 experience in personnel administration but who is not required to be a
19 resident of a partner entity.

20 B. On the taking effect of this system for an employer, the
21 appointments and elections of local board members shall take place with
22 one elective and appointive local board member serving a term ending two
23 years after the effective date of participation for the employer and other
24 local board members serving a term ending four years after the effective
25 date. Thereafter, every second year, and as a vacancy occurs, an office
26 shall be filled for a term of four years in the same manner as previously
27 provided.

28 C. Each local board shall be fully constituted pursuant to
29 subsection A of this section within sixty days after the employer's
30 effective date of participation in the system. If the deadline is not
31 met, on the written request of any member who is covered by the local
32 board or the employer to the board of trustees, the board of trustees may
33 appoint all vacancies of the local board pursuant to subsection A of this
34 section and designate whether each appointive position is for a two year
35 or four year term. If the board of trustees cannot find individuals to
36 serve on the local board who meet the requirements of subsection A of this
37 section, the board of trustees may appoint individuals to serve as interim
38 local board members until qualified individuals are appointed or elected.
39 Each local board shall meet at least twice a year. Each member of a local
40 board, within ten days after the member's appointment or election, shall
41 take an oath of office that, so far as it devolves on the member, the
42 member shall diligently and honestly administer the affairs of the local
43 board and that the member shall not knowingly violate or willingly permit
44 to be violated any of the provisions of law applicable to the system.

1 D. Except as limited by subsection E of this section, a local board
2 shall have such powers as may be necessary to discharge the following
3 duties:

4 1. To decide all questions of eligibility for membership, service
5 credits and benefits and determine the amount, manner and time of payment
6 of any benefits under the system.

7 2. To prescribe procedures to be followed by claimants in filing
8 applications for benefits.

9 3. To make a determination as to the right of any claimant to a
10 benefit and to afford any claimant or the board of trustees, or both, a
11 right to a rehearing on the original determination. Except as otherwise
12 required by law, unless all parties involved in a matter presented to the
13 local board for determination otherwise agree, the local board shall
14 commence a hearing on the matter within ninety days after the date the
15 matter is presented to the local board for determination. If a local
16 board fails to commence a hearing as provided in this paragraph, on a
17 matter presented to the local board for determination, the relief demanded
18 by the party petitioning the local board is deemed granted and approved by
19 the local board. The granting and approval of this relief is considered
20 final and binding unless a timely request for rehearing or appeal is made
21 as provided in this article, unless the board of trustees determines that
22 granting the relief requested would violate the internal revenue code or
23 threaten to impair the system's status as a qualified plan under the
24 internal revenue code. If the board of trustees determines that granting
25 the requested relief would violate the internal revenue code or threaten
26 to impair the system's status as a qualified plan, the board of trustees
27 may refuse to grant the relief by issuing a written determination to the
28 local board and the party petitioning the local board for relief. The
29 decision by the board of trustees is subject to judicial review pursuant
30 to title 12, chapter 7, article 6.

31 4. To request and receive from the employers and from members such
32 information as is necessary for the proper administration of the system
33 and action on claims for eligibility for membership and benefits, and to
34 forward such information to the board of trustees.

35 5. To distribute, in such manner as the local board determines to
36 be appropriate, information explaining the system received from the board
37 of trustees.

38 6. To furnish the employer, the board of trustees and the
39 legislature, on request, with such annual reports with respect to the
40 administration of the system as are reasonable and appropriate.

41 7. To receive and review the actuarial valuation of the system for
42 its group of members.

43 8. To receive and review reports of the financial condition and of
44 the receipts and disbursements of the fund from the board of trustees.

45 9. To appoint medical boards as provided in section 38-859.

1 10. To sue and be sued to effectuate the duties and
2 responsibilities set forth in this article.

3 E. A local board shall have no power to add to, subtract from,
4 modify or waive any of the terms of the system, change or add to any
5 benefits provided by the system or waive or fail to apply any requirement
6 of eligibility for membership or benefits under the system.
7 Notwithstanding any limitations periods imposed in this article, including
8 subsection D, paragraph 3 and subsections G and H of this section, if the
9 board of trustees determines a local board decision violates the internal
10 revenue code or threatens to impair the system's status as a qualified
11 plan under the internal revenue code, the local board's decision is not
12 final and binding and the board of trustees may refrain from implementing
13 or complying with the local board decision.

14 F. A local board, from time to time, shall establish and adopt such
15 rules as it deems necessary or desirable for its administration. All
16 rules and decisions of a local board shall be uniformly and consistently
17 applied to all members in similar circumstances. If a claim or dispute is
18 presented to a local board for determination but the local board has not
19 yet adopted uniform rules of procedure for adjudication of the claim or
20 dispute, the local board shall adopt and use the model uniform rules of
21 local board procedure that are issued by the board of trustees' fiduciary
22 counsel to adjudicate the claim or dispute.

23 G. Except as otherwise provided in this article, any action by a
24 majority vote of the members of a local board that is not inconsistent
25 with the provisions of the system and the internal revenue code shall be
26 final, conclusive and binding on all persons affected by it unless a
27 timely application for a rehearing or appeal is filed as provided in this
28 article. No later than twenty days after taking action, the local board
29 shall submit to the board of trustees the minutes from the local board
30 meeting that include the name of the member affected by its decision, a
31 description of the action taken and an explanation of the reasons and all
32 documents submitted to the local board for the action taken, including the
33 reports of a medical board. The board of trustees may not implement and
34 comply with any local board action that does not comply with the internal
35 revenue code or that threatens to jeopardize the system's status as a
36 qualified plan under the internal revenue code.

37 H. A claimant or the board of trustees may apply for a rehearing
38 before the local board within the time periods prescribed in this
39 subsection, except that if a decision of a local board violates the
40 internal revenue code or threatens to jeopardize the system's status as a
41 qualified plan under the internal revenue code, no limitation period for
42 the board of trustees to seek a rehearing of a local board decision
43 applies. An application for a rehearing shall be filed in writing with a
44 member of the local board or its secretary within sixty days after:

1 1. The applicant-claimant receives notification of the local
2 board's original action by certified mail, by attending the meeting at
3 which the action is taken or by receiving benefits from the system
4 pursuant to the local board's original action, whichever occurs first.

5 2. The applicant-board of trustees receives notification of the
6 local board's original action as prescribed by subsection G of this
7 section by certified mail.

8 I. A hearing before a local board on a matter remanded from the
9 superior court is not subject to a rehearing before the local board.

10 J. Decisions of local boards are subject to judicial review
11 pursuant to title 12, chapter 7, article 6.

12 K. When making a ruling, determination or calculation, the local
13 board shall be entitled to rely on information furnished by the employer,
14 a medical board, the board of trustees, independent legal counsel or the
15 actuary for the system.

16 L. Each member of a local board is entitled to one vote. A
17 majority is necessary for a decision by the members of a local board at
18 any meeting of the local board.

19 M. The local board shall adopt such bylaws as it deems desirable.
20 The local board shall elect a secretary who may, but need not, be a member
21 of the local board. The secretary of the local board shall keep a record
22 and prepare minutes of all meetings in compliance with chapter 3, article
23 3.1 of this title and forward the minutes and all necessary communications
24 to the board of trustees as prescribed by subsection G of this section.

25 N. The fees of the medical board and of the local board's
26 independent legal counsel and all other expenses of the local board
27 necessary for the administration of the system shall be paid by the
28 employer and not the board of trustees or system at such rates and in such
29 amounts as the local board shall approve. Legal counsel that is employed
30 by the local board is independent of the employer and any employee
31 organization or member and owes its duty of loyalty only to the local
32 board in connection with its representation of the local board.

33 O. The local board shall issue directions to the board of trustees
34 concerning all benefits that are to be paid from the employer's account
35 pursuant to the provisions of the fund. The local board shall keep on
36 file, in such manner as it may deem convenient or proper, all reports from
37 the board of trustees and the actuary.

38 P. The local board and the individual members of the local board
39 shall be indemnified from the assets of the employer for any judgment
40 against the local board or its members, including attorney fees and costs,
41 arising from any act, or failure to act, made in good faith pursuant to
42 the provisions of the system, including expenses reasonably incurred in
43 the defense of any claim relating to the act or failure to act.

1 Sec. 21. Section 38-848, Arizona Revised Statutes, is amended to
2 read:

3 38-848. Board of trustees; powers and duties; independent
4 trust fund; administrator; agents and employees;
5 advisory committee

6 A. Beginning January 1, 2017, the board of trustees shall consist
7 of nine members and shall have the rights, powers and duties that are set
8 forth in this section. The term of office of members shall be five years
9 to expire on the third Monday in January of the appropriate year. The
10 board shall select a chairperson from among its members each calendar
11 year. Members are eligible to receive compensation in an amount of fifty
12 dollars a day, but not to exceed one thousand dollars in any one fiscal
13 year, and are eligible for reimbursement of expenses pursuant to chapter
14 4, article 2 of this title. Beginning January 1, 2017, the board consists
15 of the following members appointed as follows:

16 1. Two members representing law enforcement, one of whom is
17 appointed by the president of the senate and one of whom is appointed by
18 the governor. A statewide association representing law enforcement in
19 this state shall forward nominations to the appointing elected officials,
20 providing at least three nominees for each position. At least one of the
21 members appointed under this paragraph shall be an elected local board
22 member.

23 2. Two members representing firefighters, one of whom is appointed
24 by the speaker of the house of representatives and one of whom is
25 appointed by the governor. A statewide association representing
26 firefighters in this state shall forward nominations to the appointing
27 elected officials, providing at least three nominees for each position.
28 At least one of the members appointed under this paragraph shall be an
29 elected local board member.

30 3. Three members representing cities and towns in this state, one
31 of whom is appointed by the president of the senate, one of whom is
32 appointed by the speaker of the house of representatives and one of whom
33 is appointed by the governor. An association representing cities and
34 towns in this state shall forward nominations to the appointing elected
35 officials, providing at least three nominees for each position. These
36 nominees shall represent taxpayers or employers and may not be members of
37 the system.

38 4. One member who represents counties in this state and who is
39 appointed by the governor. An association representing county supervisors
40 in this state shall forward nominations to the governor, providing at
41 least three nominees for the position. These nominees shall represent
42 taxpayers or employers and may not be members of the system.

43 5. One member who is appointed by the governor from a list of three
44 nominees forwarded by the board. The board shall select the nominees to

1 forward to the governor from a list of at least five nominees received
2 from the advisory committee.

3 B. each appointment made pursuant to subsection A of this section
4 shall be chosen from the list of nominees provided to the appointing
5 elected official. A board member may be reappointed. Notwithstanding
6 section 38-295, a board member may be removed from office only for cause
7 by the appointing power or because the board member has vacated the
8 member's seat on the board. A board member who is removed for cause shall
9 be provided written notice and an opportunity for a response. The
10 appointing power may remove a board member based on written findings that
11 specify the reason for removal. Any vacancy that occurs other than by
12 expiration of a term shall be filled for the balance of the term. All
13 vacancies shall be filled in the same manner as the initial appointment.
14 A board member vacates the office if the member either:

15 1. Is absent without excuse from three consecutive regular meetings
16 of the board.

17 2. Resigns, dies or becomes unable to perform board member duties.

18 C. The members of the board who are appointed pursuant to
19 subsection A of this section and who are not members of the system shall
20 be independent, qualified professionals who are responsible for the
21 performance of fiduciary duties and other responsibilities required to
22 preserve and protect the fund and shall have at least ten years'
23 substantial experience as any one or a combination of the following:

24 1. A portfolio manager acting in a fiduciary capacity.

25 2. A securities analyst.

26 3. A senior executive or principal of a trust institution,
27 investment organization or endowment fund acting either in a management or
28 an investment-related capacity.

29 4. A chartered financial analyst in good standing as determined by
30 the chartered financial analyst institute.

31 5. A current or former professor or instructor at the college or
32 university level in the field of economics, finance, actuarial science,
33 accounting or pension-related subjects.

34 6. An economist.

35 7. Any other senior executive engaged in the field of public or
36 private finances or with experience with public pension systems.

37 8. A senior executive in insurance, banking, underwriting,
38 auditing, human resources or risk management.

39 D. All monies in the fund shall be deposited and held in a public
40 safety personnel retirement system depository. Monies in the fund shall
41 be disbursed from the depository separate and apart from all monies or
42 funds of this state and the agencies, instrumentalities and subdivisions
43 of this state, except that the board may commingle the assets of the fund
44 and the assets of all other plans entrusted to its management in one or
45 more group trusts, subject to the crediting of receipts and earnings and

1 charging of payments to the appropriate employer, system or plan. The
2 monies shall be secured by the depository in which they are deposited and
3 held to the same extent and in the same manner as required by the general
4 depository law of this state. For purposes of making the decision to
5 invest in securities owned by the fund or any plan or trust administered
6 by the board, the fund and assets of the plans and the plans' trusts are
7 subject to the sole management of the board for the purpose of this
8 article except that, on the board's election to invest in a particular
9 security or make a particular investment, the assets comprising the
10 security or investment may be chosen and managed by third parties approved
11 by the board. The board may invest in portfolios of securities chosen and
12 managed by a third party. The board's decision to invest in securities
13 such as mutual funds, commingled investment funds, exchange traded funds,
14 private equity or venture capital limited partnerships, real estate
15 limited partnerships or limited liability companies and real estate
16 investment trusts whose assets are chosen and managed by third parties
17 does not constitute an improper delegation of the board's investment
18 authority.

19 E. All contributions under this system and other retirement plans
20 that the board administers shall be forwarded to the board and shall be
21 held, invested and reinvested by the board as provided in this
22 article. All property and monies of the fund and other retirement plans
23 that the board administers, including income from investments and from all
24 other sources, shall be retained for the exclusive benefit of members, as
25 provided in the system and other retirement plans that the board
26 administers, and shall be used to pay benefits to members or their
27 beneficiaries or to pay expenses of operation and administration of the
28 system and fund and other retirement plans that the board administers.

29 F. The board shall have the full power in its sole discretion to
30 invest and reinvest, alter and change the monies accumulated under the
31 system and other retirement plans and trusts that the board administers as
32 provided in this article. In addition to its power to make investments
33 managed by others, the board may delegate the authority the board deems
34 necessary and prudent to investment management pursuant to section
35 38-848.03, as well as to the administrator, employed by the board pursuant
36 to subsection M, paragraph 6 of this section, and any assistant
37 administrators to invest the monies of the system and other retirement
38 plans and trusts that the board administers if the administrator,
39 investment management and any assistant administrators follow the
40 investment policies that are adopted by the board. The board may
41 commingle securities and monies of the fund, the elected officials'
42 retirement plan, the corrections officer retirement plan and other plans
43 or monies entrusted to its care, subject to the crediting of receipts and
44 earnings and charging of payments to the account of the appropriate
45 employer, system or plan. In making every investment, the board shall

1 exercise the judgment and care under the circumstances then prevailing
2 that persons of ordinary prudence, discretion and intelligence exercise in
3 the management of their own affairs, not in regard to speculation but in
4 regard to the permanent disposition of their funds, considering the
5 probable income from their funds as well as the probable safety of their
6 capital, provided:

7 1. That not more than eighty percent of the combined assets of the
8 system or other plans that the board manages shall be invested at any
9 given time in corporate stocks, based on cost value of such stocks
10 irrespective of capital appreciation.

11 2. That ~~no~~ NOT more than five percent of the combined assets of the
12 system or other plans that the board manages shall be invested in
13 corporate stock issued by any one corporation, other than corporate stock
14 issued by corporations chartered by the United States government or
15 corporate stock issued by a bank or insurance company.

16 3. That not more than five percent of the voting stock of any one
17 corporation shall be owned by the system and other plans that the board
18 administers, except that this limitation does not apply to membership
19 interests in limited liability companies.

20 4. That corporate stocks and exchange traded funds eligible for
21 direct purchase shall be restricted to stocks and exchange traded funds
22 that, except for bank stocks, insurance stocks, stocks acquired for
23 coinvestment in connection with the system's or the plans' or trusts'
24 commingled investments and interests in limited liability companies and
25 mutual funds, are either:

26 (a) Listed or approved on issuance for listing on an exchange
27 registered under the securities exchange act of 1934, as amended (15
28 United States Code sections 78a through 78pp).

29 (b) Designated or approved on notice of issuance for designation on
30 the national market system of a national securities association registered
31 under the securities exchange act of 1934, as amended (15 United States
32 Code sections 78a through 78pp).

33 (c) Listed or approved on issuance for listing on an exchange
34 registered under the laws of this state or any other state.

35 (d) Listed or approved on issuance for listing on an exchange of a
36 foreign country with which the United States is maintaining diplomatic
37 relations at the time of purchase, except that ~~no~~ NOT more than twenty
38 percent of the combined assets of the system and other plans that the
39 board manages shall be invested in foreign securities, based on the cost
40 value of the stocks irrespective of capital appreciation.

41 (e) An exchange traded fund that is recommended by the chief
42 investment officer of the system, that is registered under the investment
43 company act of 1940 (15 United States Code sections 80a-1 through 80a-64)
44 and that is both traded on a public exchange and based on a publicly
45 recognized index.

1 G. Notwithstanding any other law, the board shall not be required
2 to invest in any type of investment that is dictated or required by any
3 entity of the federal government and that is intended to fund economic
4 development projects, public works or social programs, but may consider
5 such economically targeted investments pursuant to its fiduciary
6 responsibility. The board, on behalf of the system and all other plans or
7 trusts the board administers, may invest in, lend monies to or guarantee
8 the repayment of monies by a limited liability company, limited
9 partnership, joint venture, partnership, limited liability partnership or
10 trust in which the system and plans or trusts have a financial interest,
11 whether the entity is closely held or publicly traded and that, in turn,
12 may be engaged in any lawful activity, including venture capital, private
13 equity, the ownership, development, management, improvement or operation
14 of real property and any improvements or businesses on real property or
15 the lending of monies.

16 H. Conference call meetings of the board that are held for
17 investment purposes only are not subject to chapter 3, article 3.1 of this
18 title, except that the board shall maintain minutes of these conference
19 call meetings and make them available for public inspection within
20 twenty-four hours after the meeting. The board shall review the minutes
21 of each conference call meeting and shall ratify all legal actions taken
22 during each conference call meeting at the next scheduled meeting of the
23 board.

24 I. The board shall not be held liable for the exercise of more than
25 ordinary care and prudence in the selection of investments and performance
26 of its duties under the system and shall not be limited to so-called
27 "legal investments for trustees", but all monies of the system and other
28 plans that the board administers shall be invested subject to all of the
29 conditions, limitations and restrictions imposed by law.

30 J. Except as provided in subsection F of this section, the board
31 may:

32 1. Invest and reinvest the principal and income of all assets that
33 the board manages without distinction between principal and income.

34 2. Sell, exchange, convey, transfer or otherwise dispose of any
35 investments made on behalf of the system or other plans the board
36 administers in the name of the system or plans by private contract or at
37 public auction.

38 3. Also:

39 (a) Vote on any stocks, bonds or other securities.

40 (b) Give general or special proxies or powers of attorney with or
41 without power of substitution.

42 (c) Exercise any conversion privileges, subscription rights or
43 other options and make any payments incidental to the exercise of the
44 conversion privileges, subscription rights or other options.

1 (d) Consent to or otherwise participate in corporate
2 reorganizations or other changes affecting corporate securities, delegate
3 discretionary powers and pay any assessments or charges in connection
4 therewith.

5 (e) Generally exercise any of the powers of an owner with respect
6 to stocks, bonds, securities or other investments held in or owned by the
7 system or other plans whose assets the board administers.

8 4. Make, execute, acknowledge and deliver any other instruments
9 that may be necessary or appropriate to carry out the powers granted in
10 this section.

11 5. Register any investment held by the system or other plans whose
12 assets the board administers in the name of the system or plan or in the
13 name of a nominee or trust.

14 6. At the expense of the system or other plans that the board
15 administers, enter into an agreement with any bank or banks for the
16 safekeeping and handling of securities and other investments coming into
17 the possession of the board. The agreement shall be entered into under
18 terms and conditions that secure the proper safeguarding, inventory,
19 withdrawal and handling of the securities and other investments. No
20 access to and no deposit or withdrawal of the securities from any place of
21 deposit selected by the board shall be permitted or made except as the
22 terms of the agreement may provide.

23 7. Appear before local boards and the courts of this state and
24 political subdivisions of this state through counsel or appointed
25 representative to protect the fund or the assets of other plans that the
26 board administers. The board is not responsible for the actions or
27 omissions of the local boards under this system but may seek a review or
28 rehearing of actions or omissions of local boards. The board does not
29 have a duty to review actions of the local boards but may do so in its
30 discretion in order to protect the fund. No limitations period precludes
31 the board or administrator from contesting, or requires the board or
32 administrator to implement or comply with, a local board decision that
33 violates the internal revenue code or that threatens to impair the tax
34 qualified status of the system or any plan administered by the board or
35 administrator.

36 8. Empower the fund administrator to take actions on behalf of the
37 board that are necessary for the protection and administration of the fund
38 or the assets of other plans that the board administers pursuant to the
39 guidelines of the board.

40 9. Do all acts, whether or not expressly authorized, that may be
41 deemed necessary or proper for the protection of the investments held in
42 the fund or owned by other plans or trusts that the board administers.

1 10. Settle threatened or actual litigation against any system or
2 plan that the board administers.

3 K. Investment expenses and operation and administrative expenses of
4 the board shall be accounted for separately and allocated against
5 investment income.

6 L. The board, as soon as possible within a period of six months
7 following the close of any fiscal year, shall transmit to the governor and
8 the legislature a comprehensive annual financial report on the operation
9 of the system and other plans that the board administers containing, among
10 other things:

11 1. A balance sheet.

12 2. A statement of income and expenditures for the year.

13 3. A report on an actuarial valuation of its assets and
14 liabilities.

15 4. A list of investments owned.

16 5. The total rate of return, yield on cost, and percent of cost to
17 market value of the fund and the assets of other plans that the board
18 administers.

19 6. Any other statistical and financial data that may be necessary
20 for the proper understanding of the financial condition of the system and
21 other plans that the board administers and the results of their
22 operations. A synopsis of the annual report shall be published for the
23 information of members of the system, the elected officials' retirement
24 plan or the corrections officer retirement plan.

25 7. An analysis of the long-term level percent of employer
26 contributions and compensation structure and whether the funding
27 methodology is sufficient to pay one hundred percent of the unfunded
28 accrued liability under the elected officials' retirement plan.

29 8. An estimate of the aggregate employer contribution rate for the
30 public safety personnel retirement system for the next ten fiscal years
31 and an estimate of the aggregate employer contribution rate for the
32 corrections officer retirement plan for the next ten fiscal years.

33 9. An estimate of the employer contribution rates for the next ten
34 fiscal years for each of the following employers within the public safety
35 personnel retirement system:

36 (a) Department of liquor licenses and control.

37 (b) Department of public safety.

38 (c) Northern Arizona university.

39 (d) University of Arizona.

40 (e) Arizona state university.

41 (f) Arizona game and fish department.

42 (g) Department of law.

43 (h) Department of emergency and military affairs.

44 (i) Arizona state parks ~~board~~ DIRECTOR.

- 1 10. An estimate of the employer contribution rates for the next ten
2 fiscal years for each of the following employers within the corrections
3 officer retirement plan:
- 4 (a) State department of corrections.
 - 5 (b) Department of public safety.
 - 6 (c) The judiciary.
 - 7 (d) Department of juvenile corrections.
- 8 11. An estimate of the aggregate fees paid for private equity
9 investments, including management fees and performance fees.
- 10 M. The board shall:
- 11 1. Maintain the accounts of the system and other plans that the
12 board administers and issue statements to each employer annually and to
13 each member who may request it.
 - 14 2. Report the results of the actuarial valuations to the local
15 boards and employers.
 - 16 3. Contract on a fee basis with an independent investment counsel
17 to advise the board in the investment management of the fund and assets of
18 other plans that the board administers and with an independent auditing
19 firm to audit the board's accounting.
 - 20 4. Permit the auditor general to make an annual audit and transmit
21 the results to the governor and the legislature.
 - 22 5. Contract on a fee basis with an actuary who shall make actuarial
23 valuations of the system and other plans that the board administers, be
24 the technical adviser of the board on matters regarding the operation of
25 the funds created by the provisions of the system, the elected officials'
26 retirement plan, the corrections officer retirement plan and the public
27 safety cancer insurance policy program and perform other duties required
28 in connection therewith. The actuary must be a member of a nationally
29 recognized association or society of actuaries.
 - 30 6. Employ, as administrator, a person, state department or other
31 body to serve at the pleasure of the board.
 - 32 7. Establish procedures and guidelines for contracts with
33 actuaries, auditors, investment counsel and legal counsel and for
34 safeguarding of securities.
- 35 N. The administrator, under the direction of the board, shall:
- 36 1. Administer this article.
 - 37 2. Be responsible for the recruitment, hiring and day-to-day
38 management of employees.
 - 39 3. Invest the monies of the system and other plans that the board
40 administers as the board deems necessary and prudent as provided in
41 subsections F and J of this section and subject to the investment policies
42 and fund objectives adopted by the board.

1 4. Establish and maintain an adequate system of accounts and
2 records for the system and other plans that the board administers, which
3 shall be integrated with the accounts, records and procedures of the
4 employers so that the system and other plans that the board administers
5 operates most effectively and at minimum expense and that duplication of
6 records and accounts is avoided.

7 5. In accordance with the board's governance policy and procedures
8 and the budget adopted by the board, hire such employees and services the
9 administrator deems necessary and prescribe their duties, including the
10 hiring of one or more assistant administrators to manage the system's
11 operations, investments and legal affairs.

12 6. Be responsible for income, the collection of the income and the
13 accuracy of all expenditures.

14 7. Recommend to the board annual contracts for the system's
15 actuary, auditor, investment counsel, legal counsel and safeguarding of
16 securities.

17 8. Perform additional duties and powers prescribed by the board and
18 delegated to the administrator.

19 O. The system is an independent trust fund and the board is not
20 subject to title 41, chapter 6. Contracts for goods and services approved
21 by the board are not subject to title 41, chapter 23. As an independent
22 trust fund whose assets are separate and apart from all other ~~monies~~ FUNDS
23 of this state, the system and the board are not subject to the
24 restrictions prescribed in section 35-154 or article IX, sections 5 and 8,
25 Constitution of Arizona. Loans, guarantees, investment management
26 agreements and investment contracts that are entered into by the board are
27 contracts memorializing obligations or interests in securities that the
28 board has concluded, after thorough due diligence, do not involve
29 investments in Sudan or Iran or otherwise provide support to terrorists or
30 in any way facilitate illegal immigration into the United States. These
31 contracts do not involve the procurement, supply or provision of goods,
32 equipment, labor, materials or services that would require the warranties
33 required by section 41-4401.

34 P. The board, the administrator, the assistant administrators and
35 all persons employed by them are subject to title 41, chapter 4, article
36 4. The administrator, assistant administrators and other employees of the
37 board are entitled to receive compensation pursuant to section 38-611.

38 Q. In consultation with the director of the department of
39 administration, the board may enter into employment agreements and
40 establish the terms of those agreements with persons holding any of the
41 following system positions:

- 42 1. Administrator.
- 43 2. Deputy or assistant administrator.
- 44 3. Chief investment officer.
- 45 4. Deputy chief investment officer.

1 5. Fiduciary or investment counsel.

2 R. The attorney general or an attorney approved by the attorney
3 general and paid by the fund shall be the attorney for the board and shall
4 represent the board in any legal proceeding or forum that the board deems
5 appropriate. The board, administrator, assistant administrators and
6 employees of the board are not personally liable for any acts done in
7 their official capacity in good faith reliance on the written opinions of
8 the board's attorney.

9 S. At least once in each five-year period after the effective date,
10 the actuary shall make an actuarial investigation into the mortality,
11 service and compensation experience of the members and beneficiaries of
12 the system and other plans that the board administers and shall make a
13 special valuation of the assets and liabilities of the monies of the
14 system and plans. Taking into account the results of the investigation
15 and special valuation, the board shall adopt for the system and other
16 plans that the board administers those mortality, service and other tables
17 deemed necessary.

18 T. On the basis of the tables the board adopts, the actuary shall
19 make a valuation of the assets and liabilities of the funds of the system
20 and other plans that the board administers not less frequently than every
21 year. By November 1 of each year the board shall provide a preliminary
22 report and by December 15 of each year provide a final report to the
23 governor, the speaker of the house of representatives and the president of
24 the senate on the contribution rate for the ensuing fiscal year.

25 U. Neither the board nor any member or employee of the board shall
26 directly or indirectly, for himself or as an agent, in any manner use the
27 monies or deposits of the fund except to make current and necessary
28 payments, nor shall the board or any member or employee become an endorser
29 or surety or in any manner an obligor for monies loaned by or borrowed
30 from the fund or the assets of any other plans that the board administers.

31 V. Financial or commercial information that is provided to the
32 board, employees of the board and attorneys of the board in connection
33 with investments in which the board has invested or investments the board
34 has considered for investment is confidential, proprietary and not a
35 public record if the information is information that would customarily not
36 be released to the public by the person or entity from whom the
37 information was obtained.

38 W. A person who is a dealer as defined in section 44-1801 and who
39 is involved in securities or investments related to the board's
40 investments is not eligible to serve on the board.

41 X. Beginning January 1, 2017, the public safety personnel
42 retirement system advisory committee is established and shall serve as a
43 liaison between the board and the members and employers of the system.
44 The committee shall be appointed by the chairperson of the board from
45 names submitted to the chairperson by associations representing law

1 enforcement, firefighters, state government, counties, cities and towns
2 and tribal governments. The committee shall select a chairperson from
3 among its members each calendar year. The committee shall consist of the
4 following ten members:

- 5 1. A member who is a law enforcement officer.
- 6 2. A member who is a firefighter.
- 7 3. A member of the elected officials' retirement plan.
- 8 4. A member of the corrections officer retirement plan.
- 9 5. A retiree from the public safety personnel retirement system.
- 10 6. A representative from a city or town in this state.
- 11 7. A representative from a county in this state.
- 12 8. A representative from a fire district in this state.
- 13 9. A representative from a state employer.
- 14 10. A representative from a tribal government located in this
15 state.

16 Sec. 22. Section 39-125, Arizona Revised Statutes, is amended to
17 read:

18 39-125. Information relating to location of archaeological
19 discoveries and places or objects included or
20 eligible for inclusion on the Arizona register of
21 historic places; confidentiality

22 Nothing in this chapter requires the disclosure of public records or
23 other matters in the office of any officer that relate to the location of
24 archaeological discoveries as described in section 41-841 or 41-844 or
25 places or objects that are included on or may qualify for inclusion on the
26 Arizona register of historic places as described in section ~~41-511.04~~
27 41-5603, subsection A, paragraph 9. An officer may decline to release
28 this information if the officer determines that the release of the
29 information creates a reasonable risk of vandalism, theft or other damage
30 to the archaeological discoveries or the places or objects that are
31 included on or may qualify for inclusion on the register. In making a
32 decision to disclose public records pursuant to this section, an officer
33 may consult with the director of the Arizona state museum or the state
34 historic preservation officer.

35 Sec. 23. Repeal

36 Section ~~41-151.02~~, Arizona Revised Statutes, is repealed.

37 Sec. 24. Section 41-151.20, Arizona Revised Statutes, is amended to
38 read:

39 41-151.20. Historical advisory commission; membership; terms;
40 expenses; duties; historic sites review
41 committee

42 A. ~~THE~~ THE historical advisory commission is established consisting
43 of members appointed by the director for staggered terms of three years
44 ending on July 1. The commission membership of not less than ten nor more
45 than twenty-five members shall consist of experts in the disciplines of

1 history, arts and culture, architecture and archaeology, professional
2 librarians and archivists or persons otherwise associated with the
3 interpretation, research, writing, preservation or teaching of this
4 state's heritage, including the Indian nations' history and heritage, and
5 the director of the Arizona historical society, the director of the state
6 museum, the director of the Arizona state parks ~~board~~, the director of the
7 office of tourism or the director's designee, the superintendent of public
8 instruction or the superintendent's designee and the state historic
9 preservation officer.

10 B. Members shall serve without compensation but those employed by
11 the state shall be reimbursed for travel and subsistence by the department
12 or agency they represent and those who are not employed by the state are
13 eligible for reimbursement of expenses by the commission pursuant to title
14 38, chapter 4, article 2.

15 C. The commission shall:

16 1. Advise the legislature and state agencies on matters relating to
17 this state's history and historic preservation.

18 2. Recommend measures to the legislature and state agencies to
19 coordinate or improve the effectiveness of activities of state agencies
20 and agencies of the political subdivisions of this state and other persons
21 relating to the interpretation, research, writing and teaching of this
22 state's history, heritage and historic preservation, including the Indian
23 nations' history, heritage and preservation.

24 3. Advise the legislature and state agencies on the dissemination
25 of information pertaining to activities relating to historic preservation
26 as provided in paragraph 2 **OF THIS SUBSECTION**.

27 4. Encourage, in cooperation with appropriate public and private
28 agencies, the Indian nations and other persons, training and education in
29 the field of the interpretation, research, writing and teaching of this
30 state's history, heritage and historic preservation.

31 5. Assist in the establishment of the Arizona register of heritage
32 agriculture as provided in section 3-162.

33 6. Submit annually on September 30 a report of the commission's
34 activities to the director for inclusion in the annual report of the state
35 library.

36 D. A historic sites review committee consisting of nine members is
37 established to serve as a standing committee of the historical advisory
38 commission. The state historic preservation officer shall appoint
39 committee members for staggered terms of three years ending on July 1.
40 The state historic preservation officer may appoint persons other than
41 commission members to serve on the committee and shall appoint at least
42 five persons who are professionals qualified in the disciplines of
43 history, prehistoric and historic archaeology, architectural history or
44 architecture. The committee shall select annually at the first meeting a
45 chairman who is a commission member. The chairman shall report on

1 committee activities at commission meetings. The committee shall assist
2 in the duties prescribed in this section and by federal law, review
3 nominations to the national and state historic registers, provide general
4 advice and guidance to the state historic preservation officer and perform
5 other duties as are necessary. On or before September 1 of each year, the
6 state historic preservation officer shall submit a report of the
7 committee's activities to the governor, the president of the senate, the
8 speaker of the house of representatives and the director, including
9 information prescribed in sections 41-862 and 41-881, AND PROVIDE A COPY
10 OF THIS REPORT TO THE SECRETARY OF STATE.

11 Sec. 25. Heading repeal

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

14 Sec. 26. Repeal

15 Sections 41-511, 41-511.01 and 41-511.14, Arizona Revised Statutes,
16 are repealed.

17 Sec. 27. Transfer and renumber

18 Title 41, chapter 3, article 1.1, Arizona Revised Statutes, is
19 transferred and renumbered for placement in title 41, chapter 55, article
20 1, Arizona Revised Statutes, as added by this act. The following sections
21 are transferred and renumbered for placement in title 41, chapter 55,
22 article 1:

	<u>Former Sections</u>	<u>New Sections</u>
23		
24	41-511.02	41-5601
25	41-511.03	41-5602
26	41-511.04	41-5603
27	41-511.05	41-5604
28	41-511.06	41-5605
29	41-511.07	41-5606
30	41-511.08	41-5607
31	41-511.09	41-5608
32	41-511.10	41-5609
33	41-511.11	41-5610
34	41-511.12	41-5611
35	41-511.13	41-5612
36	41-511.15	41-5613
37	41-511.16	41-5614
38	41-511.17	41-5615
39	41-511.18	41-5616
40	41-511.19	41-5617
41	41-511.20	41-5618
42	41-511.21	41-5619
43	41-511.22	41-5620
44	41-511.23	41-5621

1 route for the protection of geographic, natural flora or scenic values,
2 and established or designated as a parkway by the transportation board.

3 ~~6.~~ 5. "Scenic road" means a highway, street, road or route through
4 a scenic area that is established or designated as a scenic road by the
5 transportation board.

6 ~~4.~~ 6. "STATE parks board" means the Arizona state parks board.

7 7. "Transportation board" means the transportation board of the
8 department of transportation.

9 Sec. 30. Section 41-514, Arizona Revised Statutes, is amended to
10 read:

11 41-514. Administration; advisory committee; composition;
12 duties; designation of parkways and historic and
13 scenic roads

14 A. ~~There is established an~~ THE advisory committee to the director
15 IS ESTABLISHED consisting of eleven members. The directors of the STATE
16 parks board, the department of transportation, the office of tourism and
17 the historical society shall each appoint to the advisory committee one
18 employee from their respective agencies who serves at the pleasure of the
19 appointing authority. The tourism advisory council shall appoint one of
20 its members to the advisory committee who shall serve at the pleasure of
21 the council. The governor shall appoint, for a term of three years to
22 begin and end on June 30 or until the successor is appointed and
23 qualified, the remaining six members from the public, with ~~no~~ NOT more
24 than two public members from any one county. The governor may appoint a
25 public member to an additional term.

26 B. The advisory committee shall:

27 1. Review requests to establish or designate a highway or area as a
28 parkway or historic or scenic road.

29 2. Prepare recommendations to the transportation board as to those
30 highways or areas appropriate for establishment or designation as parkways
31 or historic or scenic roads.

32 3. Review established or designated parkways or historic or scenic
33 roads and recommend to the transportation board their continuation or
34 deletion as parkways or historic or scenic roads.

35 C. Any agency, group or individual may submit requests for
36 consideration by the advisory committee for the establishment or
37 designation of a highway or area as a parkway or historic or scenic road.

38 D. ~~Upon~~ ON recommendation from the advisory committee, the
39 transportation board may designate or establish a parkway or historic or
40 scenic road or delete a previous designation or establishment.

41 E. If the parkway or historic or scenic road to be established or
42 designated is not a state highway or route, the establishment or
43 designation is not effective unless the board or body exercising
44 jurisdiction over such road agrees to such establishment or designation.

1 F. Access roads intersecting parkways shall be spaced no closer
2 than one mile apart, except where a county, state or federal highway or
3 city street intersects the parkway. No public agency may approve a
4 subdivision bordering a parkway unless either:

5 1. The subdivision plat provides internal access to the one mile
6 access roads across the parkway and would accommodate access to such
7 access roads from unsubdivided adjoining lands.

8 2. The subdivision plat provides access to the general systems of
9 public roads and streets by some means other than through or across the
10 property devoted to parkway purposes.

11 G. Access roads across parkways ~~which~~ THAT are legally established
12 shall not be closed unless the owner of the land serviced by such access
13 road has agreed to such closure.

14 Sec. 31. Section 41-519, Arizona Revised Statutes, is amended to
15 read:

16 41-519. Yarnell Hill memorial

17 A. The Arizona state parks ~~board~~ DIRECTOR shall establish the
18 Yarnell Hill memorial state park subject to the following conditions:

19 1. The Yarnell Hill memorial site board recommends that the Arizona
20 state parks ~~board~~ DIRECTOR purchase the land for the memorial site.

21 2. The Arizona state parks ~~board~~ DIRECTOR purchases the Yarnell
22 Hill memorial site pursuant to title 37, chapter 2, article 3.

23 3. The Yarnell Hill memorial site board approves the design and
24 construction of the memorial.

25 4. The Yarnell Hill memorial site board secures the necessary
26 permission for individuals to visit the memorial.

27 B. The Arizona state parks ~~board~~ DIRECTOR may enter into an
28 intergovernmental agreement pursuant to title 11, chapter 7, article 3
29 with the county in which the park is located for the maintenance and
30 preservation of the Yarnell Hill memorial and access road.

31 Sec. 32. Section 41-519.02, Arizona Revised Statutes, is amended to
32 read:

33 41-519.02. Yarnell Hill memorial fund; exemption

34 A. The Yarnell Hill memorial fund is established consisting of
35 legislative appropriations and donations to the fund. The Yarnell Hill
36 memorial site board shall administer the fund. On notice from the Yarnell
37 Hill memorial site board, the state treasurer shall invest and divest
38 monies in the fund as provided by section 35-313, and monies earned from
39 investment shall be credited to the fund. The monies in the fund are
40 exempt from section 35-190 relating to lapsing of appropriations. The
41 monies in the fund and any additional donations to the fund must be used
42 for:

43 1. Purchasing land for the Yarnell Hill memorial.

44 2. Purchasing, designing and constructing the Yarnell Hill
45 memorial.

1 3. Maintaining and preserving the Yarnell Hill memorial and access
2 road.

3 4. Reimbursement of the Yarnell Hill memorial site board members'
4 travel expenses.

5 B. Beginning on January 1, 2017, the Arizona state parks ~~board~~
6 **DIRECTOR** shall administer the fund.

7 Sec. 33. Section 41-881, Arizona Revised Statutes, is amended to
8 read:

9 41-881. Historic property rehabilitation program;
10 administration; purposes; special projects; state
11 contribution; standards; protective covenant;
12 report

13 A. ~~A~~ **THE** state historic property rehabilitation program is
14 established to be administered by the Arizona state parks ~~board~~ **DIRECTOR**
15 through the state historic preservation officer. All decisions relating
16 to the program by the state historic preservation officer are subject to
17 approval by the Arizona state parks ~~board~~ **DIRECTOR**. The state historic
18 preservation officer may provide for the staff necessary for the operation
19 of the program.

20 B. Monies from appropriations may be allocated by the state
21 historic preservation officer for special project priorities established
22 annually by the state historic preservation officer.

23 C. Monies from appropriations for historic property rehabilitation
24 shall be used for the purpose of providing state monies up to an amount
25 equal to the amount of cash, materials and labor from any other source for
26 the rehabilitation of buildings, structures, archaeological sites and
27 objects all or part of which are publicly owned or owned by a nonprofit
28 entity and which are listed in the Arizona or national register of
29 historic places including a property listed individually or as a
30 contributing property within a historic district.

31 D. The state historic preservation officer shall establish
32 guidelines for application and selection of rehabilitation project
33 sponsors. The state historic preservation officer shall establish
34 annually the amount of cash, materials and labor committed by the sponsor
35 for determination of the amount of the state grant. The rehabilitation
36 work shall meet the United States secretary of the interior's standards
37 for rehabilitating historic properties or other appropriate rehabilitation
38 or archaeological standards as determined by the historical advisory
39 commission. The project sponsor shall sign and record a protective
40 covenant on the property in accordance with terms and for a period of time
41 based on the amount of the state grant as determined by the state historic
42 preservation officer.

43 E. The state historic preservation officer shall include the
44 activities of the historic property rehabilitation grants program in the
45 report to the governor and legislature required in section 41-151.20.

1 Sec. 34. Section 41-1005, Arizona Revised Statutes, is amended to
2 read:

3 41-1005. Exemptions

4 A. This chapter does not apply to any:

5 1. Rule that relates to the use of public works, including streets
6 and highways, under the jurisdiction of an agency if the effect of the
7 order is indicated to the public by means of signs or signals.

8 2. Order or rule of the Arizona game and fish commission that does
9 the following:

10 (a) Opens, closes or alters seasons or establishes bag or
11 possession limits for wildlife.

12 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

13 (c) Establishes a license classification, fee or application fee
14 pursuant to title 17, chapter 3, article 2.

15 3. Rule relating to section 28-641 or to any rule regulating motor
16 vehicle operation that relates to speed, parking, standing, stopping or
17 passing enacted pursuant to title 28, chapter 3.

18 4. Rule concerning only the internal management of an agency that
19 does not directly and substantially affect the procedural or substantive
20 rights or duties of any segment of the public.

21 5. Rule that only establishes specific prices to be charged for
22 particular goods or services sold by an agency.

23 6. Rule concerning only the physical servicing, maintenance or care
24 of agency owned or operated facilities or property.

25 7. Rule or substantive policy statement concerning inmates or
26 committed youths of a correctional or detention facility in secure custody
27 or patients admitted to a hospital, if made by the state department of
28 corrections, the department of juvenile corrections, the board of
29 executive clemency or the department of health services or a facility or
30 hospital under the jurisdiction of the state department of corrections,
31 the department of juvenile corrections or the department of health
32 services.

33 8. Form whose contents or substantive requirements are prescribed
34 by rule or statute, and instructions for the execution or use of the form.

35 9. Capped fee-for-service schedule adopted by the Arizona health
36 care cost containment system administration pursuant to title 36,
37 chapter 29.

38 10. Fees prescribed by section 6-125.

39 11. Order of the director of water resources adopting or modifying
40 a management plan pursuant to title 45, chapter 2, article 9.

41 12. Fees established under section 3-1086.

42 13. Fees established under sections 41-4010 and 41-4042.

43 14. Rule or other matter relating to agency contracts.

44 15. Fees established under section 32-2067 or 32-2132.

45 16. Rules made pursuant to section 5-111, subsection A.

- 1 17. Rules made by the Arizona state parks ~~board~~ DIRECTOR concerning
2 the operation of the Tonto natural bridge state park, the facilities
3 located in the Tonto natural bridge state park and the entrance fees to
4 the Tonto natural bridge state park.
- 5 18. Fees or charges established under section ~~41-511.05~~ 41-5604.
- 6 19. Emergency medical services protocols except as provided in
7 section 36-2205, subsection B.
- 8 20. Fee schedules established pursuant to section 36-3409.
- 9 21. Procedures of the state transportation board as prescribed in
10 section 28-7048.
- 11 22. Rules made by the state department of corrections.
- 12 23. Fees prescribed pursuant to section 32-1527.
- 13 24. Rules made by the department of economic security pursuant to
14 section 46-805.
- 15 25. Schedule of fees prescribed by section 23-908.
- 16 26. Procedure that is established pursuant to title 23, chapter 6,
17 article 6.
- 18 27. Rules, administrative policies, procedures and guidelines
19 adopted for any purpose by the Arizona commerce authority pursuant to
20 chapter 10 of this title if the authority provides, as appropriate under
21 the circumstances, for notice of an opportunity for comment on the
22 proposed rules, administrative policies, procedures and guidelines.
- 23 28. Rules made by a marketing commission or marketing committee
24 pursuant to section 3-414.
- 25 29. Administration of public assistance program monies authorized
26 for liabilities that are incurred for disasters declared pursuant to
27 sections 26-303 and 35-192.
- 28 30. User charges, tolls, fares, rents, advertising and sponsorship
29 charges, services charges or similar charges established pursuant to
30 section 28-7705.
- 31 31. Administration and implementation of the hospital assessment
32 pursuant to section 36-2901.08, except that the Arizona health care cost
33 containment system administration must provide notice and an opportunity
34 for public comment at least thirty days before establishing or
35 implementing the administration of the assessment.
- 36 32. Rules made by the Arizona department of agriculture to adopt
37 and implement the provisions of the federal milk ordinance as prescribed
38 by section 3-605.
- 39 B. Notwithstanding subsection A, paragraph 21 of this section, at
40 such time as the federal highway administration authorizes the
41 privatization of rest areas, the state transportation board shall make
42 rules governing the lease or license by the department of transportation
43 to a private entity for the purposes of privatization of a rest area.

1 C. Coincident with the making of a final rule pursuant to an
2 exemption from the applicability of this chapter under this section,
3 another statute or session law, the agency shall file a copy of the rule
4 with the secretary of state for publication pursuant to section 41-1012
5 and provide a copy to the council.

6 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
7 chapter do not apply to the Arizona board of regents and the institutions
8 under its jurisdiction, except that the Arizona board of regents shall
9 make policies or rules for the board and the institutions under its
10 jurisdiction that provide, as appropriate under the circumstances, for
11 notice of and opportunity for comment on the policies or rules proposed.

12 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
13 chapter do not apply to the Arizona state schools for the deaf and the
14 blind, except that the board of directors of all the state schools for the
15 deaf and the blind shall adopt policies for the board and the schools
16 under its jurisdiction that provide, as appropriate under the
17 circumstances, for notice of and opportunity for comment on the policies
18 proposed for adoption.

19 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
20 chapter do not apply to the state board of education, except that the
21 state board of education shall adopt policies or rules for the board and
22 the institutions under its jurisdiction that provide, as appropriate under
23 the circumstances, for notice of and opportunity for comment on the
24 policies or rules proposed for adoption. In order to implement or change
25 any rule, the state board of education shall provide at least two
26 opportunities for public comment.

27 Sec. 35. Section 41-1279.03, Arizona Revised Statutes, is amended
28 to read:

29 41-1279.03. Powers and duties

30 A. The auditor general shall:

31 1. Prepare an audit plan for approval by the committee and report
32 to the committee the results of each audit and investigation and other
33 reviews conducted by the auditor general.

34 2. Conduct or cause to be conducted at least biennial financial and
35 compliance audits of financial transactions and accounts kept by or for
36 all state agencies subject to the single audit act of 1984 (P.L. 98-502).
37 The audits shall be conducted in accordance with generally accepted
38 governmental auditing standards and accordingly shall include tests of the
39 accounting records and other auditing procedures as may be considered
40 necessary in the circumstances. The audits shall include the issuance of
41 suitable reports as required by the single audit act of 1984 (P.L. 98-502)
42 so the legislature, federal government and others will be informed as to
43 the adequacy of financial statements of the state in compliance with
44 generally accepted governmental accounting principles and to determine
45 whether the state has complied with laws and regulations that may have a

1 material effect on the financial statements and on major federal
2 assistance programs.

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

7 4. Perform special research requests, special audits and related
8 assignments as designated by the committee and conduct performance audits,
9 special audits, special research requests and investigations of any state
10 agency, whether created by the constitution or otherwise, as may be
11 requested by the committee.

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

15 6. In the tenth year and in each fifth year thereafter in which a
16 transportation excise tax is in effect in a county as provided in section
17 42-6106 or 42-6107, conduct a performance audit that:

18 (a) Reviews past expenditures and future planned expenditures of
19 the transportation excise revenues and determines the impact of the
20 expenditures in solving transportation problems within the county and, for
21 a transportation excise tax in effect in a county as provided in section
22 42-6107, determines whether the expenditures of the transportation excise
23 revenues comply with section 28-6392, subsection B.

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

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

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

43 8. Perform special audits designated pursuant to law if the auditor
44 general determines that there are adequate monies appropriated for the
45 auditor general to complete the audit. If the auditor general determines

1 the appropriated monies are inadequate, the auditor general shall notify
 2 the committee.

3 9. ~~Beginning on July 1, 2001,~~ Establish a school-wide audit team in
 4 the office of the auditor general to conduct performance audits and
 5 monitor school districts to determine the percentage of every dollar spent
 6 in the classroom by a school district. The performance audits shall
 7 determine whether school districts that receive monies from the Arizona
 8 structured English immersion fund established by section 15-756.04 and the
 9 statewide compensatory instruction fund established by section 15-756.11
 10 are in compliance with title 15, chapter 7, article 3.1. The auditor
 11 general shall determine, through random selection, the school districts to
 12 be audited each year, subject to review by the joint legislative audit
 13 committee. A school district that is subject to an audit pursuant to this
 14 paragraph shall notify the auditor general in writing as to whether the
 15 school district agrees or disagrees with the findings and recommendations
 16 of the audit and whether the school district will implement the findings
 17 and recommendations, implement modifications to the findings and
 18 recommendations or refuse to implement the findings and recommendations.
 19 The school district shall submit to the auditor general a written status
 20 report on the implementation of the audit findings and recommendations
 21 every six months for two years after an audit conducted pursuant to this
 22 paragraph. The auditor general shall review the school district's
 23 progress toward implementing the findings and recommendations of the audit
 24 every six months after receipt of the district's status report for two
 25 years. The auditor general may review a school district's progress beyond
 26 this two-year period for recommendations that have not yet been
 27 implemented by the school district. The auditor general shall provide a
 28 status report of these reviews to the joint legislative audit committee.
 29 The school district shall participate in any hearing scheduled during this
 30 review period by the joint legislative audit committee or by any other
 31 legislative committee designated by the joint legislative audit committee.

32 10. Annually review per diem compensation and reimbursement of
 33 expenses for employees of the state and members of a state board,
 34 commission, council or advisory committee by judgmentally selecting
 35 samples and evaluating the propriety of per diem compensation and expense
 36 reimbursements.

37 B. The auditor general may:

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

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

42 C. If approved by the committee the auditor general may charge a
 43 reasonable fee for the cost of performing audits or providing accounting
 44 services for auditing federal funds, special audits or special services
 45 requested by political subdivisions of the state. Monies collected

1 pursuant to this subsection shall be deposited in the audit services
2 revolving fund.

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

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

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

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

19 Sec. 36. Repeal

20 Section 41-2501, Arizona Revised Statutes, as amended by Laws 2016,
21 chapter 341, section 4, is repealed.

22 Sec. 37. Section 41-2501, Arizona Revised Statutes, as amended by
23 Laws 2016, chapter 214, section 2 and chapter 312, section 7, is amended
24 to read:

25 41-2501. Applicability

26 A. This chapter applies only to procurements initiated after
27 January 1, 1985 unless the parties agree to its application to
28 procurements initiated before that date.

29 B. This chapter applies to every expenditure of public monies,
30 including federal assistance monies except as otherwise specified in
31 section 41-2637, by this state, acting through a state governmental unit
32 as defined in this chapter, under any contract, except that this chapter
33 does not apply to either grants as defined in this chapter, or contracts
34 between this state and its political subdivisions or other governments,
35 except as provided in chapter 24 of this title and in article 10 of this
36 chapter. This chapter also applies to the disposal of state materials.
37 This chapter and rules adopted under this chapter do not prevent any state
38 governmental unit or political subdivision from complying with the terms
39 of any grant, gift, bequest or cooperative agreement.

40 C. All political subdivisions and other local public agencies of
41 this state may adopt all or any part of this chapter and the rules adopted
42 pursuant to this chapter.

43 D. Notwithstanding any other law, sections 41-2517 and 41-2546
44 apply to any agency as defined in section 41-1001, including the office of
45 the governor.

1 E. The Arizona board of regents and the legislative and judicial
2 branches of state government are not subject to this chapter except as
3 prescribed in subsection F of this section.

4 F. The Arizona board of regents and the judicial branch shall adopt
5 rules prescribing procurement policies and procedures for themselves and
6 institutions under their jurisdiction. The rules must be substantially
7 equivalent to the policies and procedures prescribed in this chapter.

8 G. The Arizona state lottery commission is exempt from this chapter
9 for procurement relating to the design and operation of the lottery or
10 purchase of lottery equipment, tickets and related materials. The
11 executive director of the Arizona state lottery commission shall adopt
12 rules substantially equivalent to the policies and procedures in this
13 chapter for procurement relating to the design and operation of the
14 lottery or purchase of lottery equipment, tickets or related materials.
15 All other procurement shall be as prescribed by this chapter.

16 H. The Arizona health care cost containment system administration
17 is exempt from this chapter for provider contracts pursuant to section
18 36-2904, subsection A and contracts for goods and services, including
19 program contractor contracts pursuant to title 36, chapter 29, articles 2
20 and 3 and contracts with regional behavioral health authorities pursuant
21 to title 36, chapter 34. All other procurement, including contracts for
22 the statewide administrator of the program pursuant to section 36-2903,
23 subsection B, shall be as prescribed by this chapter.

24 ~~I. Arizona industries for the blind is exempt from this chapter for~~
25 ~~purchases of finished goods from members of national industries for the~~
26 ~~blind and for purchases of raw materials for use in the manufacture of~~
27 ~~products for sale pursuant to section 41-1972. All other procurement~~
28 ~~shall be as prescribed by this chapter.~~

29 ~~I.~~ I. Arizona correctional industries is exempt from this chapter
30 for purchases of raw materials, components and supplies that are used in
31 the manufacture or production of goods or services for sale entered into
32 pursuant to section 41-1622. All other procurement shall be as prescribed
33 by this chapter.

34 ~~K.~~ J. The state transportation board and the director of the
35 department of transportation are exempt from this chapter other than
36 section 41-2586 for the procurement of construction or reconstruction,
37 including engineering services, of transportation facilities or highway
38 facilities and any other services that are directly related to land
39 titles, appraisals, real property acquisition, relocation, property
40 management or building facility design and construction for highway
41 development and that are required pursuant to title 28, chapter 20.

1 ~~K.~~ K. The Arizona highways magazine is exempt from this chapter
2 for contracts for the production, promotion, distribution and sale of the
3 magazine and related products and for contracts for sole source creative
4 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
5 All other procurement shall be as prescribed by this chapter.

6 ~~M.~~ L. The secretary of state is exempt from this chapter for
7 contracts entered into pursuant to section 41-1012 to publish and sell the
8 administrative code. All other procurement shall be as prescribed by this
9 chapter.

10 ~~N.~~ M. This chapter is not applicable to contracts for professional
11 witnesses if the purpose of such contracts is to provide for professional
12 services or testimony relating to an existing or probable judicial
13 proceeding in which this state is or may become a party or to contract for
14 special investigative services for law enforcement purposes.

15 ~~O.~~ N. The head of any state governmental unit, in relation to any
16 contract exempted by this section from this chapter, has the same
17 authority to adopt rules, procedures or policies as is delegated to the
18 director pursuant to this chapter.

19 ~~P.~~ O. Agreements negotiated by legal counsel representing this
20 state in settlement of litigation or threatened litigation are exempt from
21 this chapter.

22 ~~P.~~ P. This chapter is not applicable to contracts entered into by
23 the department of economic security:

24 1. With a provider licensed or certified by an agency of this state
25 to provide child day care services.

26 2. With area agencies on aging created pursuant to the older
27 Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
28 sections 3001 through 3058ff).

29 3. For services pursuant to title 36, chapter 29, article 2.

30 4. With an eligible entity as defined by Public Law 105-285,
31 section 673(1)(A)(i), as amended, for designated community services block
32 grant program monies and any other monies given to the eligible entity
33 that accomplishes the purpose of Public Law 105-285, section 672.

34 ~~R.~~ Q. The Arizona health care cost containment system may not
35 require that persons with whom it contracts follow this chapter for the
36 purposes of subcontracts entered into for the provision of the following:

37 1. Mental health services pursuant to section 36-189, subsection B.

38 2. Services for the seriously mentally ill pursuant to title 36,
39 chapter 5, article 10.

40 3. Drug and alcohol services pursuant to section 36-141.

41 ~~S.~~ R. The department of health services may not require that
42 persons with whom it contracts follow this chapter for the purpose of
43 subcontracts entered into for the provision of domestic violence services
44 pursuant to title 36, chapter 30, article 1.

1 ~~F.~~ S. The department of health services is exempt from this
2 chapter for contracts for services of physicians at the Arizona state
3 hospital.

4 ~~G.~~ T. Contracts for goods and services approved by the board of
5 trustees of the public safety personnel retirement system are exempt from
6 this chapter.

7 ~~H.~~ U. The Arizona department of agriculture is exempt from this
8 chapter with respect to contracts for private labor and equipment to
9 effect cotton or cotton stubble plow-up pursuant to rules adopted under
10 title 3, chapter 2, article 1.

11 ~~I.~~ V. The Arizona state parks ~~board~~ DIRECTOR is exempt from this
12 chapter for purchases of guest supplies and items for resale such as food,
13 linens, gift items, sundries, furniture, china, glassware and utensils for
14 the facilities located in the Tonto natural bridge state park.

15 ~~J.~~ W. The Arizona state parks ~~board~~ DIRECTOR is exempt from this
16 chapter for the purchase, production, promotion, distribution and sale of
17 publications, souvenirs and sundry items obtained and produced for resale.

18 ~~K.~~ X. The Arizona state schools for the deaf and the blind are
19 exempt from this chapter for the purchase of textbooks and when purchasing
20 products through a cooperative that is organized and operates in
21 accordance with state law if such products are not available on a
22 statewide contract and are related to the operation of the schools or are
23 products for which special discounts are offered for educational
24 institutions.

25 ~~L.~~ Y. Expenditures of monies in the morale, welfare and
26 recreational fund established by section 26-153 are exempt from this
27 chapter.

28 ~~AA.~~ Z. Notwithstanding section 41-2534, the director of the state
29 department of corrections may contract with local medical providers in
30 counties with a population of less than four hundred thousand persons for
31 the following purposes:

32 1. To acquire hospital and professional medical services for
33 inmates who are incarcerated in state department of corrections facilities
34 that are located in those counties.

35 2. To ensure the availability of emergency medical services to
36 inmates in all counties by contracting with the closest medical facility
37 that offers emergency treatment and stabilization.

38 ~~BB.~~ AA. The department of environmental quality is exempt from
39 this chapter for contracting for procurements relating to the water
40 quality assurance revolving fund program established pursuant to title 49,
41 chapter 2, article 5. The department shall engage in a source selection
42 process that is similar to the procedures prescribed by this chapter. The
43 department may contract for remedial actions with a single selection
44 process. The exclusive remedy for disputes or claims relating to
45 contracting pursuant to this subsection is as prescribed by article 9 of

1 this chapter and the rules adopted pursuant to that article. All other
2 procurement by the department shall be as prescribed by this chapter.

3 ~~CC.~~ BB. The motor vehicle division of the department of
4 transportation is exempt from this chapter for third-party authorizations
5 pursuant to title 28, chapter 13, only if all of the following conditions
6 exist:

7 1. The division does not pay any public monies to an authorized
8 third party.

9 2. Exclusivity is not granted to an authorized third party.

10 3. The director has complied with the requirements prescribed in
11 title 28, chapter 13 in selecting an authorized third party.

12 ~~DD.~~ CC. This section does not exempt third-party authorizations
13 pursuant to title 28, chapter 13 from any other applicable law.

14 ~~EE.~~ DD. The state forester is exempt from this chapter for
15 purchases and contracts relating to wildland fire suppression and
16 pre-positioning equipment resources and for other activities related to
17 combating wildland fires and other unplanned risk activities, including
18 fire, flood, earthquake, wind and hazardous material responses. All other
19 procurement by the state forester shall be as prescribed by this chapter.

20 ~~FF.~~ EE. The cotton research and protection council is exempt from
21 this chapter for procurements.

22 ~~GG. Expenditures of monies in the Arizona agricultural protection
23 fund established by section 3-3304 are exempt from this chapter.~~

24 ~~HH.~~ FF. The Arizona commerce authority is exempt from this
25 chapter, except article 10 for the purpose of cooperative purchases. The
26 authority shall adopt policies, procedures and practices, in consultation
27 with the department of administration, that are similar to and based on
28 the policies and procedures prescribed by this chapter for the purpose of
29 increased public confidence, fair and equitable treatment of all persons
30 engaged in the process and fostering broad competition while accomplishing
31 flexibility to achieve the authority's statutory requirements. The
32 authority shall make its policies, procedures and practices available to
33 the public. The authority may exempt specific expenditures from the
34 policies, procedures and practices.

35 ~~II.~~ GG. The Arizona exposition and state fair board is exempt from
36 this chapter for contracts for professional entertainment.

37 ~~JJ.~~ HH. This chapter does not apply to the purchase of water, gas
38 or electric utilities.

39 ~~KK.~~ II. This chapter does not apply to professional
40 certifications, professional memberships and conference registrations.

41 ~~LL.~~ JJ. The department of gaming is exempt from this chapter for
42 problem gambling treatment services contracts with licensed behavioral
43 health professionals.

44 ~~MM.~~ KK. This chapter does not apply to contracts for credit
45 reporting services.

1 ~~NN.~~ LL. This chapter does not apply to contracts entered into by
2 the department of child safety:

3 1. With a provider of family foster care pursuant to section 8-503.

4 2. With an eligible entity as defined by Public Law 105-285,
5 section 673(1)(A)(i), as amended, for designated community services block
6 grant program monies and any other monies given to the eligible entity
7 that accomplishes the purpose of Public Law 105-285, section 672.

8 ~~OO.~~ MM. This chapter does not apply to contracts entered into by
9 the department of economic security with a financial institution to serve
10 as a program manager and depository under section 46-903.

11 Sec. 38. Repeal

12 Sections 41-3022.18 and 41-3023.06, Arizona Revised Statutes, are
13 repealed.

14 Sec. 39. Title 41, Arizona Revised Statutes, is amended by adding
15 chapter 55, to read:

16 CHAPTER 55

17 STATE PARKS

18 ARTICLE 1. GENERAL PROVISIONS

19 Sec. 40. Section 41-5601, Arizona Revised Statutes, as transferred
20 and renumbered, is amended to read:

21 41-5601. State parks director; qualifications; state historic
22 preservation officer

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

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

26 ~~2.~~ 1. Serve at the pleasure of the governor.

27 ~~3.~~ 2. Be qualified by successful experience in administration in
28 business or in government.

29 ~~4.~~ 3. Have a knowledge of or training in the multiple use of lands
30 and the conservation of natural resources.

31 B. The governor shall designate a full-time employee ~~of the board~~
32 with professional competence and expertise in the field of historic
33 preservation as the "state historic preservation officer" to administer
34 the state historic preservation program.

35 Sec. 41. Section 41-5602, Arizona Revised Statutes, as transferred
36 and renumbered, is amended to read:

37 41-5602. Purposes; objectives

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

1 Sec. 42. Section 41-5603, Arizona Revised Statutes, as transferred
2 and renumbered, is amended to read:

3 41-5603. Duties; director; partnership fund; state historic
4 preservation officer; definition

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

6 1. Select areas of scenic beauty, natural features and historical
7 properties now owned by the state, except properties in the care and
8 custody of other agencies by virtue of agreement with the state or as
9 established by law, for management, operation and further development as
10 state parks and historical monuments.

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

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

18 4. Investigate federally owned lands to determine their
19 desirability for use as state parks, monuments or trails and negotiate
20 with the federal agency having jurisdiction over such lands for the
21 transfer of title to ~~the Arizona state parks board~~ THIS STATE.

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

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

29 7. Plan, coordinate and administer a state historic preservation
30 program, including the program established pursuant to the national
31 historic preservation act of 1966, as amended.

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

35 9. Keep and administer an Arizona register of historic places
36 composed of districts, sites, buildings, structures and objects
37 significant in this state's history, architecture, archaeology,
38 engineering and culture that meet criteria that the ~~board~~ DIRECTOR
39 establishes or that are listed on the national register of historic
40 places. Entry on the register requires nomination by the state historic
41 preservation officer and owner notification in accordance with rules that
42 the ~~board~~ DIRECTOR adopts.

43 10. Accept, on behalf of the state historic preservation officer,
44 applications for classification as historic property received from the
45 county assessor.

- 1 11. Adopt rules with regard to classification of historic property
2 including:
- 3 (a) Minimum maintenance standards for the property.
4 (b) Requirements for documentation.
- 5 12. Monitor the performance of state agencies in the management of
6 historic properties as provided in chapter 4.2 of this title.
- 7 13. Advise the governor on historic preservation matters.
- 8 14. Plan and administer a statewide parks and recreation program,
9 including the programs established pursuant to the land and water
10 conservation fund act of 1965 (P.L. 88-578; 78 Stat. 897).
- 11 15. Prepare, maintain and update a comprehensive plan for the
12 development of the outdoor recreation resources of this state.
- 13 16. Initiate and carry out studies to determine the recreational
14 needs of this state and the counties, cities and towns.
- 15 17. Coordinate recreational plans and developments of federal,
16 state, county, city, town and private agencies.
- 17 18. Receive applications for projects to be funded through the land
18 and water conservation fund and the state lake improvement fund on behalf
19 of the Arizona outdoor recreation coordinating commission.
- 20 19. Provide staff support to the Arizona outdoor recreation
21 coordinating commission.
- 22 20. Maintain a statewide off-highway vehicle recreational plan.
23 The plan shall be updated at least once every five years and shall be used
24 by all participating agencies to guide distribution and expenditure of
25 monies under section 28-1176. The plan shall be open to public input and
26 shall include the priority recommendations for allocating available monies
27 in the off-highway vehicle recreation fund established by section 28-1176.
- 28 21. Collaborate with the state forester in presentations to
29 legislative committees on issues associated with forest management and
30 wildfire prevention and suppression as provided by section 37-1302,
31 subsection B.
- 32 B. Notwithstanding section ~~41-511.21~~ 41-5619, the ~~board~~ DIRECTOR
33 may annually collect and expend monies to plan and administer the land and
34 water conservation fund program, in conjunction with other administrative
35 tasks and recreation plans, as a surcharge to subgrantees in a
36 proportionate amount, not to exceed ten percent, of the cost of each
37 project. The surcharge monies shall be set aside to fund staff support
38 for the land and water conservation fund program.
- 39 C. A partnership fund is established consisting of monies received
40 pursuant to subsection B of this section, monies received from
41 intergovernmental agreements pursuant to title 11, chapter 7, article 3
42 and monies received pursuant to section 35-148. The ~~board~~ DIRECTOR shall
43 administer the fund monies as a continuing appropriation for the purposes
44 provided in these sections.

1 D. The state historic preservation officer shall:

2 1. In cooperation with federal and state agencies, political
3 subdivisions of this state and other persons, direct and conduct a
4 comprehensive statewide survey of historic properties and historic private
5 burial sites and historic private cemeteries and maintain inventories of
6 historic properties and historic private burial sites and historic private
7 cemeteries.

8 2. Identify and nominate eligible properties to the national
9 register of historic places and the Arizona register of historic places
10 and otherwise administer applications for listing historic properties on
11 the national and state registers.

12 3. Administer grants-in-aid for historic preservation projects
13 within this state.

14 4. Advise, assist and monitor, as appropriate, federal and state
15 agencies and political subdivisions of this state in carrying out their
16 historic preservation responsibilities and cooperate with federal and
17 state agencies, political subdivisions of this state and other persons to
18 ensure that historic properties and historic private burial sites and
19 historic private cemeteries are taken into consideration at all levels of
20 planning and development.

21 5. Develop and make available information concerning professional
22 methods and techniques for the preservation of historic properties and
23 historic private burial sites and historic private cemeteries.

24 6. Make recommendations on the certification, classification and
25 eligibility of historic properties and historic private burial sites and
26 historic private cemeteries for property tax and investment tax
27 incentives.

28 E. The state historic preservation officer may:

29 1. Collect and receive information for historic private burial
30 sites and historic private cemeteries from public and private sources and
31 maintain a record of the existence and location of such burial sites and
32 cemeteries located on private or public lands in this state.

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

36 3. Make the records available to assist in locating the families of
37 persons buried in the historic private burial sites and historic private
38 cemeteries.

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

1 Sec. 43. Section 41-5604, Arizona Revised Statutes, as transferred
2 and renumbered, is amended to read:

3 41-5604. Powers; compensation

4 The ~~board may~~ DIRECTOR, subject to legislative budgetary control
5 within the limitations of this article, MAY:

6 1. Subject to chapter 4, article 4 and, as applicable, article 5 of
7 this title, employ, determine conditions of employment and specify the
8 duties of such administrative, secretarial and clerical workers and
9 technical employees such as naturalists, archaeologists, landscape
10 architects, rangers, park supervisors, caretakers, guides, skilled
11 tradesmen, laborers, historians and engineers, and contract to have the
12 services of such advisors or consultants as are reasonably necessary or
13 desirable to enable ~~it~~ THE DIRECTOR to perform adequately ~~its~~ THE
14 DIRECTOR'S duties. The compensation of the director and of all workers
15 and employees shall be as determined pursuant to section 38-611.

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

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

33 4. Sell, lease, exchange or otherwise dispose of real and personal
34 property. Any disposition of real property shall be submitted for
35 approval of the joint committee on capital review. The disposition of
36 office equipment, furnishings, vehicles and other materials is subject to
37 chapter 23, article 8 of this title. The disposition of artifacts and
38 other property of scientific, archaeological, historical or sociological
39 interest is exempt from chapter 23, article 8 of this title, but the ~~board~~
40 DIRECTOR shall consult with the Arizona historical society in disposing of
41 property of historical interest.

42 5. Construct at state parks and monuments necessary sanitary and
43 other facilities including picnic tables, fireplaces, campsites, service
44 buildings and maintenance shops, and contract with private persons for the

1 construction and operation of cabins, hotels and restaurants, and like
 2 establishments.

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

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

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

29 9. Make reasonable rules for the protection of, and maintain and
 30 keep the peace in, state parks and monuments. Such rules adopted by the
 31 ~~parks-board~~ DIRECTOR are subject to review and approval by the
 32 legislature. After a ~~board~~ DIRECTOR'S rule has been finally adopted
 33 pursuant to chapter 6 of this title, the ~~board~~ DIRECTOR shall immediately
 34 forward a certified copy of the rule to the legislature. The legislature
 35 may review and, by concurrent resolution, approve, disapprove or modify
 36 such rule. However, such rule shall be given full force and effect
 37 pending legislative review. If no concurrent resolution is passed by the
 38 legislature with respect to the rule within one year following receipt of
 39 a certified copy of the rule, the rule shall be deemed to have been
 40 approved by the legislature. If the legislature disapproves a rule or a
 41 section of a rule, the ~~board~~ DIRECTOR shall immediately discontinue the
 42 use of any procedure, action or proceeding authorized or required by the
 43 rule or section of the rule. If the legislature modifies a rule or
 44 section of a rule, the ~~board~~ DIRECTOR shall immediately suspend the use of
 45 any procedure, action or proceeding authorized or required by the rule or

1 section of the rule until the modified rule has been adopted in accordance
2 with chapter 6 of this title, after which all proceedings pursuant to the
3 rule shall be conducted in accordance with the modified version of the
4 rule.

5 10. Furnish advisory services to city and county park or recreation
6 boards and organizations.

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

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

15 13. In consultation with the conservation acquisition board,
16 develop a grant program and adopt guidelines for allocating and obligating
17 monies in the land conservation fund pursuant to section ~~41-511.23~~
18 41-5621. The guidelines shall include consideration of both qualification
19 issues relating to applicants for grants and issues relating to the
20 proposed use of the grant money in a manner consistent with existing
21 municipal, county and regional land use plans.

22 Sec. 44. Section 41-5605, Arizona Revised Statutes, as transferred
23 and renumbered, is amended to read:

24 41-5605. Eminent domain

25 A. In acquiring property by eminent domain, no water, watering
26 facilities or water right of any person shall be taken separate and apart
27 from the land served by such water, watering facilities or water rights,
28 without fair and adequate compensation to be awarded for such land and
29 water, watering facilities or water rights.

30 B. In seeking to establish a state park or monument on state or
31 federally owned land, the ~~board~~ DIRECTOR shall not request the termination
32 or cancellation of any valid lease, permit, government land entry, mining
33 claim, privilege or other right unless fair and adequate compensation is
34 awarded to the holder of such lease, permit, privilege or other right. If
35 the amount of the compensation cannot be determined by agreement, the
36 ~~board~~ DIRECTOR may proceed to cause such lease, permit, privilege,
37 government land entry, mining claim or right to be terminated or cancelled
38 if such can be lawfully done by the state or federal agency having
39 jurisdiction thereof, or the ~~board~~ DIRECTOR may proceed to acquire the
40 same by eminent domain. In any event the holder of such lease, permit,
41 privilege, government land entry, mining claim or right shall receive fair
42 and adequate compensation for the cost of and damage to his property
43 interest or loss of his lease, privilege, government land entry, mining
44 claim or permit. In determining the amount of such compensation,
45 consideration shall be given to any preferential rights of renewal and

1 other preferential rights of the owner or holder thereof, the damage to
2 the remaining land, damage by access roads, and damage to the rights and
3 operation ~~which~~ THAT such owner may have and all other relevant factors.

4 Sec. 45. Section 41-5606, Arizona Revised Statutes, as transferred
5 and renumbered, is amended to read:

6 41-5606. Parks and monuments on state lands

7 The ~~board~~ DIRECTOR may take over state lands and improvements
8 thereon pursuant to ~~article 9, chapter 2,~~ title 37, CHAPTER 2, ARTICLE 9,
9 except that the application to and approval by the governor shall not be
10 required if the legislature has created the park or monument, and in
11 determining the amount of compensation to be received by a lessee or
12 permittee all of the elements of damage set forth in ~~subsection B of~~
13 section ~~41-511.06~~ 41-5605, SUBSECTION B shall be considered.

14 Sec. 46. Section 41-5607, Arizona Revised Statutes, as transferred
15 and renumbered, is amended to read:

16 41-5607. Judicial review

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

21 Sec. 47. Section 41-5608, Arizona Revised Statutes, as transferred
22 and renumbered, is amended to read:

23 41-5608. Park ranger law enforcement officers; training

24 The ~~board~~ DIRECTOR may appoint one or more of ~~its officers or THE~~
25 DIRECTOR'S employees as a park ranger law enforcement officer. Any person
26 so appointed shall have the minimum qualifications established for peace
27 officers and police officers pursuant to section 41-1822. When so
28 appointed, the ~~officer or~~ employee shall have the authority and power of a
29 peace officer with the primary duties of enforcement of this article and
30 enforcement of rules adopted pursuant to this article for the protection
31 of the parks and monuments against damage and for the preservation of
32 peace in the parks and monuments.

33 Sec. 48. Section 41-5609, Arizona Revised Statutes, as transferred
34 and renumbered, is amended to read:

35 41-5609. Rejection of gifts

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

39 Sec. 49. Section 41-5610, Arizona Revised Statutes, as transferred
40 and renumbered, is amended to read:

41 41-5610. Disposition of gifts; state parks donations fund

42 Monies from unconditional gifts, donations, bequests and
43 endowments, ~~which~~ THAT are not specifically designated to the state parks
44 revenue fund, shall be deposited, pursuant to sections 35-146 and 35-147,
45 by the ~~board~~ DIRECTOR in a fund to be known as the state parks donations

1 fund, for use by the ~~board~~ DIRECTOR in accomplishing ~~its~~ THE DIRECTOR'S
2 objectives and duties. All expenditures from the state parks donations
3 fund shall be made ~~upon~~ ON claims duly itemized, verified and approved by
4 the ~~Arizona state parks board~~ DIRECTOR.

5 Sec. 50. Section 41-5611, Arizona Revised Statutes, as transferred
6 and renumbered, is amended to read:

7 41-5611. Annual report

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

12 Sec. 51. Section 41-5612, Arizona Revised Statutes, as transferred
13 and renumbered, is amended to read:

14 41-5612. Violations; classification

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

18 B. It is unlawful for a person to violate any provision of this
19 article or rule or regulation prescribed under ~~the provisions of~~ this
20 article.

21 C. Unless a different or other penalty or punishment is
22 specifically prescribed, the person who violates any provisions of this
23 article or who violates or fails to comply with a lawful order, rule or
24 regulation of the ~~Arizona state parks board~~ DIRECTOR is guilty of a class
25 2 misdemeanor.

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

29 Sec. 52. Section 41-5613, Arizona Revised Statutes, as transferred
30 and renumbered, is amended to read:

31 41-5613. Arizona trail; fund; definition

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

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

36 1. Participate in planning, establishing, developing, maintaining
37 and preserving the trail.

38 2. Provide information to any person involved in planning,
39 establishing, developing or maintaining the trail regarding the design,
40 corridors, signs, interpretive markers highlighting special areas and
41 historic uses and any other aspect of the trail to promote uniformity of
42 development, maintenance and preservation.

43 3. Encourage counties, cities and towns to adapt their general and
44 comprehensive plans to preserve the trail right-of-way and to acquire

1 property or legal interests in property to ensure the trail's continued
2 existence in a permanent location.

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

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

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

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

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

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

22 2. Support the designation of the trail as a part of the national
23 trail system.

24 3. Accommodate facilities for the safe trail crossing of highway
25 rights-of-way.

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

30 E. The Arizona trail fund is established consisting of legislative
31 appropriations and donations to the fund. The ~~Arizona state parks board~~
32 DIRECTOR shall administer the fund. The monies in the fund are
33 continuously appropriated for the sole purpose of maintaining and
34 preserving the Arizona trail.

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

38 Sec. 53. Section 41-5614, Arizona Revised Statutes, as transferred
39 and renumbered, is amended to read:

40 41-5614. ~~Rock climbing state park; fees, gifts and donations;~~
41 disposition

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

44 1. The conveyance of approximately two thousand acres of bureau of
45 land management land by the United States secretary of the interior,

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

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

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

22 B. Notwithstanding the provisions of section ~~41-511.05~~ 41-5604,
23 paragraph 3, additions to the rock climbing state park, up to five hundred
24 acres, shall not require additional legislative authorization.

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

30 D. The ~~Arizona state parks board~~ DIRECTOR may charge user fees and
31 concession fees and collect monies from other revenue generating
32 activities. The ~~state parks board~~ DIRECTOR shall deposit, pursuant to
33 sections 35-146 and 35-147, all monies collected in the state parks
34 revenue fund established by section ~~41-511.21~~ 41-5619.

35 E. The ~~Arizona state parks board~~ DIRECTOR may accept gifts and
36 donations toward the acquisition, management and operations of the rock
37 climbing state park. The ~~Arizona state parks board~~ DIRECTOR shall
38 deposit, pursuant to sections 35-146 and 35-147, any gifts or donations
39 collected in the state parks donations fund established by section
40 ~~41-511.11~~ 41-5610 and account for these monies separately.

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

43 G. Nothing in the establishment of the rock climbing state park
44 shall be construed to impose any new or additional management
45 requirements, restrictions or regulations under the laws of this state on

1 the permitting, management of or the conduct of activities on any lands
2 outside the state park, or to impose restrictions on these activities in
3 addition to those applicable to the same land within and outside the state
4 park, before its designation as a state park.

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

9 Sec. 54. Section 41-5615, Arizona Revised Statutes, as transferred
10 and renumbered, is amended to read:

11 41-5615. Sustainable state parks and roads fund

12 The sustainable state parks and roads fund is established consisting
13 of monies received pursuant to section 43-622. The ~~Arizona state parks~~
14 ~~board~~ DIRECTOR shall administer the fund. Monies in the fund are
15 continuously appropriated. The ~~Arizona state parks board~~ DIRECTOR shall
16 use the monies in the fund to operate, maintain and make capital
17 improvements to buildings, roads, parking lots, highway entrances and any
18 related structure used to operate state parks.

19 Sec. 55. Section 41-5616, Arizona Revised Statutes, as transferred
20 and renumbered, is amended to read:

21 41-5616. Spur Cross Ranch state park

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

24 1. A purchase and sale agreement shall be executed between ~~the~~
25 ~~Arizona state parks board~~ THIS STATE and at least one owner of Spur Cross
26 Ranch as described in subsection D of this section. The purchase and sale
27 agreement shall be for property that is suitable for a state park
28 consistent with the mission of the ~~Arizona state parks board~~ DIRECTOR.
29 The purchase and sale agreement shall be based on an appraisal made by an
30 appraiser who is certified by a nationally recognized appraisal
31 organization. The purchase and sale agreement shall be for a price no
32 greater than the appraised value, but can and may be for a price less than
33 the appraised value.

34 2. An intergovernmental agreement shall be executed between ~~the~~
35 ~~Arizona state parks board~~ THIS STATE and a county with a population of
36 more than one million two hundred thousand persons ~~according to the most~~
37 ~~recent United States decennial census~~. That county shall provide half of
38 the purchase price of the portion of Spur Cross Ranch as determined in the
39 purchase and sale agreement between ~~the Arizona state parks board~~ THIS
40 STATE and at least one owner of Spur Cross Ranch.

41 3. An intergovernmental agreement shall be executed between ~~the~~
42 ~~Arizona state parks board~~ THIS STATE and a county with a population of
43 more than one million two hundred thousand persons ~~according to the most~~
44 ~~recent United States decennial census~~ or with cities or towns or with both

1 and that specifies the obligations of the parties to manage and operate
2 Spur Cross Ranch state park.

3 B. If funding is provided for the acquisition of Spur Cross Ranch
4 other than from sources administered by an agency of this state or a
5 county with a population of more than one million two hundred thousand
6 persons ~~according to the most recent United States decennial census~~, the
7 obligation of this state and that county is reduced proportionately by the
8 amount of other funding sources. The use of federal monies for any
9 portion of the costs of acquisition of the Spur Cross Ranch shall not
10 affect this state's jurisdiction over the acquisition, operation or
11 maintenance of the Spur Cross Ranch as a state park.

12 C. The ~~Arizona state parks board~~ DIRECTOR may accept gifts and
13 donations toward the acquisition, management and operation of Spur Cross
14 Ranch state park. Any gifts and donations collected shall be deposited in
15 the state parks donations fund established by section ~~41-511.11~~ 41-5610
16 and accounted for separately. The ~~Arizona state parks board~~ DIRECTOR
17 shall ensure public access to the Spur Cross Ranch state park.

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

20 1. Lots 3, 4, 5 and 6; the south half of the northwest quarter; the
21 northwest quarter of the southwest quarter; and the southeast quarter of
22 the northeast quarter, all lying in and being a part of section 4,
23 township 6 north, range 4 east of the Gila and salt river base and
24 meridian, Maricopa county, Arizona.

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

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

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

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

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

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

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

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

4 10. The south half of the southeast quarter of section 7, township
5 6 north, range 4 east of the Gila and salt river base and meridian,
6 Maricopa county, Arizona.

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

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

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

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

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

27 Sec. 56. Section 41-5617, Arizona Revised Statutes, as transferred
28 and renumbered, is amended to read:

29 41-5617. Catalina state park

30 A. ~~There is established~~ The Catalina state park ~~which IS~~
31 **ESTABLISHED AND** may consist of all or a part of the following described
32 property:

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

1 89, Section 18, all in Township 12 South, Range 14 East, of the Gila and
2 Salt River Base and Meridian, Pima County, Arizona.

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

8 C. Notwithstanding the provisions of title 37, chapter 2, article
9 14, relating to the exchange of public lands, the state land commissioner
10 may obtain any of the land described in subsection A OF THIS SECTION by
11 trade of state land of equal value within Pima or Pinal county.

12 Sec. 57. Section 41-5618, Arizona Revised Statutes, as transferred
13 and renumbered, is amended to read:

14 41-5618. Authorized emergency use of water from Lake
15 Patagonia by city of Nogales

16 A. Notwithstanding any provision of law to the contrary, whenever
17 an emergency exists, as determined by the mayor of the city of Nogales,
18 Arizona, and concurred in by the director of water resources, that there
19 is not sufficient water for use by ~~such~~ THE city and that there is no
20 other water available from any other practical source, ~~then~~ the ~~state~~
21 ~~parks board shall~~ DIRECTOR, ~~upon~~ ON request by ~~such~~ THE mayor, SHALL
22 authorize ~~such~~ THE city to remove from Lake Patagonia such amount of water
23 as needed to supply the city with sufficient water. The city of Nogales
24 shall provide the means for transferring such water.

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

29 Sec. 58. Section 41-5619, Arizona Revised Statutes, as transferred
30 and renumbered, is amended to read:

31 41-5619. State parks revenue fund; purpose; exemption

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

33 1. Monies received from the sale of park posters, park postcards,
34 books, souvenirs and sundry items pursuant to section ~~41-511.05~~ 41-5604,
35 paragraph 4.

36 2. Monies appropriated by the legislature for the purpose of
37 enhancing state parks.

38 3. Unconditional gifts and donations specifically designated to the
39 revenue fund, except for unconditional gifts, donations, bequests and
40 endowments deposited in the state parks donations fund pursuant to section
41 ~~41-511.11~~ 41-5610.

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

44 5. Surcharges on park reservations.

45 6. Sale of park assets.

1 B. The monies in the fund are subject to legislative appropriation:
2 1. For the operation and maintenance of the state park system.
3 2. For use by the ~~board~~ DIRECTOR to acquire and develop real
4 property and improvements as state parks consistent with the purposes and
5 objectives prescribed in section ~~41-511.03~~ 41-5602, subject to review by
6 the joint committee on capital review.
7 C. Monies in the fund shall not be appropriated in a manner that is
8 inconsistent with restrictions in the lease or deed to the property.
9 D. The ~~board~~ DIRECTOR may collect monies as a surcharge on park
10 reservations and shall determine the surcharge rate as provided in section
11 ~~41-511.05~~ 41-5604, paragraph 8 after considering the costs to plan and
12 administer the reservation system.
13 E. On notice from the ~~board~~ DIRECTOR, the state treasurer shall
14 invest and divest the monies in the state parks revenue fund as provided
15 by section 35-313, and monies earned from investment shall be credited to
16 the fund.
17 F. Monies in the state parks revenue fund are exempt from section
18 35-190, relating to lapsing of appropriations. The purposes for which
19 monies were expended during the preceding fiscal year shall be delineated
20 in the agency's annual report pursuant to section ~~41-511.12~~ 41-5611.
21 Sec. 59. Section 41-5620, Arizona Revised Statutes, as transferred
22 and renumbered, is amended to read:
23 41-5620. Trail systems plan; deposit of monies; definition
24 A. The ~~board~~ DIRECTOR shall prepare a trail systems plan that:
25 1. Identifies on a statewide basis the general location and extent
26 of significant trail routes, areas and complementary facilities.
27 2. Assesses the physical condition of the systems.
28 3. Assesses usage of trails.
29 4. Describes specific policies, standards and criteria to be
30 followed in adopting, developing, operating and maintaining trails in the
31 systems.
32 5. Recommends to federal, state, regional, local and tribal
33 agencies and to the private sector actions ~~which~~ THAT will enhance the
34 trail systems.
35 B. The plan shall be revised at least once every five years.
36 C. Monies from gifts, grants and other donations received by the
37 ~~board~~ DIRECTOR for the trail systems plan shall be deposited in a separate
38 account of the state parks donations fund established by section ~~41-511.11~~
39 41-5610 and may be allocated by the ~~board~~ DIRECTOR for special trail
40 project priorities established annually by the ~~board~~ DIRECTOR.
41 D. Monies deposited in the state parks donations fund account shall
42 be used for providing state monies up to an amount equal to the amount of
43 cash, materials and labor from any other source for the planning,
44 acquisition, maintenance or operation of the trails and for administrative
45 expenses of not more than twenty ~~percent~~ PERCENT of total account monies.

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

3 Sec. 60. Section 41-5621, Arizona Revised Statutes, as transferred
4 and renumbered, is amended to read:

5 41-5621. Conservation acquisition board; land conservation
6 fund; conservation donation and public
7 conservation accounts; livestock and crop
8 conservation fund

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

13 1. One state land lessee.

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

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

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

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

22 6. One representative of a conservation organization.

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

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

28 C. The conservation acquisition board shall:

29 1. Solicit donations to the conservation donation account.

30 2. Consult with entities such as private land trusts, state land
31 lessees, the state land department, the Arizona state parks ~~board~~ DIRECTOR
32 and others to identify conservation areas that are reclassified pursuant
33 to section 37-312 and that are suitable for funding.

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

36 D. The land conservation fund is established consisting of the
37 following accounts:

38 1. The conservation donation account consisting of monies received
39 as donations. Donations to the account are subject to any lawful
40 conditions the donor may prescribe, including any conditions on the use of
41 the money or reversion to the donor. Monies in the account are exempt
42 from the provisions of section 35-190 relating to lapsing of
43 appropriations.

1 2. The public conservation account consisting of monies
2 appropriated to the account from the state general fund and monies from
3 any other designated source. In fiscal years 2000-2001 through 2010-2011,
4 the sum of twenty million dollars is appropriated each fiscal year from
5 the state general fund to the public conservation account in the land
6 conservation fund for the purposes of this section. Monies in the account
7 are appropriated for the purposes of this section, and the ~~Arizona state~~
8 ~~parks board~~ DIRECTOR may spend monies in the account without further
9 legislative authorization. Each expenditure of monies from the public
10 conservation account for purposes listed under subsection G, paragraph 2
11 of this section shall be matched by an equal expenditure of monies from
12 the conservation donation account or from other private or governmental
13 sources.

14 E. If the legislature fails to appropriate monies to the public
15 conservation account in a fiscal year, and if there are no other monies in
16 the public conservation account, the ~~Arizona state parks board~~ DIRECTOR
17 may either grant nothing from the fund in that year or, on recommendation
18 by the conservation acquisition board, may grant available monies in the
19 conservation donation account for purposes authorized in subsection G of
20 this section.

21 F. The monies in the fund are exempt from the provisions of section
22 35-190 relating to lapsing of appropriations.

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

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

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

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

4 (c) Shall not grant more than fifty ~~per cent~~ PERCENT of the monies
5 in 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
8 sixty 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
11 this 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
14 grant monies were used to achieve the project described in the letter
15 submitted as part of the application. If the project is longer than one
16 year, a written report shall be submitted to the department on an annual
17 basis until the 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
20 administering the program.

21 (h) Shall prepare a report of the disposition of monies
22 appropriated to the fund each fiscal year and provide a copy of the report
23 to the governor, to the ~~Arizona state parks board~~ DIRECTOR and to any
24 person who 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
27 of its political subdivisions, or to a nonprofit organization that is
28 exempt from federal income taxation under section 501(c) of the internal
29 revenue code and that has the purpose of preserving open space, for the
30 following 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,
33 article 4.2. A grant of money under this subdivision to a nonprofit
34 organization is conditioned on the organization providing reasonable
35 public access to any land that is wholly or partly purchased with that
36 money. The organization shall agree with the ~~Arizona state parks board~~
37 DIRECTOR that it will impose a restrictive covenant, running with the
38 title to the land, granting such access and providing for reversion to
39 this state of any interest in the property acquired with money granted
40 under this subdivision on the failure to comply with the terms of the
41 covenant. The ~~Arizona state parks board~~ DIRECTOR and the state land
42 commissioner have standing to either enforce the covenant or recover the
43 amount of the grant from the current owner, with interest from the date
44 the grant was awarded to the nonprofit organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 J. Members of the conservation acquisition board may be reimbursed
44 for travel and lodging expenses and per diem subsistence allowances

1 incurred while on public business for the board. Reimbursement amounts
2 shall not exceed those allowed under title 38, chapter 4, article 2.

3 Sec. 61. Section 42-11110, Arizona Revised Statutes, is amended to
4 read:

5 42-11110. Exemption for cemeteries

6 A. Cemeteries as defined in section 32-2101 that are set apart and
7 used to inter deceased human beings and historic private burial sites and
8 historic private cemeteries as defined in section ~~41-511.04~~ 41-5603 are
9 exempt from taxation.

10 B. The owner of a cemetery, historic private burial site or
11 historic private cemetery shall initially establish qualification for
12 exemption under this section by filing an affidavit with the county
13 assessor under section 42-11152. Thereafter, the owner is not required to
14 file an affidavit under section 42-11152 unless:

15 1. Any part of the property is no longer, or will not be, used as a
16 cemetery or has been rezoned, and the assessor shall sever that part of
17 the property from the exempt parcel.

18 2. Any interest in the title to any part of the property is
19 conveyed to a new owner.

20 Sec. 62. Section 42-12101, Arizona Revised Statutes, is amended to
21 read:

22 42-12101. Definitions

23 In this article, unless the context otherwise requires:

24 1. "Commercial historic property" means real property that:

25 (a) Meets the criteria for classification as class one, paragraph
26 12 pursuant to section 42-12001 or class four pursuant to section
27 42-12004, subsection A, paragraphs 2 through 9.

28 (b) Is listed in the national register of historic places
29 established and maintained under the national historic preservation act
30 (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as
31 amended.

32 (c) Meets the minimum standards of maintenance established by rule
33 by the Arizona state parks ~~board~~ DIRECTOR.

34 2. "Noncommercial historic property" means real property:

35 (a) That is listed in the national register of historic places
36 established and maintained under the national historic preservation act
37 (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as
38 amended.

39 (b) That meets the minimum standards of maintenance established by
40 rule by the Arizona state parks ~~board~~ DIRECTOR.

41 (c) On which no business or enterprise is conducted with the intent
42 of earning a profit.

1 Sec. 63. Section 42-12105, Arizona Revised Statutes, is amended to
2 read:

3 42-12105. Disqualification

4 A. Property shall remain classified and assessed as noncommercial
5 historic property until it becomes disqualified through either:

6 1. Notice by the taxpayer to the assessor to remove the assessment
7 as noncommercial historic property.

8 2. Sale or transfer to an ownership that makes it exempt from
9 property taxation.

10 3. Notification by the state historic preservation officer to the
11 assessor that the property no longer qualifies as noncommercial historic
12 property.

13 B. Property shall remain classified and assessed as commercial
14 historic property until it becomes disqualified through either:

15 1. Notice by the taxpayer to the assessor to remove the assessment
16 as commercial historic property.

17 2. Sale or transfer to an ownership that makes it exempt from
18 property taxation.

19 3. Notification by the state historic preservation officer to the
20 assessor that the property no longer qualifies as commercial historic
21 property.

22 4. The failure to maintain the property in a manner consistent with
23 the minimum standards of maintenance established by rule by the Arizona
24 state parks ~~board~~ DIRECTOR.

25 Sec. 64. Section 43-622, Arizona Revised Statutes, is amended to
26 read:

27 43-622. Contribution to sustainable state parks and roads
28 fund

29 A. The department shall provide a space on the individual income
30 tax return form in which a taxpayer may designate an amount of the
31 taxpayer's refund as a voluntary contribution to the sustainable state
32 parks and roads fund established by section ~~41-511.17~~ 41-5615.

33 B. After subtracting any setoff for debts pursuant to section
34 42-1122, the department shall subtract the designated amount from the
35 refund due the taxpayer and transfer it to the Arizona state parks ~~board~~
36 DIRECTOR for deposit in the sustainable state parks and roads fund.

37 C. The taxpayer may also donate any amount to the sustainable state
38 parks and roads fund, in lieu of or in addition to the designated portion
39 of the tax refund, by an appropriate indication on the return and by
40 including that amount with the return.

1 Sec. 65. Section 45-469, Arizona Revised Statutes, is amended to
2 read:

3 45-469. Right to retire irrigation grandfathered right for
4 non-irrigation use; development plan approval;
5 amendment of plan; approval of plan prior to
6 retirement; amount withdrawn; service area
7 determined; restoration of retired irrigation
8 grandfathered right

9 A. Except as provided in section 45-480, subsection F and
10 subsection P of this section, except as provided in subsection I of this
11 section, a person who owns land ~~which~~ THAT is legally entitled to be
12 irrigated with groundwater pursuant to an irrigation grandfathered right
13 and ~~which~~ THAT is located within an active management area and outside of
14 the exterior boundaries of the service area of a city, town or private
15 water company has the right to retire such land from irrigation in
16 anticipation of a future non-irrigation use and shall not forfeit or
17 abandon the right to withdraw from or receive for such land the amount of
18 groundwater calculated pursuant to subsection F of this section for a
19 non-irrigation use if all of the following apply:

20 1. The land is held in the same ownership.

21 2. A development plan for the proposed non-irrigation use exists
22 and is approved by the director within a reasonable time before or after
23 the land is retired.

24 3. Either one of the following applies:

25 (a) The land has never been designated by the director as protected
26 farmland pursuant to section 45-483, subsection A.

27 (b) The director designated the land as protected farmland pursuant
28 to section 45-483, subsection A, the director subsequently revoked the
29 designation pursuant to section 45-483, subsection C, paragraph 1 and the
30 director determined at the time the designation was revoked that the
31 ~~agricultural or~~ conservation easement in the land was terminated because a
32 partial or full condemnation of the land made farming impracticable.

33 B. Except as provided in subsection P of this section, the director
34 shall approve the development plan required by subsection A of this
35 section if it appears that the land:

36 1. Has been or will be retired for the bona fide purpose of
37 conserving or using water for a non-irrigation use ~~which~~ THAT would
38 otherwise continue to be used for irrigation of such land.

39 2. Has not been sold or taken out of production primarily because
40 it would have been uneconomical to continue to withdraw water for
41 irrigation.

42 C. The director shall not investigate the legality, other than
43 pursuant to this chapter, feasibility or other factors involved in the
44 proposed development plan and shall not disapprove a development plan on
45 such grounds.

1 D. A development plan may be amended and the director shall approve
2 amendments if the criteria of this section are met.

3 E. A person proposing to retire irrigated land ~~which~~ THAT is
4 located inside or outside of an active management area may apply to the
5 director for approval of a proposed development plan prior to the
6 retirement of such land.

7 F. The amount of groundwater ~~which~~ THAT may be withdrawn or
8 received annually per acre pursuant to this section is the lesser of:

9 1. The current maximum amount of groundwater ~~which~~ THAT may be used
10 pursuant to the irrigation grandfathered right for the acre at the time it
11 is retired, as calculated pursuant to section 45-465, subsection B.

12 2. Three acre-feet multiplied by the water duty acres in the farm
13 in which the acre to which the right is appurtenant is located divided by
14 the number of irrigation acres in the farm.

15 G. The right to withdraw or receive groundwater pursuant to this
16 section is a non-irrigation grandfathered right associated with retired
17 irrigated land, or a type 1 non-irrigation grandfathered right as
18 described in section 45-463.

19 H. Whether the land to which an irrigation grandfathered right is
20 appurtenant is within the exterior boundaries of the service area of a
21 city, town or private water company shall be determined as of the date the
22 development plan is filed with the director.

23 I. A city or town in an initial active management area that holds a
24 certificate of irrigation grandfathered right for acres of land that were
25 acquired before January 1, 1989 in another initial active management area,
26 and a groundwater replenishment district established under title 48,
27 chapter 27 that purchases any of that land from the city or town, has the
28 right, subject to subsections J, K, L and M of this section, to retire the
29 land in anticipation of a future non-irrigation use and withdraw from any
30 location on the land groundwater for non-irrigation use on the land or for
31 transportation to another initial active management area for the purpose
32 of demonstrating and providing an assured water supply if all of the
33 following apply:

34 1. Before January 1, 1989, the city or town filed with the director
35 a development plan pursuant to this section for all or a portion of the
36 land.

37 2. Any withdrawals pursuant to this subsection from a new well, as
38 defined in section 45-591, will comply with the rules adopted pursuant to
39 section 45-598, subsection A to prevent unreasonably increasing damage to
40 surrounding land or other water users from the concentration of wells.

41 3. Any withdrawals for transportation to another initial active
42 management area for the purpose of demonstrating and providing an assured
43 water supply are made from a depth to one thousand two hundred feet at the
44 site or sites of the withdrawals, except that the wells may be drilled to
45 any depth.

1 J. The amount of groundwater that may be withdrawn and used
2 annually pursuant to subsection I of this section shall be determined
3 pursuant to subsection F of this section. The maximum amount of such
4 groundwater that may be included by the director in determining whether to
5 designate or redesignate the city or town as having an assured water
6 supply pursuant to section 45-576 equals one hundred times the total
7 amount that may be withdrawn annually from the land.

8 K. A city or town that is eligible for a type 1 non-irrigation
9 grandfathered right under subsection I of this section may:

10 1. Before retiring the land under subsection I of this section,
11 substitute for the acres of land described in subsection I of this section
12 the same number of acres owned by the city or town to which irrigation
13 grandfathered rights are appurtenant and located in the same subbasin as
14 the acres described in subsection I of this section.

15 2. At any time, elect to convert a type 1 non-irrigation
16 grandfathered right appurtenant to land in the same subbasin and acquired
17 by the city or town before January 1, 1989 under subsection A of this
18 section to a type 1 non-irrigation grandfathered right under subsection I
19 of this section.

20 L. In determining whether to designate or redesignate the city or
21 town as having an assured water supply pursuant to section 45-576, based
22 in whole or in part on groundwater transported from the active management
23 area under subsection I of this section, the director shall include the
24 amount of groundwater that may be included under subsection J of this
25 section and can be withdrawn from a depth to one thousand two hundred feet
26 at the site or sites of the proposed withdrawals at a rate that, when
27 added to the existing rate of withdrawals in the area, is not expected to
28 cause the groundwater table at the site or sites of the proposed
29 withdrawals to decline more than an average of ten feet per year during
30 the one hundred year evaluation period.

31 M. In any designation or redesignation of an assured water supply
32 pursuant to section 45-576, the projected use of the groundwater that is
33 demonstrated to be available for assured water supply purposes under
34 subsection L of this section is deemed to be consistent with achieving the
35 management goal for the active management area. In any such designation
36 or redesignation, the director shall determine whether the projected use
37 is consistent with the management plan for the active management area by
38 determining whether the projected use is consistent with the management
39 plan of the active management area in which the city or town to be
40 designated or redesignated is located.

41 N. Subsections A, B and H of this section do not apply to type 1
42 non-irrigation grandfathered rights acquired under subsection I of this
43 section.

1 0. The director may restore retired irrigation grandfathered rights
2 to land that was retired from irrigation under this section according to
3 the following conditions and procedures:

4 1. Title to the retired land has reverted involuntarily, or
5 voluntarily in lieu of foreclosure or forfeiture, from the person who
6 retired it from irrigation, or a successor in title, to a previous owner.

7 2. The current owner of the retired land must apply to the director
8 in writing stating:

9 (a) The history of the original retirement from irrigation under
10 this section.

11 (b) The circumstances regarding the reversion of title to the
12 current owner.

13 (c) Why restoring the irrigation grandfathered rights is necessary.

14 3. The director shall enter the application in the registry under
15 section 45-479 and review the application. An administrative hearing
16 shall be held in the active management area in which the use is located on
17 whether to restore the irrigation grandfathered rights to the land.

18 4. The director must find that restoring the irrigation
19 grandfathered rights:

20 (a) Will not adversely impact the management of the active
21 management area.

22 (b) Is necessary to prevent unreasonable hardship to the current
23 owner of the retired land.

24 5. If the director decides to restore the retired irrigation
25 grandfathered rights to the land:

26 (a) The retired irrigation land regains its original irrigation
27 grandfathered rights, with the debits and credits in its flexibility
28 account at the time of retirement.

29 (b) The type 1 non-irrigation grandfathered right under this
30 section is terminated.

31 (c) The development plan required by this section is terminated for
32 purposes of this section.

33 P. Beginning January 1 of the calendar year following the year in
34 which a groundwater replenishment district is required to submit its
35 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,
36 the director shall withhold approval of a development plan that is
37 submitted under this section by a person who seeks to obtain a
38 non-irrigation grandfathered right associated with retired irrigated land
39 located in the district unless at the time the plan is submitted:

40 1. The director has determined that the district's plan for
41 operation is consistent with achieving the management goal, according to
42 section 45-576.03, subsection E, and the designation has not expired.

43 2. The master replenishment account, as established in section
44 45-858.01, does not have a debit balance in an amount in excess of the
45 amount allowed under section 45-576.01, subsection A, paragraph 3.

1 Q. Section 45-114, subsections A and B govern administrative
2 proceedings, rehearing or review and judicial review of final decisions of
3 the director under this section.

4 Sec. 66. Section 45-472, Arizona Revised Statutes, is amended to
5 read:

6 45-472. Conveyance of irrigation grandfathered right; within
7 service area; outside service area; change to
8 non-irrigation grandfathered right; forfeiture of
9 right to convey to non-irrigation use; definition

10 A. The owner of an irrigation grandfathered right may convey the
11 right only with the land to which the right is appurtenant.

12 B. If the land to which an irrigation grandfathered right is
13 appurtenant is within the exterior boundaries of the service area of a
14 city, town or private water company:

15 1. The irrigation grandfathered right may be conveyed only for an
16 irrigation use, except for expanded animal industry use or as provided in
17 paragraphs 2 and 3 of this subsection. If an irrigation grandfathered
18 right is conveyed for an irrigation or expanded animal industry use, the
19 full amount of the right is conveyed. The amount of groundwater conveyed
20 pursuant to the right:

21 (a) For an irrigation use may be withdrawn from the land to which
22 the right is appurtenant or any other land and may be used only on the
23 land to which the right is appurtenant or on contiguous irrigation acres
24 under common ownership within the service area of the city, town or
25 private water company subject to the provisions of articles 8 and 8.1 of
26 this chapter relating to transportation of groundwater. For purposes of
27 this subdivision, irrigation acres ~~which~~ THAT are separated by a road,
28 highway, easement or right-of-way from the land to which the irrigation
29 grandfathered right is appurtenant are deemed to be contiguous.

30 (b) For an expanded animal industry use may be withdrawn by the new
31 owner of the right only from the land to which the right is appurtenant
32 and used on that land or on any other land, subject to the provisions of
33 articles 8 and 8.1 of this chapter relating to transportation of
34 groundwater. If the groundwater was delivered by an irrigation district
35 to the previous owner of the right, the irrigation district may continue
36 to deliver groundwater to the new owner pursuant to the right. If any
37 portion of the amount of groundwater conveyed is withdrawn by the new
38 owner and used on other land, no additional groundwater may be withdrawn
39 for use on the land to which the right is appurtenant.

40 2. The irrigation grandfathered right may be conveyed to an
41 industry engaged in the generation of electrical energy for the purpose of
42 electrical energy generation, except that, if the facility for the
43 generation of electrical energy is not subject to title 40, chapter 2,
44 article 6.2, the conveyance is subject to the approval of:

1 (a) The appropriate city or town, if the irrigation grandfathered
2 right to be conveyed is appurtenant to land within the exterior boundaries
3 of the service area of a city or town.

4 (b) The director, if the irrigation grandfathered right to be
5 conveyed is appurtenant to land within the corporate limits of a city or
6 town and within the exterior boundaries of the service area of a private
7 water company.

8 3. If an irrigation grandfathered right is conveyed for a
9 non-irrigation use pursuant to paragraph 2 of this subsection, the amount
10 of the right that is conveyed is the lesser of:

11 (a) The current maximum amount of groundwater ~~which~~ THAT may be
12 used pursuant to the right, as calculated pursuant to section 45-465,
13 subsection B.

14 (b) Three acre-feet per year multiplied by the number of water duty
15 acres in the farm in which the acre to which the right is appurtenant is
16 located divided by the number of irrigation acres in the farm.

17 4. The new owner of an irrigation grandfathered right conveyed
18 pursuant to paragraph 2 of this subsection may withdraw the amount of
19 groundwater conveyed pursuant to that right, as determined in paragraph 3
20 of this subsection, only from the land to which the right is appurtenant
21 and use the groundwater on that land, but may not use the groundwater on
22 other land, except that, if the groundwater was delivered by an irrigation
23 district to the previous owner of the right, the irrigation district may
24 continue to deliver groundwater to the new owner pursuant to the right for
25 use on the land to which the right is appurtenant.

26 5. All withdrawal or use of groundwater pursuant to this subsection
27 is subject to subsection H of this section.

28 C. If the land to which an irrigation grandfathered right is
29 appurtenant is included within the exterior boundaries of the service area
30 of a city, town or private water company subsequent to the date of the
31 designation of an active management area, the owner of the right may, with
32 the approval of the director and consistent with the provisions of this
33 chapter, convey the grandfathered right for a non-irrigation use, other
34 than an expanded animal industry use, on the land to which the right is
35 appurtenant, upon a showing that adequate water service is unavailable at
36 rates comparable to rates charged similar classes of water users within
37 such service area. The amount of the right conveyed is determined
38 pursuant to subsection B, paragraph 3 of this section. All withdrawal or
39 use of groundwater pursuant to this subsection is subject to subsection H
40 of this section.

41 D. If the land to which an irrigation grandfathered right is
42 appurtenant is outside of the exterior boundaries of the service area of a
43 city, town or private water company:

44 1. The irrigation grandfathered right may be conveyed for an
45 irrigation use or a non-irrigation use. If an irrigation grandfathered

1 right is conveyed for an irrigation or an expanded animal industry use,
2 the full amount of the right is conveyed. If an irrigation grandfathered
3 right is conveyed for a non-irrigation use, other than an expanded animal
4 industry use, the amount of the right that is conveyed is the lesser of:

5 (a) The current maximum amount of groundwater ~~which~~ THAT may be
6 used pursuant to the right as calculated pursuant to section 45-465,
7 subsection B.

8 (b) Three acre-feet per year multiplied by the number of water duty
9 acres in the farm in which the acre to which the right is appurtenant is
10 located and divided by the number of irrigation acres in the farm.

11 2. The amount of groundwater conveyed pursuant to the right for a
12 non-irrigation use, as determined in paragraph 1 of this subsection, may
13 be withdrawn by the new owner of the right only from the land to which the
14 right is appurtenant and used on that land or on any other land, subject
15 to section 45-473.01 and to the provisions of articles 8 and 8.1 of this
16 chapter relating to transportation of groundwater, except that, if the
17 groundwater was delivered by an irrigation district to the previous owner
18 of the right, the irrigation district may continue to deliver groundwater
19 to the new owner pursuant to the right. If any portion of the amount of
20 groundwater conveyed is withdrawn by the new owner and used on other land,
21 no additional groundwater may be withdrawn for use on the land to which
22 the right is appurtenant, except that, if the new owner is an industry, it
23 may withdraw a portion of the amount of groundwater conveyed for use on
24 other land and withdraw the remainder of the amount of groundwater
25 conveyed for municipal and industrial use on the land to which the right
26 is appurtenant for purposes directly related to the industry's industrial
27 operation.

28 3. The amount of groundwater conveyed pursuant to the right for an
29 irrigation use, as determined in paragraph 1 of this subsection, may be
30 withdrawn from the land to which the right is appurtenant or from any
31 other land and may be used only on the land to which the right is
32 appurtenant or on contiguous irrigation acres under common ownership,
33 subject to the provisions of articles 8 and 8.1 of this chapter relating
34 to transportation of groundwater. For purposes of this paragraph,
35 irrigation acres that are separated by a road, highway, easement or
36 right-of-way from the land to which the irrigation grandfathered right is
37 appurtenant are deemed to be contiguous.

38 4. All withdrawal or use of groundwater pursuant to this subsection
39 is subject to subsection H of this section.

40 E. If an irrigation grandfathered right is conveyed for a
41 non-irrigation use, the new owner's right to withdraw or receive
42 groundwater is a non-irrigation grandfathered right associated with
43 retired irrigated land, or a type 1 non-irrigation grandfathered right.
44 All subsequent conveyances of that right are governed by section 45-473.

1 F. The amount of a type 1 non-irrigation grandfathered right shall
2 be determined at the time it is established and shall remain fixed at that
3 amount.

4 G. An irrigation grandfathered right may not be conveyed for a
5 non-irrigation use if one of the following applies:

6 1. The irrigation grandfathered right has not been retired in
7 anticipation of a future non-irrigation use and has not been exercised for
8 five consecutive years.

9 2. The land to which the irrigation grandfathered right is
10 appurtenant was previously designated by the director as protected
11 farmland pursuant to section 45-483, subsection A. This paragraph shall
12 not apply to land that was designated by the director as protected
13 farmland if the director revoked the designation pursuant to section
14 45-483, subsection C, paragraph 1 and the director determined at that time
15 that the ~~agricultural~~ or conservation easement in the land was terminated
16 because a partial or full condemnation of the land made farming
17 impracticable.

18 H. A person who owns a type 1 non-irrigation grandfathered right
19 under this section shall not withdraw or use groundwater pursuant to the
20 portion of the type 1 non-irrigation grandfathered right that is
21 appurtenant to land ~~which~~ THAT the owner may irrigate with effluent
22 pursuant to section 45-452, subsection J.

23 I. For the purposes of this section, "land to which the right is
24 appurtenant" means the acre or group of contiguous acres conveyed with an
25 irrigation grandfathered right.

26 Sec. 67. Section 45-483, Arizona Revised Statutes, is amended to
27 read:

28 45-483. Designation of protected farmland; notice; revocation
29 of designation; irrigation water duty; assured
30 water supply credit for extinguishment of
31 irrigation grandfathered right prohibited

32 A. A person who owns land within an active management area that is
33 legally entitled to be irrigated with groundwater pursuant to an
34 irrigation grandfathered right may apply to the director for designation
35 of the land as protected farmland. On receipt of an application, the
36 director shall grant the application and designate the land identified in
37 the application as protected farmland if the director determines that the
38 land is subject to ~~an agricultural easement established pursuant to~~
39 ~~title 3, chapter 18, article 1, or~~ a conservation easement that prohibits
40 the development of the land for nonagricultural uses pursuant to the
41 federal farmland protection program established by Public Law
42 104-127, (110 Stat. 888).

43 B. A person who owns land that has been designated by the director
44 as protected farmland pursuant to subsection A of this section shall
45 notify the director in writing if the ~~agricultural~~ or conservation

1 easement in the land terminates. The notice shall be given within thirty
2 days after the termination of the easement and shall specify the reason
3 for the termination.

4 C. After the director designates land as protected farmland
5 pursuant to subsection A of this section, the director shall revoke the
6 designation if either of the following ~~apply~~ APPLIES:

7 1. The ~~agricultural or~~ conservation easement in the land has
8 terminated. If the director revokes a designation of protected farmland
9 under this paragraph, the director shall determine at that time whether
10 the ~~agricultural or~~ conservation easement terminated because a partial or
11 full condemnation of the land made farming impracticable. The director
12 shall give written notice of the revocation and of the director's
13 determination of whether the easement terminated because a partial or full
14 condemnation of the land made farming impracticable to the owner at the
15 owner's last address on file with the department.

16 2. The owner of the land has requested the director to revoke the
17 designation and the ~~agricultural or~~ conservation easement in the land has
18 not terminated.

19 D. Notwithstanding any other law, if the director designates land
20 as protected farmland pursuant to subsection A of this section, the
21 irrigation water duty for the land shall be the irrigation water duty in
22 effect for the land under the applicable management plan when the
23 application for designation was filed, including any subsequent
24 adjustments to that water duty as a result of an application for
25 administrative review filed with the director pursuant to section 45-575,
26 subsection A. If the director revokes the designation of protected
27 farmland pursuant to subsection C of this section, the irrigation water
28 duty for the land shall be the irrigation water duty established for the
29 land in the applicable management plan pursuant to section 45-566, 45-567
30 or 45-568.

31 E. Notwithstanding any other law or rule, the director shall not
32 establish or grant an assured water supply credit for the extinguishment
33 of an irrigation grandfathered right under the rules adopted by the
34 director pursuant to section 45-576, subsection H if the land to which the
35 irrigation grandfathered right is appurtenant was previously designated by
36 the director as protected farmland pursuant to subsection A of this
37 section. This subsection shall not apply to land that was designated by
38 the director as protected farmland if the director revoked the designation
39 pursuant to subsection C, paragraph 1 of this section and the director
40 determined at that time that the ~~agricultural or~~ conservation easement in
41 the land was terminated because a partial or full condemnation of the land
42 made farming impracticable.

43 F. Section 45-114, subsections A and B govern administrative
44 proceedings, rehearing or review and judicial review of final decisions of
45 the director under this section.

1 Sec. 68. Section 45-618, Arizona Revised Statutes, is amended to
2 read:

3 45-618. Arizona water quality fund

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

8 B. The Arizona water quality fund ~~consist~~ CONSISTS of monies from
9 legislative appropriations, grants, contributions and transfers from other
10 public agencies.

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

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

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

30 Sec. 69. Section 49-202.01, Arizona Revised Statutes, is amended to
31 read:

32 49-202.01. Surface water quality general grazing permit; best
33 management practices for grazing activities;
34 definition

35 A. As part of the duties established pursuant to section 49-203,
36 subsection A, paragraph 3, the director shall implement a surface water
37 quality general grazing permit consisting of voluntary best management
38 practices for grazing activities. ~~The implementation shall begin within~~
39 ~~one hundred eighty days after rule adoption by the agricultural best~~
40 ~~management practices advisory committee established pursuant to section~~
41 ~~49-248.~~

42 B. The terms and conditions of the surface water quality general
43 grazing permit shall be voluntary best management practices ~~which~~ THAT
44 have been determined by the committee to be the most practical and

1 effective means of reducing or preventing the nonpoint source discharge of
2 pollutants into navigable waters by grazing activities.

3 C. In adopting voluntary grazing best management practices, the
4 committee shall consider:

5 1. The availability and effectiveness of alternative technologies.

6 2. The economic and social impacts of alternative technologies on
7 grazing and associated industries.

8 3. The institutional considerations of alternative technologies.

9 4. The potential nature and severity of discharges from grazing
10 activities and their effect on navigable waters.

11 D. For THE purposes of this section, "grazing activities" means the
12 feeding of all classes of domestic ruminant and nonruminant animals ~~upon~~
13 ON grasses, forbs and shrubs in Arizona watersheds.

14 Sec. 70. Section 49-247, Arizona Revised Statutes, is amended to
15 read:

16 49-247. Agricultural general permits; best management
17 practices for regulated agricultural activities

18 A. The director shall adopt by rule, pursuant to the requirements
19 of this section, agricultural general permits consisting of best
20 management practices for regulated agricultural activities. Agricultural
21 general permits are not subject to section 49-245 or 49-246. Except as
22 provided in subsection G of this section, a person is not required to
23 obtain an individual permit for a regulated agricultural activity.

24 B. The terms and conditions of agricultural general permits adopted
25 pursuant to this section shall be agricultural best management practices
26 which have been determined by the director to be the most practical and
27 effective means of reducing or preventing the discharge of pollutants by
28 regulated agricultural activities. Agricultural best management practices
29 may vary within the state, according to regional and hydrogeologic
30 conditions. The director may waive the use of best management practices
31 in a designated region if the director determines that existing regulated
32 agricultural activities will not cause or contribute to a violation of the
33 adopted water quality standards.

34 C. The director shall adopt, by rule, agricultural best management
35 practices, ~~and in doing so shall consider any recommendation of the~~
36 ~~agricultural best management practices advisory committee established~~
37 ~~under section 49-248.~~

38 D. In adopting agricultural best management practices, the director
39 shall consider:

40 1. The availability, the effectiveness and the economic and
41 institutional considerations of alternative technologies.

42 2. The potential nature and severity of discharges from regulated
43 agricultural activities and their effect on public health and the
44 environment.

1 E. In adopting best management practices for regulated agricultural
2 activities, the director shall require the application of all economically
3 feasible best management practices which have been determined by the
4 director to be the most practical and effective means of reducing or
5 preventing the discharge of pollutants by regulated agricultural
6 activities but shall not require application of more stringent practices
7 if such a requirement would result in cessation of the regulated activity.

8 F. Compliance with best management practices adopted pursuant to
9 this section constitutes compliance with this article.

10 G. If the director, after providing a person with notice and an
11 opportunity for a hearing, determines that the person has violated the
12 applicable best management practices, the director may revoke the
13 agricultural general permit for that person and require that the person
14 obtain a permit pursuant to section 49-241.

15 H. The director may periodically reexamine, evaluate and propose
16 any modification to or waiver of agricultural best management practices
17 necessary to meet the requirements of this article ~~after considering any~~
18 ~~recommendation submitted by the advisory committee established under~~
19 ~~section 49-248.~~

20 Sec. 71. Repeal

21 Section 49-248, Arizona Revised Statutes, is repealed.

22 Sec. 72. Section 49-281, Arizona Revised Statutes, is amended to
23 read:

24 49-281. Definitions

25 In this article, unless the context otherwise requires:

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

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

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

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

44 5. "Eligible party" means a person who enters into a written
45 agreement with the director to implement and complete a remedial

1 investigation and feasibility study with respect to a site or portion of a
2 site that was on the annual priority list on May 1, 1997 or any other
3 person who incurs costs for a remedial action that is in substantial
4 compliance with section 49-282.06 as determined by the director.

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

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

9 8. "Hazardous substance" has the same meaning prescribed in section
10 49-201 but does not include petroleum as defined in section 49-1001,
11 except to the extent that a constituent of petroleum is subject to ~~the~~
12 ~~provisions of~~ section 49-283.02.

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

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

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

22 (c) For water monitoring activities conducted pursuant to section
23 49-225.

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

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

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

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

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

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

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

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

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

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

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

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

12 (d) The normal application of fertilizer.

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

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

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

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

33 Sec. 73. Section 49-282, Arizona Revised Statutes, is amended to
34 read:

35 49-282. Water quality assurance revolving fund

36 A. A water quality assurance revolving fund is established to be
37 administered by the director. The fund consists of monies from the
38 following sources:

39 1. Monies appropriated by the legislature.

40 2. Fertilizer license fees allocated under section 3-272,
41 subsection B, paragraph 2.

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

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

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

- 1 6. Industrial discharge registration fees collected under section
2 49-209.
- 3 7. Manifest resubmittal fees collected under section 49-922.01.
- 4 8. Hazardous waste facility registration fees collected under
5 section 49-929.
- 6 9. Hazardous waste resource recovery facility registration fees
7 collected under section 49-930.
- 8 10. Monies recovered from responsible parties as remedial action
9 costs.
- 10 11. Monies received as costs for a review of remedial actions at
11 the request of a person other than the state.
- 12 12. Monies received from the collection of corporate income taxes
13 under title 43, chapter 11, article 2 as prescribed by subsection B of
14 this section.
- 15 13. Prospective purchaser agreement fees collected under section
16 49-285.01.
- 17 B. The water quality assurance revolving fund shall be assured of
18 an annual funding amount of eighteen million dollars. ~~Beginning July 1,~~
19 ~~1999, as soon as practicable~~ At the beginning of each fiscal year, the
20 state treasurer shall transfer the sum of fifteen million dollars to the
21 water quality assurance revolving fund from the corporate income tax as
22 collected pursuant to title 43, chapter 11, article 2. As custodian of
23 the fund, the director shall certify to the governor, the state treasurer,
24 the president of the senate and the speaker of the house of
25 representatives at the end of that fiscal year the amount of monies
26 deposited in the water quality assurance revolving fund pursuant to
27 subsection A, paragraphs 1 through 9 of this section. At the end of the
28 fiscal year the state treasurer shall adjust the fifteen million dollar
29 transfer of corporate income tax so that, when combined with monies
30 deposited in the fund during that fiscal year pursuant to subsection A,
31 paragraphs 1 through 9 of this section, the fund receives eighteen million
32 dollars each fiscal year. This adjustment shall occur as part of the
33 year-end book closing process for that fiscal year. If sufficient monies
34 from the corporate income tax are not available to make any necessary
35 upward adjustments as part of the year-end book closing, the state
36 treasurer shall transfer the monies necessary to achieve the eighteen
37 million dollar funding level from the transaction privilege and severance
38 tax clearing account pursuant to section 42-5029, subsection D,
39 paragraph 4, to the water quality assurance revolving fund. Any transfers
40 prescribed by this subsection shall not be deducted from the net proceeds
41 distributed pursuant to section 43-206.
- 42 C. At the beginning of each fiscal year, the director of
43 environmental quality shall contract with the department of water
44 resources for the transfer of up to eight hundred thousand dollars from
45 the water quality assurance revolving fund to the Arizona water quality

1 fund established by section 45-618 for support services for the water
2 quality assurance revolving fund program. The support services provided
3 for the water quality assurance revolving fund program shall be determined
4 by the director of water resources in consultation with the director of
5 environmental quality.

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

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

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

12 2. For all reasonable and necessary costs to implement this
13 article, including:

14 (a) Taking remedial actions.

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

17 (c) Conducting remedial investigations, feasibility studies, health
18 effect studies and risk assessments.

19 (d) Identifying and investigating potentially responsible parties
20 and allocating liability among the responsible parties.

21 (e) Funding orphan shares.

22 (f) Participating in the allocation process, administrative appeals
23 and court actions.

24 (g) Funding the community advisory boards and other community
25 involvement activities ~~and the water quality assurance revolving fund~~
26 ~~advisory board.~~

27 (h) Remediating pollutants if necessary to remediate a hazardous
28 substance.

29 3. For the reasonable and necessary costs of monitoring, assessing,
30 identifying, locating and evaluating the degradation, destruction, loss of
31 or threat to the waters of the state resulting from a release of a
32 hazardous substance to the environment.

33 4. For the reasonable and necessary costs of administering the
34 fund.

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

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

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

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

1 9. For all reasonable and necessary costs of the preparation and
2 execution of prospective purchaser agreements.

3 10. For all reasonable and necessary costs of the voluntary
4 remediation program.

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

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

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

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

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

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

34 (b) Evaluating and calculating cleanup standards.

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

37 16. For the reasonable and necessary costs incurred by the
38 department of law to provide legal services at the request of the director
39 of environmental quality.

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

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

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

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

23 Sec. 74. Repeal

24 Sections 49-289.04 and 49-289.05, Arizona Revised Statutes, are
25 repealed.