

REFERENCE TITLE: Arizona state parks board; trails

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1046

Introduced by
Senator Borrelli

AN ACT

AMENDING SECTIONS 5-382, 17-301, 28-1176, 28-1177, 28-2512, 37-281.03, 37-312, 37-904, 37-1123, 37-1156, 38-842, 38-847, 38-848, 41-151.20, 41-511, 41-511.02, 41-511.04, 41-511.05, 41-511.11 AND 41-511.13, ARIZONA REVISED STATUTES; REPEALING SECTION 41-511.14, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-511.15, 41-511.16, 41-511.17, 41-511.18, 41-511.19, 41-511.20, 41-511.21, 41-511.22, 41-511.23, 41-511.25, 41-512, 41-514, 41-519, 41-519.02, 41-881 AND 41-1005, 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; AMENDING SECTIONS 41-3023.06, 42-12101, 42-12105 AND 43-622, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE PARKS BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 5-382, Arizona Revised Statutes, is amended to
3 read:

4 5-382. State lake improvement fund; administration; report

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

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

13 C. The Arizona state parks AND TRAILS board shall administer the
14 monies in the fund as follows:

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

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

20 (a) Public launching ramps.

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

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

23 (d) Public picnic tables and facilities.

24 (e) Public parking areas.

25 (f) Lake construction or improvement.

26 (g) Marking buoys and other safety facilities.

27 (h) Watercraft.

28 (i) Public campgrounds.

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

32 (k) Design and engineering projects.

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

1 such projects in conjunction with the report required by section
2 41-511.12.

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

5 Sec. 2. Section 17-301, Arizona Revised Statutes, is amended to
6 read:

7 17-301. Times when wildlife may be taken; exceptions; methods
8 of taking

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

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

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

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

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

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

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

1 3. To designate, construct, maintain, renovate, repair or connect
2 off-highway vehicle routes and trails and to designate, manage and acquire
3 land for access roads, off-highway vehicle recreation facilities and
4 off-highway vehicle use areas. After expenditures pursuant to paragraph 1
5 of this subsection, the Arizona state parks AND TRAILS board shall not
6 spend more than thirty-five ~~per cent~~ PERCENT of the remaining monies
7 received pursuant to this subsection for construction of new off-highway
8 vehicle trails.

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

10 5. For off-highway vehicle related informational and environmental
11 education programs, information, signage, maps and responsible use
12 programs.

13 6. For the mitigation of damages to land, revegetation and the
14 prevention and restoration of damages to natural and cultural resources,
15 including the closure of existing access roads, off-highway vehicle use
16 areas and off-highway vehicle routes and trails.

17 7. For necessary environmental, historical and cultural clearance
18 or compliance activities.

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

23 G. Monies in the off-highway vehicle recreation fund shall not be
24 used to construct new off-highway vehicle trails or routes on
25 environmentally or culturally sensitive land unless the appropriate land
26 management agency determines that certain new trail construction would
27 benefit or protect cultural or sensitive sites. For the purposes of this
28 subsection, "environmentally or culturally sensitive land" means areas of
29 lands that are either:

30 1. Administratively or legislatively designated by the federal
31 government as any of the following:

32 (a) A national monument.

33 (b) An area of critical environmental concern.

34 (c) A conservation area.

35 (d) An inventoried roadless area.

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

38 H. The Arizona state parks AND TRAILS board shall examine
39 applications for eligible projects and determine the amount of funding, if
40 any, for each project. In determining the amount of monies for eligible
41 projects, the Arizona state parks AND TRAILS board shall give preference
42 to applications for projects with mitigation efforts and for projects that
43 encompass a large number of purposes described in subsection E, paragraphs
44 3 through 7 of this section.

1 I. Beginning September 1, 2011, and on or before September 1 of
2 each subsequent year, each agency that receives monies from the
3 off-highway vehicle recreation fund shall submit an off-highway vehicle
4 report to the president of the senate, the speaker of the house of
5 representatives, the chairperson of the senate natural resources and rural
6 affairs committee, or its successor committee, and the chairperson of the
7 house of representatives natural resources and public safety committee, or
8 its successor committee. The report shall be made available to the
9 public. The report shall include information on all of the following if
10 applicable:

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

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

16 3. The number of full-time employees employed in the preceding
17 fiscal year in connection with off-highway vehicle law enforcement
18 activities.

19 4. The amount of monies spent from the off-highway vehicle
20 recreation fund during the preceding fiscal year for information and
21 education.

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

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

30 J. For the purposes of this section, "off-highway vehicle
31 recreational plan" means a plan that is maintained by the Arizona state
32 parks AND TRAILS board pursuant to section 41-511.04.

33 Sec. 4. Section 28-1177, Arizona Revised Statutes, is amended to
34 read:

35 28-1177. Off-highway vehicle user fee; indicia; registration;
36 state trust land recreational permit; exception

37 A. A person shall not operate an all-terrain vehicle or an
38 off-highway vehicle in this state without an off-highway vehicle user
39 indicia issued by the department if the all-terrain vehicle or off-highway
40 vehicle meets both of the following criteria:

41 1. Is designed by the manufacturer primarily for travel over
42 unimproved terrain.

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

44 B. A person shall apply to the department of transportation for the
45 off-highway vehicle user indicia by submitting an application prescribed

1 by the department of transportation and a user fee for the indicia in an
 2 amount to be determined by the director of the department of
 3 transportation in cooperation with the director of the Arizona game and
 4 fish department and the Arizona state parks AND TRAILS board. The user
 5 indicia is valid for one year from the date of issuance and may be
 6 renewed. The department shall prescribe by rule the design and placement
 7 of the indicia.

8 C. When a person pays for an off-highway vehicle user indicia
 9 pursuant to this section, the person may request a motor vehicle
 10 registration if the vehicle meets all equipment requirements to be
 11 operated on a highway pursuant to article 16 of this chapter. If a person
 12 submits a signed affidavit to the department affirming that the vehicle
 13 meets all of the equipment requirements for highway use and that the
 14 vehicle will be operated primarily off of highways, the department shall
 15 register the vehicle for highway use and the vehicle owner is not required
 16 to pay the registration fee prescribed in section 28-2003. This
 17 subsection does not apply to vehicles that as produced by the manufacturer
 18 meet the equipment requirements to be operated on a highway pursuant to
 19 article 16 of this chapter.

20 D. The director shall deposit, pursuant to sections 35-146 and
 21 35-147, seventy ~~per cent~~ PERCENT of the user fees collected pursuant to
 22 this section in the off-highway vehicle recreation fund established by
 23 section 28-1176 and thirty ~~per cent~~ PERCENT of the user fees collected
 24 pursuant to this section in the Arizona highway user revenue fund.

25 E. An occupant of an off-highway vehicle with a user indicia issued
 26 pursuant to this section who crosses state trust lands must comply with
 27 all of the rules and requirements under a state trust land recreational
 28 permit. All occupants of an off-highway vehicle with a user indicia shall
 29 obtain a state trust land recreational permit from the state land
 30 department for all other authorized recreational activities on state trust
 31 land.

32 F. This section does not apply to off-highway vehicles, all-terrain
 33 vehicles or off-road recreational motor vehicles that are used off-highway
 34 exclusively for agricultural, ranching, construction, mining or building
 35 trade purposes.

36 Sec. 5. Section 28-2512, Arizona Revised Statutes, is amended to
 37 read:

38 28-2512. All-terrain motor vehicles; off-highway vehicles;
 39 off-road recreational motor vehicles; license
 40 plates

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

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

4 C. The fee for a plate issued pursuant to this section is eight
5 dollars.

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

8 1. Attached to the rear of the vehicle.

9 2. Securely fastened to the vehicle in a clearly visible position.

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

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

17 G. In consultation with the Arizona game and fish department and
18 the Arizona state parks AND TRAILS board, the director shall design the
19 license plate prescribed by this section.

20 Sec. 6. Section 37-281.03, Arizona Revised Statutes, is amended to
21 read:

22 37-281.03. Leasing land along Colorado river from United
23 States; subleasing requirements; limitations

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

30 B. The state land department may sublease lands leased to the
31 department, as provided in subsection A OF THIS SECTION, for park,
32 recreational and wildlife purposes to the ARIZONA state parks AND TRAILS
33 board, the game and fish commission or to any political subdivision of ~~the~~
34 THIS state.

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

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

1 E. The ARIZONA state parks AND TRAILS board, the game and fish
2 commission or a political subdivision of ~~the THIS~~ state ~~which~~ THAT leases
3 land from the state land department as provided by this section may
4 sublease such lands according to the terms of the lease executed between
5 the state land department and the ARIZONA state parks AND TRAILS board,
6 the game and fish commission or the political subdivision of ~~the THIS~~
7 state.

8 Sec. 7. Section 37-312, Arizona Revised Statutes, is amended to
9 read:

10 37-312. Nominating and classifying trust land as suitable for
11 conservation purposes

12 A. On the commissioner's initiative, on petition as provided by
13 subsection C of this section or as provided by section 37-332, the
14 commissioner may nominate certain trust lands as being under consideration
15 for classification as trust lands suitable for conservation purposes. The
16 commissioner shall not nominate trust lands as being under consideration
17 for classification as trust lands suitable for conservation purposes
18 unless the trust lands are eligible for classification under this section
19 and are located within:

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

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

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

33 B. In addition to the lands identified in subsection A, paragraphs
34 1 through 3 of this section, the following lands may be nominated for
35 reclassification by the commissioner:

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

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

40 3. Those lands in the vicinity of the San Tan mountains in Pinal
41 county located within T3S, R7E, section 10, the northwest quarter of the
42 southeast quarter and the south half of the southeast quarter; section 15,
43 the north half and southeast quarter.

1 4. The following lands located in Coconino county:

2 (a) T19N, R5E, section 3.

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

4 (c) T20N, R5E, sections 2, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28,
5 30, 32, 34 and 36.

6 (d) T20N, R6E, sections 4, 5, 6, 8, 10, 14, 17, 18, 20, 22, 26, 28,
7 30, 32 and 34.

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

9 C. The commissioner shall receive a petition to nominate trust
10 lands as being under consideration for classification as trust lands
11 suitable for conservation purposes from:

12 1. A state agency that leases the land or intends to lease or
13 purchase the land.

14 2. The board of supervisors of the county in which the land is
15 located.

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

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

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

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

23 4. Ten or more private individuals who:

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

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

26 5. A nonprofit corporation or trust, the purpose or powers of which
27 include conservation of natural, scenic, open space or other conservation
28 values.

29 6. The current lessee of the land.

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

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

39 E. Unless the commissioner nominates the trust lands under section
40 37-332, a petitioner shall post a bond or other security sufficient to
41 cover the costs of the planning, notice, advertisement and public hearing
42 as required by this article and as determined by the commissioner. The
43 bond or security is forfeit to this state if the commissioner reclassifies
44 the land pursuant to this article.

1 F. The commissioner shall not nominate or classify trust land as
2 suitable for conservation purposes if a development plan was approved for
3 the land pursuant to article 5.1 of this chapter before July 26, 1996.
4 The commissioner may nominate and classify trust land as suitable for
5 conservation purposes in an area within a development plan approved after
6 July 26, 1996 if appropriate conservation purposes are incorporated within
7 the development plan prepared for the commissioner's approval. In
8 nominating and classifying trust land as suitable for conservation
9 purposes under this subsection, the commissioner shall follow the
10 procedures for requesting local government zoning pursuant to section
11 37-334, subsection E.

12 G. Unless the commissioner nominates the trust lands under section
13 37-332, after nominating the trust lands under subsection A or B of this
14 section, the commissioner shall:

15 1. Mail notice of intent to classify the lands as trust lands
16 suitable for conservation purposes to the beneficiary or beneficiaries for
17 whom the lands are held in trust, existing lessees, local planning
18 authorities, the appropriate regional planning authorities and owners of
19 private land that consists of forty or more acres and that is located
20 within three hundred feet of the trust land. The notice shall include the
21 date, time and place of the public hearing to be held pursuant to
22 subsection H of this section and a request for written comments on the
23 proposed classification within thirty days after the date of notice.

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

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

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

31 (c) Mail the notice to the Arizona game and fish department, the
32 Arizona department of agriculture, the Arizona state parks **AND TRAILS**
33 board, the Arizona department of transportation and any other affected
34 state agency.

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

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

42 1. Consult with the governing body of each city or town in which
43 the land proposed for reclassification is located or to which the land is
44 contiguous, the county board of supervisors of each county in which the
45 land is located if the land is not located within the boundaries of a city

1 or town and the local planning and zoning authorities, including the
2 affected regional planning authorities.

3 2. Consider recommendations of the conservation advisory committee.

4 3. Consider all evidence and testimony that are submitted at the
5 hearing that was held pursuant to:

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

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

10 4. Consider the physical and economic impacts that the
11 reclassification would have on other lands owned or controlled by the
12 current lessee and the physical and economic impacts on the local
13 community.

14 5. Consider the existence of any holding lease on the lands.

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

17 7. Consider the amount of progress on any development plans being
18 completed for the lands pursuant to article 5.1 of this chapter.

19 8. Evaluate the mineral potential of the land.

20 J. The commissioner shall determine whether the reclassification is
21 in the best interest of the trust and, in making the determination, shall
22 state in writing the reasons why the classification is or is not in the
23 best interests of the trust.

24 K. If the commissioner reclassifies the trust land as suitable for
25 conservation purposes, the commissioner shall adopt a plan to allow
26 existing and conservation uses to be coordinated in a manner that will
27 protect both existing uses and conservation and open space values. If the
28 reclassified trust land is unleased or the petitioner is the lessee
29 pursuant to subsection C, paragraph 6 of this section, the commissioner
30 may require a plan from the petitioners describing how the property is to
31 be managed. In adopting the plan, the commissioner shall consult with:

32 1. The conservation advisory committee.

33 2. The governing body of the city or town if the land is located in
34 a city or town.

35 3. The county board of supervisors if the land is not located in a
36 city or town.

37 4. Existing lessees of the trust land, local and regional planning
38 authorities and owners of private land who provided written comments
39 pursuant to subsection G, paragraph 1 of this section.

40 5. Any other person or entity that the commissioner considers to be
41 necessary.

42 L. The classification of state land as suitable for conservation
43 does not affect the designation or use of adjacent federal, state or
44 private land.

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

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

8 Sec. 8. Section 37-904, Arizona Revised Statutes, is amended to
9 read:

10 37-904. Public lands board of review; members; powers and
11 duties; staff and officers; service of process

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

- 14 1. State land commissioner.
- 15 2. Director of environmental quality.
- 16 3. State geologist.
- 17 4. Director of the Arizona state parks AND TRAILS board.
- 18 5. Director of the department of transportation.
- 19 6. Deputy state forester.
- 20 7. Director of water resources.
- 21 8. Director of the Arizona game and fish department.
- 22 9. As provided in subsection F OF THIS SECTION, the chairman of the
23 board of supervisors of a county in which public lands are located.
- 24 10. One county supervisor, appointed by the governor to serve at the
25 pleasure of the governor.

26 B. The board shall elect one of its members to serve as chairman.
27 The chairman shall call meetings of the board and prescribe the time and
28 place of each meeting.

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

32 D. The board:

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

37 E. The state land department shall provide the administrative staff
38 and offices needed by the board, and the state land commissioner shall be
39 deemed the clerk of the board upon ON which notices of appeal and other
40 process shall be served.

41 F. The chairman of the county board of supervisors of a county in
42 which public lands are located and which are the subject of the board
43 action shall serve as a member of the board for the purposes of the
44 action.

1 Sec. 9. Section 37-1123, Arizona Revised Statutes, is amended to
2 read:

3 37-1123. Receiving and compiling evidence and records

4 A. The commission shall receive, review and consider all relevant
5 historical and other evidence presented to the commission by the state
6 land department and by other persons regarding the navigability or
7 nonnavigability of watercourses in this state as of February 14, 1912,
8 together with associated public trust values, except for evidence with
9 respect to the Colorado river, and, after public hearings conducted
10 pursuant to section 37-1126:

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

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

15 3. In a separate, subsequent proceeding pursuant to section
16 37-1128, subsection B, consider evidence of public trust values and then
17 identify and make a public report of any public trust values that are now
18 associated with the navigable watercourses.

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

24 1. A statement of the intent to receive, review and consider
25 evidence.

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

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

29 4. A general description of the procedures the commission will use
30 to review the evidence.

31 C. Private citizens, clubs, organizations, corporations,
32 partnerships, unincorporated associations, municipal corporations and
33 public entities may present evidence to the commission at a hearing
34 according to commission rules. The submission of evidence by any party
35 pursuant to the commission's notice under subsection B of this section
36 does not preclude that party from submitting additional evidence at any
37 hearing before the commission.

38 D. The state land department shall consult and coordinate its
39 efforts to gather evidence of navigability and public trust values with
40 the department of water resources, the game and fish department, the
41 ARIZONA state parks AND TRAILS board and other interested persons and
42 public and private entities. The commission shall consider the
43 information that those persons and entities have compiled regarding the
44 navigability of watercourses.

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

4 1. The number and value of parcels of real property that are
5 affected by a state claim of sovereign ownership to the bed of the
6 watercourse.

7 2. The degree of hardship to private parties and political
8 subdivisions due to title uncertainties relating to the bed of the
9 watercourse.

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

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

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

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

27 H. Notwithstanding subsection G of this section, any condemnation
28 action by this state or a political subdivision of this state may proceed
29 to trial and conclusion, including the payment of compensation, regardless
30 of the potential claim of title by this state based on the navigability of
31 the watercourse. In any action commenced or continued pursuant to this
32 subsection, the court shall not consider or decide the navigability of the
33 watercourse. Any judgment in any action commenced or continued pursuant
34 to this subsection shall be subject to a potential claim of title by this
35 state based on the navigability of the watercourse.

36 Sec. 10. Section 37-1156, Arizona Revised Statutes, is amended to
37 read:

38 37-1156. Riparian trust fund; acquisition and management of
39 riparian lands

40 A. The riparian trust fund is established consisting of monies
41 received from the sale or use of sovereign streambed lands and resources
42 under this chapter, damages collected from the United States pursuant to
43 section 37-1131 and any other appropriations, gifts, grants or donations
44 designated by the donor for that purpose. The state shall maintain the
45 fund separate and apart from all other funds. On notice from the

1 commissioner the state treasurer shall invest and divest monies in the
2 riparian trust fund as provided by section 35-313, and monies earned from
3 investment shall be credited to the riparian trust fund.

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

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

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

12 C. The state land commissioner shall consult with and receive
13 advice from the Arizona state parks AND TRAILS board and the Arizona game
14 and fish department regarding the acquisition and management of land and
15 interests in land under this section.

16 Sec. 11. Section 38-842, Arizona Revised Statutes, is amended to
17 read:

18 38-842. Definitions

19 In this article, unless the context otherwise requires:

20 1. "Accidental disability" means a physical or mental condition
21 that the local board finds totally and permanently prevents an employee
22 from performing a reasonable range of duties within the employee's job
23 classification and that was incurred in the performance of the employee's
24 duty.

25 2. "Accumulated contributions" means, for each member, the sum of
26 the amount of the member's aggregate contributions made to the fund and
27 the amount, if any, attributable to the employee's contributions before
28 the member's effective date under another public retirement system, other
29 than the federal social security act, and transferred to the fund minus
30 the benefits paid to or on behalf of the member.

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

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

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

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

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

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

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

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

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

20 9. "Catastrophic disability" means a physical and not a
21 psychological condition that the local board determines prevents the
22 employee from totally and permanently engaging in any gainful employment
23 and that results from a physical injury incurred in the performance of the
24 employee's duty.

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

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

29 12. "Compensation" means, for the purpose of computing retirement
30 benefits, base salary, overtime pay, shift differential pay, military
31 differential wage pay, compensatory time used by an employee in lieu of
32 overtime not otherwise paid by an employer and holiday pay paid to an
33 employee by the employer for the employee's performance of services in an
34 eligible group on a regular monthly, semimonthly or biweekly payroll basis
35 and longevity pay paid to an employee at least every six months for which
36 contributions are made to the system pursuant to section 38-843,
37 subsection D. Compensation does not include, for the purpose of computing
38 retirement benefits, payment for unused sick leave, payment in lieu of
39 vacation, payment for unused compensatory time or payment for any fringe
40 benefits. In addition, compensation does not include, for the purpose of
41 computing retirement benefits, payments made directly or indirectly by the
42 employer to the employee for work performed for a third party on a
43 contracted basis or any other type of agreement under which the third
44 party pays or reimburses the employer for the work performed by the
45 employee for that third party, except for third party contracts between

1 public agencies for law enforcement, criminal, traffic and crime
2 suppression activities training or fire, wildfire, emergency medical or
3 emergency management activities or where the employer supervises the
4 employee's performance of law enforcement, criminal, traffic and crime
5 suppression activities training or fire, wildfire, emergency medical or
6 emergency management activities. For the purposes of this paragraph,
7 "base salary" means the amount of compensation each employee is regularly
8 paid for personal services rendered to an employer before the addition of
9 any extra monies, including overtime pay, shift differential pay, holiday
10 pay, longevity pay, fringe benefit pay and similar extra payments.

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

15 14. "Cure period" means the ninety-day period in which a
16 participant or alternate payee may submit an amended domestic relations
17 order and request a determination, calculated from the time the system
18 issues a determination finding that a previously submitted domestic
19 relations order did not qualify as a plan approved domestic relations
20 order.

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

24 16. "Determination" means a written document that indicates to a
25 participant and alternate payee whether a domestic relations order
26 qualifies as a plan approved domestic relations order.

27 17. "Determination period" means the ninety-day period in which the
28 system must review a domestic relations order that is submitted by a
29 participant or alternate payee to determine whether the domestic relations
30 order qualifies as a plan approved domestic relations order, calculated
31 from the time the system mails a notice of receipt to the participant and
32 alternate payee.

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

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

38 20. "Domestic relations order" means an order of a court of this
39 state that is made pursuant to the domestic relations laws of this state
40 and that creates or recognizes the existence of an alternate payee's right
41 to, or assigns to an alternate payee the right to, receive a portion of
42 the benefits payable to a participant.

43 21. "Effective date of participation" means July 1, 1968, except
44 with respect to employers and their covered employees whose contributions

1 to the fund commence thereafter, the effective date of their participation
2 in the system is as specified in the applicable joinder agreement.

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

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

7 (a) Is under eighteen years of age.

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

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

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

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

16 (b) Municipal firefighters.

17 (c) Paid full-time firefighters employed directly by a fire
18 district organized pursuant to section 48-803 or 48-804 or a joint powers
19 authority pursuant to section 48-805.01 with three or more full-time
20 firefighters, but not including firefighters employed by a fire district
21 pursuant to a contract with a corporation.

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

23 (e) State firefighters.

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

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

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

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

35 (j) Police officers who are certified peace officers and who are
36 appointed by a community college district governing board.

37 (k) State attorney general investigators who are certified peace
38 officers.

39 (l) County attorney investigators who are certified peace officers.

40 (m) Police officers who are certified peace officers and who are
41 employed by an Indian reservation police agency.

42 (n) Firefighters who are employed by an Indian reservation
43 firefighting agency.

44 (o) Department of liquor licenses and control investigators who are
45 certified peace officers.

1 (p) Arizona department of agriculture officers who are certified
2 peace officers.

3 (q) Arizona state parks AND TRAILS board rangers and managers who
4 are certified peace officers.

5 (r) County park rangers who are certified peace officers.

6 25. "Eligible retirement plan" means any of the following that
7 accepts a distributee's eligible rollover distribution:

8 (a) An individual retirement account described in section 408(a) of
9 the internal revenue code.

10 (b) An individual retirement annuity described in section 408(b) of
11 the internal revenue code.

12 (c) An annuity plan described in section 403(a) of the internal
13 revenue code.

14 (d) A qualified trust described in section 401(a) of the internal
15 revenue code.

16 (e) An annuity contract described in section 403(b) of the internal
17 revenue code.

18 (f) An eligible deferred compensation plan described in section
19 457(b) of the internal revenue code that is maintained by a state, a
20 political subdivision of a state or any agency or instrumentality of a
21 state or a political subdivision of a state and that agrees to separately
22 account for amounts transferred into the eligible deferred compensation
23 plan from this plan.

24 26. "Eligible rollover distribution" means a payment to a
25 distributee, but does not include any of the following:

26 (a) Any distribution that is one of a series of substantially equal
27 periodic payments made not less frequently than annually for the life or
28 life expectancy of the member or the joint lives or joint life
29 expectancies of the member and the member's beneficiary or for a specified
30 period of ten years or more.

31 (b) Any distribution to the extent the distribution is required
32 under section 401(a)(9) of the internal revenue code.

33 (c) The portion of any distribution that is not includable in gross
34 income.

35 (d) Any distribution made to satisfy the requirements of section
36 415 of the internal revenue code.

37 (e) Hardship distributions.

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

41 27. "Employee" means any person who is employed by a participating
42 employer and who is a member of an eligible group but does not include any
43 persons compensated on a contractual or fee basis. If an eligible group
44 requires certified peace officer status or firefighter certification and

1 at the option of the local board, employee may include a person who is
2 training to become a certified peace officer or firefighter.

3 28. "Employers" means:

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

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

12 (c) The state highway patrol covered under the state highway patrol
13 retirement system.

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

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

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

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

29 31. "Member":

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

32 (i) Who is either a paid municipal police officer, a paid
33 firefighter, a law enforcement officer who is employed by this state
34 including the director thereof, a state firefighter who is primarily
35 assigned to firefighting duties, a firefighter or police officer of a
36 nonprofit corporation operating a public airport pursuant to sections
37 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
38 merit system council, a state attorney general investigator who is a
39 certified peace officer, a county attorney investigator who is a certified
40 peace officer, a department of liquor licenses and control investigator
41 who is a certified peace officer, an Arizona department of agriculture
42 officer who is a certified peace officer, an Arizona state parks AND
43 TRAILS board ranger or manager who is a certified peace officer, a county
44 park ranger who is a certified peace officer, a person who is a certified
45 peace officer and who is employed by an Indian reservation police agency,

1 a firefighter who is employed by an Indian reservation firefighting agency
2 or an employee included in a group designated as eligible employees under
3 a joinder agreement entered into by their employer after July 1, 1968 and
4 who is or was regularly assigned to hazardous duty or, beginning
5 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

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

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

24 (b) Does not include an employee who is hired on or after July 1,
25 2017, who makes the irrevocable election to participate solely in the
26 public safety personnel defined contribution retirement plan established
27 pursuant to article 4.1 of this chapter and who was not an active, an
28 inactive or a retired member of the system or a member of the system with
29 a disability on June 30, 2017.

30 32. "Normal retirement date" means:

31 (a) For an employee who becomes a member of the system before
32 January 1, 2012, the first day of the calendar month immediately following
33 the employee's completion of twenty years of service or the employee's
34 sixty-second birthday and the employee's completion of fifteen years of
35 service.

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

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

1 33. "Notice of receipt" means a written document that is issued by
2 the system to a participant and alternate payee and that states that the
3 system has received a domestic relations order and a request for a
4 determination that the domestic relations order is a plan approved
5 domestic relations order.

6 34. "Ordinary disability" means a physical condition that the local
7 board determines will prevent an employee totally and permanently from
8 performing a reasonable range of duties within the employee's department
9 or a mental condition that the local board determines will prevent an
10 employee totally and permanently from engaging in any substantial gainful
11 activity.

12 35. "Participant" means a member who is subject to a domestic
13 relations order.

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

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

19 38. "Personal representative" means the personal representative of
20 a deceased alternate payee.

21 39. "Physician" means a physician who is licensed pursuant to title
22 32, chapter 13 or 17.

23 40. "Plan approved domestic relations order" means a domestic
24 relations order that the system approves as meeting all the requirements
25 for a plan approved domestic relations order as otherwise prescribed in
26 this article.

27 41. "Plan year" or "fiscal year" means the period beginning on July
28 1 of any year and ending on June 30 of the next succeeding year.

29 42. "Regularly assigned to hazardous duty" means regularly assigned
30 to duties of the type normally expected of municipal police officers,
31 municipal or state firefighters, eligible fire district firefighters,
32 state highway patrol officers, county sheriffs and deputies, fish and game
33 wardens, firefighters and police officers of a nonprofit corporation
34 operating a public airport pursuant to sections 28-8423 and 28-8424,
35 police officers who are appointed by the Arizona board of regents or a
36 community college district governing board, state attorney general
37 investigators who are certified peace officers, county attorney
38 investigators who are certified peace officers, department of liquor
39 licenses and control investigators who are certified peace officers,
40 Arizona department of agriculture officers who are certified peace
41 officers, Arizona state parks **AND TRAILS** board rangers and managers who
42 are certified peace officers, county park rangers who are certified peace
43 officers, police officers who are certified peace officers and who are
44 employed by an Indian reservation police agency or firefighters who are
45 employed by an Indian reservation firefighting agency. Those individuals

1 who are assigned solely to support duties such as secretaries,
2 stenographers, clerical personnel, clerks, cooks, maintenance personnel,
3 mechanics and dispatchers are not assigned to hazardous duty regardless of
4 their position classification title. Since the normal duties of those
5 jobs described in this paragraph are constantly changing, questions as to
6 whether a person is or was previously regularly assigned to hazardous duty
7 shall be resolved by the local board on a case-by-case basis. Resolutions
8 by local boards are subject to rehearing and appeal.

9 43. "Retirement" or "retired" means termination of employment after
10 a member has fulfilled all requirements for a pension, for an employee who
11 becomes a member of the system on or after January 1, 2012 and before July
12 1, 2017, attains the age and service requirements for a normal retirement
13 date or for an employee who becomes a member of the system on or after
14 July 1, 2017 attains the age and credited service requirements for a
15 normal retirement date. Retirement shall be considered as commencing on
16 the first day of the month immediately following a member's last day of
17 employment or authorized leave of absence, if later.

18 44. "Segregated funds" means the amount of benefits that would
19 currently be payable to an alternate payee pursuant to a domestic
20 relations order under review by the system, or a domestic relations order
21 submitted to the system that failed to qualify as a plan approved domestic
22 relations order, if the domestic relations order were determined to be a
23 plan approved domestic relations order.

24 45. "Service" means the last period of continuous employment of an
25 employee by the employers before the employee's retirement, except that if
26 such period includes employment during which the employee would not have
27 qualified as a member had the system then been effective, such as
28 employment as a volunteer firefighter, then only twenty-five percent of
29 such noncovered employment shall be considered as service. Any absence
30 that is authorized by an employer shall not be considered as interrupting
31 continuity of employment if the employee returns within the period of
32 authorized absence. Transfers between employers also shall not be
33 considered as interrupting continuity of employment. Any period during
34 which a member is receiving sick leave payments or a temporary disability
35 pension shall be considered as service. Notwithstanding any other
36 provision of this paragraph, any period during which a person was employed
37 as a full-time paid firefighter for a corporation that contracted with an
38 employer to provide firefighting services on behalf of the employer shall
39 be considered as service if the employer has elected at its option to
40 treat part or all of the period the firefighter worked for the company as
41 service in its applicable joinder agreement. Any reference in this system
42 to the number of years of service of an employee shall be deemed to
43 include fractional portions of a year.

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

1 47. "System" means the public safety personnel retirement system
2 established by this article.

3 48. "Temporary disability" means a physical or mental condition
4 that the local board finds totally and temporarily prevents an employee
5 from performing a reasonable range of duties within the employee's
6 department and that was incurred in the performance of the employee's
7 duty.

8 Sec. 12. Section 38-847, Arizona Revised Statutes, is amended to
9 read:

10 38-847. Local boards

11 A. The administration of the system and responsibility for making
12 the provisions of the system effective for each employer are vested in a
13 local board. The department of public safety, the Arizona game and fish
14 department, the department of emergency and military affairs, the
15 university of Arizona, Arizona state university, northern Arizona
16 university, each county sheriff's office, each county attorney's office,
17 each county parks department, each municipal fire department, each
18 eligible fire district, each community college district, each municipal
19 police department, the department of law, the department of liquor
20 licenses and control, the Arizona department of agriculture, the Arizona
21 state parks **AND TRAILS** board, each Indian reservation police agency and
22 each Indian reservation firefighting agency shall have a local board. A
23 nonprofit corporation operating pursuant to sections 28-8423 and 28-8424
24 shall have one local board for all of its members. Each local board shall
25 be constituted as follows:

26 1. For political subdivisions or Indian tribes, the mayor or chief
27 elected official or a designee of the mayor or chief elected official
28 approved by the respective governing body as chairman, two members elected
29 by secret ballot by members employed by the appropriate employer and two
30 citizens, one of whom shall be the head of the merit system, or the head's
31 designee from among the other members of the merit system, if it exists
32 for the group of members, appointed by the mayor or chief elected official
33 and with the approval of the governing body of the city or the governing
34 body of the employer. The appointed two citizens shall serve on both
35 local boards in a city or Indian tribes where both fire and police
36 department employees are members.

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

42 3. For fire districts, the chairperson of the fire district
43 governing board or the chairperson's designee, two members elected by
44 secret ballot by members employed by the fire district and two citizens
45 appointed by the chairperson of the fire district governing board, one of

1 whom is a resident of the fire district and one of whom has experience in
2 personnel administration but who is not required to be a resident of the
3 fire district.

4 4. For joint powers authorities organized pursuant to section
5 48-805.01, the joint powers authority board chairman or a designee
6 approved by the governing body, two members elected by secret ballot by
7 members employed by the joint powers authority and two citizens, one of
8 whom is a resident of one of the partner entities and one of whom has
9 experience in personnel administration but who is not required to be a
10 resident of a partner entity.

11 B. On the taking effect of this system for an employer, the
12 appointments and elections of local board members shall take place with
13 one elective and appointive local board member serving a term ending two
14 years after the effective date of participation for the employer and other
15 local board members serving a term ending four years after the effective
16 date. Thereafter, every second year, and as a vacancy occurs, an office
17 shall be filled for a term of four years in the same manner as previously
18 provided.

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

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

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

42 2. To prescribe procedures to be followed by claimants in filing
43 applications for benefits.

44 3. To make a determination as to the right of any claimant to a
45 benefit and to afford any claimant or the board of trustees, or both, a

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

21 4. To request and receive from the employers and from members such
22 information as is necessary for the proper administration of the system
23 and action on claims for eligibility for membership and benefits, and to
24 forward such information to the board of trustees.

25 5. To distribute, in such manner as the local board determines to
26 be appropriate, information explaining the system received from the board
27 of trustees.

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

31 7. To receive and review the actuarial valuation of the system for
32 its group of members.

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

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

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

38 E. A local board shall have no power to add to, subtract from,
39 modify or waive any of the terms of the system, change or add to any
40 benefits provided by the system or waive or fail to apply any requirement
41 of eligibility for membership or benefits under the system.
42 Notwithstanding any limitations periods imposed in this article, including
43 subsection D, paragraph 3 and subsections G and H of this section, if the
44 board of trustees determines a local board decision violates the internal
45 revenue code or threatens to impair the system's status as a qualified

1 plan under the internal revenue code, the local board's decision is not
2 final and binding and the board of trustees may refrain from implementing
3 or complying with the local board decision.

4 F. A local board, from time to time, shall establish and adopt such
5 rules as it deems necessary or desirable for its administration. All
6 rules and decisions of a local board shall be uniformly and consistently
7 applied to all members in similar circumstances. If a claim or dispute is
8 presented to a local board for determination but the local board has not
9 yet adopted uniform rules of procedure for adjudication of the claim or
10 dispute, the local board shall adopt and use the model uniform rules of
11 local board procedure that are issued by the board of trustees' fiduciary
12 counsel to adjudicate the claim or dispute.

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

27 H. A claimant or the board of trustees may apply for a rehearing
28 before the local board within the time periods prescribed in this
29 subsection, except that if a decision of a local board violates the
30 internal revenue code or threatens to jeopardize the system's status as a
31 qualified plan under the internal revenue code, no limitation period for
32 the board of trustees to seek a rehearing of a local board decision
33 applies. An application for a rehearing shall be filed in writing with a
34 member of the local board or its secretary within sixty days after:

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

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

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

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

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

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

8 M. The local board shall adopt such bylaws as it deems desirable.
9 The local board shall elect a secretary who may, but need not, be a member
10 of the local board. The secretary of the local board shall keep a record
11 and prepare minutes of all meetings in compliance with chapter 3, article
12 3.1 of this title and forward the minutes and all necessary communications
13 to the board of trustees as prescribed by subsection G of this section.

14 N. The fees of the medical board and of the local board's
15 independent legal counsel and all other expenses of the local board
16 necessary for the administration of the system shall be paid by the
17 employer and not the board of trustees or system at such rates and in such
18 amounts as the local board shall approve. Legal counsel that is employed
19 by the local board is independent of the employer and any employee
20 organization or member and owes its duty of loyalty only to the local
21 board in connection with its representation of the local board.

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

27 P. The local board and the individual members of the local board
28 shall be indemnified from the assets of the employer for any judgment
29 against the local board or its members, including attorney fees and costs,
30 arising from any act, or failure to act, made in good faith pursuant to
31 the provisions of the system, including expenses reasonably incurred in
32 the defense of any claim relating to the act or failure to act.

33 Sec. 13. Section 38-848, Arizona Revised Statutes, is amended to
34 read:

35 38-848. Board of trustees; powers and duties; independent
36 trust fund; administrator; agents and employees;
37 advisory committee

38 A. Beginning January 1, 2017, the board of trustees shall consist
39 of nine members and shall have the rights, powers and duties that are set
40 forth in this section. The term of office of members shall be five years
41 to expire on the third Monday in January of the appropriate year. The
42 board shall select a chairperson from among its members each calendar
43 year. Members are eligible to receive compensation in an amount of fifty
44 dollars a day, but not to exceed one thousand dollars in any one fiscal
45 year, and are eligible for reimbursement of expenses pursuant to chapter

1 4, article 2 of this title. Beginning January 1, 2017, the board consists
2 of the following members appointed as follows:

3 1. Two members representing law enforcement, one of whom is
4 appointed by the president of the senate and one of whom is appointed by
5 the governor. A statewide association representing law enforcement in this
6 state shall forward nominations to the appointing elected officials,
7 providing at least three nominees for each position. At least one of the
8 members appointed under this paragraph shall be an elected local board
9 member.

10 2. Two members representing firefighters, one of whom is appointed
11 by the speaker of the house of representatives and one of whom is
12 appointed by the governor. A statewide association representing
13 firefighters in this state shall forward nominations to the appointing
14 elected officials, providing at least three nominees for each position.
15 At least one of the members appointed under this paragraph shall be an
16 elected local board member.

17 3. Three members representing cities and towns in this state, one
18 of whom is appointed by the president of the senate, one of whom is
19 appointed by the speaker of the house of representatives and one of whom
20 is appointed by the governor. An association representing cities and
21 towns in this state shall forward nominations to the appointing elected
22 officials, providing at least three nominees for each position. These
23 nominees shall represent taxpayers or employers and may not be members of
24 the system.

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

30 5. One member who is appointed by the governor from a list of three
31 nominees forwarded by the board. The board shall select the nominees to
32 forward to the governor from a list of at least five nominees received
33 from the advisory committee.

34 B. each appointment made pursuant to subsection A of this section
35 shall be chosen from the list of nominees provided to the appointing
36 elected official. A board member may be reappointed. Notwithstanding
37 section 38-295, a board member may be removed from office only for cause
38 by the appointing power or because the board member has vacated the
39 member's seat on the board. A board member who is removed for cause shall
40 be provided written notice and an opportunity for a response. The
41 appointing power may remove a board member based on written findings that
42 specify the reason for removal. Any vacancy that occurs other than by
43 expiration of a term shall be filled for the balance of the term. All
44 vacancies shall be filled in the same manner as the initial appointment.
45 A board member vacates the office if the member either:

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

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

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

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

11 2. A securities analyst.

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

15 4. A chartered financial analyst in good standing as determined by
16 the chartered financial analyst institute.

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

20 6. An economist.

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

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

25 D. All monies in the fund shall be deposited and held in a public
26 safety personnel retirement system depository. Monies in the fund shall
27 be disbursed from the depository separate and apart from all monies or
28 funds of this state and the agencies, instrumentalities and subdivisions
29 of this state, except that the board may commingle the assets of the fund
30 and the assets of all other plans entrusted to its management in one or
31 more group trusts, subject to the crediting of receipts and earnings and
32 charging of payments to the appropriate employer, system or plan. The
33 monies shall be secured by the depository in which they are deposited and
34 held to the same extent and in the same manner as required by the general
35 depository law of this state. For purposes of making the decision to
36 invest in securities owned by the fund or any plan or trust administered
37 by the board, the fund and assets of the plans and the plans' trusts are
38 subject to the sole management of the board for the purpose of this
39 article except that, on the board's election to invest in a particular
40 security or make a particular investment, the assets comprising the
41 security or investment may be chosen and managed by third parties approved
42 by the board. The board may invest in portfolios of securities chosen and
43 managed by a third party. The board's decision to invest in securities
44 such as mutual funds, commingled investment funds, exchange traded funds,
45 private equity or venture capital limited partnerships, real estate

1 limited partnerships or limited liability companies and real estate
2 investment trusts whose assets are chosen and managed by third parties
3 does not constitute an improper delegation of the board's investment
4 authority.

5 E. All contributions under this system and other retirement plans
6 that the board administers shall be forwarded to the board and shall be
7 held, invested and reinvested by the board as provided in this
8 article. All property and monies of the fund and other retirement plans
9 that the board administers, including income from investments and from all
10 other sources, shall be retained for the exclusive benefit of members, as
11 provided in the system and other retirement plans that the board
12 administers, and shall be used to pay benefits to members or their
13 beneficiaries or to pay expenses of operation and administration of the
14 system and fund and other retirement plans that the board administers.

15 F. The board shall have the full power in its sole discretion to
16 invest and reinvest, alter and change the monies accumulated under the
17 system and other retirement plans and trusts that the board administers as
18 provided in this article. In addition to its power to make investments
19 managed by others, the board may delegate the authority the board deems
20 necessary and prudent to investment management pursuant to section
21 38-848.03, as well as to the administrator, employed by the board pursuant
22 to subsection M, paragraph 6 of this section, and any assistant
23 administrators to invest the monies of the system and other retirement
24 plans and trusts that the board administers if the administrator,
25 investment management and any assistant administrators follow the
26 investment policies that are adopted by the board. The board may commingle
27 securities and monies of the fund, the elected officials' retirement plan,
28 the corrections officer retirement plan and other plans or monies
29 entrusted to its care, subject to the crediting of receipts and earnings
30 and charging of payments to the account of the appropriate employer,
31 system or plan. In making every investment, the board shall exercise the
32 judgment and care under the circumstances then prevailing that persons of
33 ordinary prudence, discretion and intelligence exercise in the management
34 of their own affairs, not in regard to speculation but in regard to the
35 permanent disposition of their funds, considering the probable income from
36 their funds as well as the probable safety of their capital, provided:

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

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

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

5 4. That corporate stocks and exchange traded funds eligible for
6 direct purchase shall be restricted to stocks and exchange traded funds
7 that, except for bank stocks, insurance stocks, stocks acquired for
8 coinvestment in connection with the system's or the plans' or trusts'
9 commingled investments and interests in limited liability companies and
10 mutual funds, are either:

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

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

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

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

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

31 G. Notwithstanding any other law, the board shall not be required
32 to invest in any type of investment that is dictated or required by any
33 entity of the federal government and that is intended to fund economic
34 development projects, public works or social programs, but may consider
35 such economically targeted investments pursuant to its fiduciary
36 responsibility. The board, on behalf of the system and all other plans or
37 trusts the board administers, may invest in, lend monies to or guarantee
38 the repayment of monies by a limited liability company, limited
39 partnership, joint venture, partnership, limited liability partnership or
40 trust in which the system and plans or trusts have a financial interest,
41 whether the entity is closely held or publicly traded and that, in turn,
42 may be engaged in any lawful activity, including venture capital, private
43 equity, the ownership, development, management, improvement or operation
44 of real property and any improvements or businesses on real property or
45 the lending of monies.

1 H. Conference call meetings of the board that are held for
2 investment purposes only are not subject to chapter 3, article 3.1 of this
3 title, except that the board shall maintain minutes of these conference
4 call meetings and make them available for public inspection within
5 twenty-four hours after the meeting. The board shall review the minutes
6 of each conference call meeting and shall ratify all legal actions taken
7 during each conference call meeting at the next scheduled meeting of the
8 board.

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

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

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

19 2. Sell, exchange, convey, transfer or otherwise dispose of any
20 investments made on behalf of the system or other plans the board
21 administers in the name of the system or plans by private contract or at
22 public auction.

23 3. Also:

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

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

27 (c) Exercise any conversion privileges, subscription rights or
28 other options and make any payments incidental to the exercise of the
29 conversion privileges, subscription rights or other options.

30 (d) Consent to or otherwise participate in corporate
31 reorganizations or other changes affecting corporate securities, delegate
32 discretionary powers and pay any assessments or charges in connection
33 therewith.

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

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

40 5. Register any investment held by the system or other plans whose
41 assets the board administers in the name of the system or plan or in the
42 name of a nominee or trust.

43 6. At the expense of the system or other plans that the board
44 administers, enter into an agreement with any bank or banks for the
45 safekeeping and handling of securities and other investments coming into

1 the possession of the board. The agreement shall be entered into under
2 terms and conditions that secure the proper safeguarding, inventory,
3 withdrawal and handling of the securities and other investments. No
4 access to and no deposit or withdrawal of the securities from any place of
5 deposit selected by the board shall be permitted or made except as the
6 terms of the agreement may provide.

7 7. Appear before local boards and the courts of this state and
8 political subdivisions of this state through counsel or appointed
9 representative to protect the fund or the assets of other plans that the
10 board administers. The board is not responsible for the actions or
11 omissions of the local boards under this system but may seek a review or
12 rehearing of actions or omissions of local boards. The board does not
13 have a duty to review actions of the local boards but may do so in its
14 discretion in order to protect the fund. No limitations period precludes
15 the board or administrator from contesting, or requires the board or
16 administrator to implement or comply with, a local board decision that
17 violates the internal revenue code or that threatens to impair the tax
18 qualified status of the system or any plan administered by the board or
19 administrator.

20 8. Empower the fund administrator to take actions on behalf of the
21 board that are necessary for the protection and administration of the fund
22 or the assets of other plans that the board administers pursuant to the
23 guidelines of the board.

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

27 10. Settle threatened or actual litigation against any system or
28 plan that the board administers.

29 K. Investment expenses and operation and administrative expenses of
30 the board shall be accounted for separately and allocated against
31 investment income.

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

37 1. A balance sheet.

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

39 3. A report on an actuarial valuation of its assets and
40 liabilities.

41 4. A list of investments owned.

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

1 6. Any other statistical and financial data that may be necessary
2 for the proper understanding of the financial condition of the system and
3 other plans that the board administers and the results of their
4 operations. A synopsis of the annual report shall be published for the
5 information of members of the system, the elected officials' retirement
6 plan or the corrections officer retirement plan.

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

11 8. An estimate of the aggregate employer contribution rate for the
12 public safety personnel retirement system for the next ten fiscal years
13 and an estimate of the aggregate employer contribution rate for the
14 corrections officer retirement plan for the next ten fiscal years.

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

- 18 (a) Department of liquor licenses and control.
- 19 (b) Department of public safety.
- 20 (c) Northern Arizona university.
- 21 (d) University of Arizona.
- 22 (e) Arizona state university.
- 23 (f) Arizona game and fish department.
- 24 (g) Department of law.
- 25 (h) Department of emergency and military affairs.
- 26 (i) Arizona state parks **AND TRAILS** board.

27 10. An estimate of the employer contribution rates for the next ten
28 fiscal years for each of the following employers within the corrections
29 officer retirement plan:

- 30 (a) State department of corrections.
- 31 (b) Department of public safety.
- 32 (c) The judiciary.
- 33 (d) Department of juvenile corrections.

34 11. An estimate of the aggregate fees paid for private equity
35 investments, including management fees and performance fees.

36 M. The board shall:

37 1. Maintain the accounts of the system and other plans that the
38 board administers and issue statements to each employer annually and to
39 each member who may request it.

40 2. Report the results of the actuarial valuations to the local
41 boards and employers.

42 3. Contract on a fee basis with an independent investment counsel
43 to advise the board in the investment management of the fund and assets of
44 other plans that the board administers and with an independent auditing
45 firm to audit the board's accounting.

1 4. Permit the auditor general to make an annual audit and transmit
2 the results to the governor and the legislature.

3 5. Contract on a fee basis with an actuary who shall make actuarial
4 valuations of the system and other plans that the board administers, be
5 the technical adviser of the board on matters regarding the operation of
6 the funds created by the provisions of the system, the elected officials'
7 retirement plan, the corrections officer retirement plan and the public
8 safety cancer insurance policy program and perform other duties required
9 in connection therewith. The actuary must be a member of a nationally
10 recognized association or society of actuaries.

11 6. Employ, as administrator, a person, state department or other
12 body to serve at the pleasure of the board.

13 7. Establish procedures and guidelines for contracts with
14 actuaries, auditors, investment counsel and legal counsel and for
15 safeguarding of securities.

16 N. The administrator, under the direction of the board, shall:

17 1. Administer this article.

18 2. Be responsible for the recruitment, hiring and day-to-day
19 management of employees.

20 3. Invest the monies of the system and other plans that the board
21 administers as the board deems necessary and prudent as provided in
22 subsections F and J of this section and subject to the investment policies
23 and fund objectives adopted by the board.

24 4. Establish and maintain an adequate system of accounts and
25 records for the system and other plans that the board administers, which
26 shall be integrated with the accounts, records and procedures of the
27 employers so that the system and other plans that the board administers
28 operates most effectively and at minimum expense and that duplication of
29 records and accounts is avoided.

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

35 6. Be responsible for income, the collection of the income and the
36 accuracy of all expenditures.

37 7. Recommend to the board annual contracts for the system's
38 actuary, auditor, investment counsel, legal counsel and safeguarding of
39 securities.

40 8. Perform additional duties and powers prescribed by the board and
41 delegated to the administrator.

42 0. The system is an independent trust fund and the board is not
43 subject to title 41, chapter 6. Contracts for goods and services approved
44 by the board are not subject to title 41, chapter 23. As an independent
45 trust fund whose assets are separate and apart from all other ~~monies~~ FUNDS

1 of this state, the system and the board are not subject to the
2 restrictions prescribed in section 35-154 or article IX, sections 5 and 8,
3 Constitution of Arizona. Loans, guarantees, investment management
4 agreements and investment contracts that are entered into by the board are
5 contracts memorializing obligations or interests in securities that the
6 board has concluded, after thorough due diligence, do not involve
7 investments in Sudan or Iran or otherwise provide support to terrorists or
8 in any way facilitate illegal immigration into the United States. These
9 contracts do not involve the procurement, supply or provision of goods,
10 equipment, labor, materials or services that would require the warranties
11 required by section 41-4401.

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

16 Q. In consultation with the director of the department of
17 administration, the board may enter into employment agreements and
18 establish the terms of those agreements with persons holding any of the
19 following system positions:

- 20 1. Administrator.
- 21 2. Deputy or assistant administrator.
- 22 3. Chief investment officer.
- 23 4. Deputy chief investment officer.
- 24 5. Fiduciary or investment counsel.

25 R. The attorney general or an attorney approved by the attorney
26 general and paid by the fund shall be the attorney for the board and shall
27 represent the board in any legal proceeding or forum that the board deems
28 appropriate. The board, administrator, assistant administrators and
29 employees of the board are not personally liable for any acts done in
30 their official capacity in good faith reliance on the written opinions of
31 the board's attorney.

32 S. At least once in each five-year period after the effective date,
33 the actuary shall make an actuarial investigation into the mortality,
34 service and compensation experience of the members and beneficiaries of
35 the system and other plans that the board administers and shall make a
36 special valuation of the assets and liabilities of the monies of the
37 system and plans. Taking into account the results of the investigation
38 and special valuation, the board shall adopt for the system and other
39 plans that the board administers those mortality, service and other tables
40 deemed necessary.

41 T. On the basis of the tables the board adopts, the actuary shall
42 make a valuation of the assets and liabilities of the funds of the system
43 and other plans that the board administers not less frequently than every
44 year. By November 1 of each year the board shall provide a preliminary
45 report and by December 15 of each year provide a final report to the

1 governor, the speaker of the house of representatives and the president of
2 the senate on the contribution rate for the ensuing fiscal year.

3 U. Neither the board nor any member or employee of the board shall
4 directly or indirectly, for himself or as an agent, in any manner use the
5 monies or deposits of the fund except to make current and necessary
6 payments, nor shall the board or any member or employee become an endorser
7 or surety or in any manner an obligor for monies loaned by or borrowed
8 from the fund or the assets of any other plans that the board administers.

9 V. Financial or commercial information that is provided to the
10 board, employees of the board and attorneys of the board in connection
11 with investments in which the board has invested or investments the board
12 has considered for investment is confidential, proprietary and not a
13 public record if the information is information that would customarily not
14 be released to the public by the person or entity from whom the
15 information was obtained.

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

19 X. Beginning January 1, 2017, the public safety personnel
20 retirement system advisory committee is established and shall serve as a
21 liaison between the board and the members and employers of the system.
22 The committee shall be appointed by the chairperson of the board from
23 names submitted to the chairperson by associations representing law
24 enforcement, firefighters, state government, counties, cities and towns
25 and tribal governments. The committee shall select a chairperson from
26 among its members each calendar year. The committee shall consist of the
27 following ten members:

- 28 1. A member who is a law enforcement officer.
- 29 2. A member who is a firefighter.
- 30 3. A member of the elected officials' retirement plan.
- 31 4. A member of the corrections officer retirement plan.
- 32 5. A retiree from the public safety personnel retirement system.
- 33 6. A representative from a city or town in this state.
- 34 7. A representative from a county in this state.
- 35 8. A representative from a fire district in this state.
- 36 9. A representative from a state employer.
- 37 10. A representative from a tribal government located in this
38 state.

39 Sec. 14. Section 41-151.20, Arizona Revised Statutes, is amended to
40 read:

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

44 A. ~~THE~~ THE historical advisory commission is established consisting
45 of members appointed by the director for staggered terms of three years

1 ending on July 1. The commission membership of not less than ten nor more
2 than twenty-five members shall consist of experts in the disciplines of
3 history, arts and culture, architecture and archaeology, professional
4 librarians and archivists or persons otherwise associated with the
5 interpretation, research, writing, preservation or teaching of this
6 state's heritage, including the Indian nations' history and heritage, and
7 the director of the Arizona historical society, the director of the state
8 museum, the director of the Arizona state parks AND TRAILS board, the
9 director of the office of tourism or the director's designee, the
10 superintendent of public instruction or the superintendent's designee and
11 the state historic preservation officer.

12 B. Members shall serve without compensation but those employed by
13 the state shall be reimbursed for travel and subsistence by the department
14 or agency they represent and those who are not employed by the state are
15 eligible for reimbursement of expenses by the commission pursuant to title
16 38, chapter 4, article 2.

17 C. The commission shall:

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

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

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

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

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

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

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

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

13 Sec. 15. Heading change

14 The article heading of title 41, chapter 3, article 1.1, Arizona
 15 Revised Statutes, is changed from "ARIZONA STATE PARKS BOARD" to "ARIZONA
 16 STATE PARKS AND TRAILS BOARD".

17 Sec. 16. Section 41-511, Arizona Revised Statutes, is amended to
 18 read:

19 **41-511. Arizona state parks and trails board; membership;**
 20 **appointment; terms**

21 A. ~~There shall be an~~ **THE** Arizona state parks **AND TRAILS**
 22 board, ~~which shall consist~~ **IS ESTABLISHED CONSISTING** of seven members.
 23 The state land commissioner shall be a member and the remaining members,
 24 each of whom shall be a bona fide resident of the state, shall be
 25 appointed by the governor pursuant to section 38-211. The appointive
 26 members shall be selected because of their knowledge of and interest in
 27 outdoor activities, multiple use of lands, archaeology, natural resources
 28 and the value of the historical aspects of Arizona, and because of their
 29 interest in the conservation of natural resources. Not less than one of
 30 the appointive members shall be representative of the livestock industry,
 31 one appointive member shall be professionally engaged in general
 32 recreation work and one appointive member shall be professionally engaged
 33 in the tourism industry.

34 B. All appointments shall be for a term of six years and shall
 35 expire on the third Monday in January of the appropriate year.

36 Sec. 17. Section 41-511.02, Arizona Revised Statutes, is amended to
 37 read:

38 **41-511.02. Director; qualifications; state historic**
 39 **preservation officer**

40 A. The governor shall appoint a full-time director pursuant to
 41 section 38-211 who shall:

- 42 1. Not be a member of the Arizona state parks **AND TRAILS** board.
- 43 2. Serve at the pleasure of the governor.
- 44 3. Be qualified by successful experience in administration in
 45 business or in government.

1 4. Have a knowledge of or training in the multiple use of lands and
2 the conservation of natural resources.

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

7 Sec. 18. Section 41-511.04, Arizona Revised Statutes, is amended to
8 read:

9 41-511.04. Duties; board; partnership fund; state historic
10 preservation officer; definition

11 A. The board shall:

12 1. Select areas of scenic beauty, natural features and historical
13 properties now owned by the state, except properties in the care and
14 custody of other agencies by virtue of agreement with the state or as
15 established by law, for management, operation and further development as
16 state parks and historical monuments.

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

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

24 4. Investigate federally owned lands to determine their
25 desirability for use as state parks, monuments or trails and negotiate
26 with the federal agency having jurisdiction over such lands for the
27 transfer of title to the Arizona state parks AND TRAILS board.

28 5. Investigate privately owned lands to determine their
29 desirability as state parks, monuments or trails and negotiate with
30 private owners for the transfer of title to the Arizona state parks AND
31 TRAILS board.

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

35 7. Plan, coordinate and administer a state historic preservation
36 program, including the program established pursuant to the national
37 historic preservation act of 1966, as amended.

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

41 9. Keep and administer an Arizona register of historic places
42 composed of districts, sites, buildings, structures and objects
43 significant in this state's history, architecture, archaeology,
44 engineering and culture that meet criteria that the board establishes or
45 that are listed on the national register of historic places. Entry on the

1 register requires nomination by the state historic preservation officer
2 and owner notification in accordance with rules that the board adopts.

3 10. Accept, on behalf of the state historic preservation officer,
4 applications for classification as historic property received from the
5 county assessor.

6 11. Adopt rules with regard to classification of historic property
7 including:

8 (a) Minimum maintenance standards for the property.

9 (b) Requirements for documentation.

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

12 13. Advise the governor on historic preservation matters.

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

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

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

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

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

25 19. Provide staff support to the Arizona outdoor recreation
26 coordinating commission.

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

33 21. Collaborate with the state forester in presentations to
34 legislative committees on issues associated with forest management and
35 wildfire prevention and suppression as provided by section 37-1302,
36 subsection B.

37 B. Notwithstanding section 41-511.21, the board may annually
38 collect and expend monies to plan and administer the land and water
39 conservation fund program, in conjunction with other administrative tasks
40 and recreation plans, as a surcharge to subgrantees in a proportionate
41 amount, not to exceed ten percent, of the cost of each project. The
42 surcharge monies shall be set aside to fund staff support for the land and
43 water conservation fund program.

44 C. A partnership fund is established consisting of monies received
45 pursuant to subsection B of this section, monies received from

1 intergovernmental agreements pursuant to title 11, chapter 7, article 3
2 and monies received pursuant to section 35-148. The board shall
3 administer the fund monies as a continuing appropriation for the purposes
4 provided in these sections.

5 D. The state historic preservation officer shall:

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

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

16 3. Administer grants-in-aid for historic preservation projects
17 within this state.

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

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

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

32 E. The state historic preservation officer may:

33 1. Collect and receive information for historic private burial
34 sites and historic private cemeteries from public and private sources and
35 maintain a record of the existence and location of such burial sites and
36 cemeteries located on private or public lands in this state.

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

40 3. Make the records available to assist in locating the families of
41 persons buried in the historic private burial sites and historic private
42 cemeteries.

43 F. For the purposes of this section, "historic private burial sites
44 and historic private cemeteries" means places where burials or interments
45 of human remains first occurred more than fifty years ago, that are not

1 available for burials or interments by the public and that are not
2 regulated under title 32, chapter 20, article 6.

3 Sec. 19. Section 41-511.05, Arizona Revised Statutes, is amended to
4 read:

5 41-511.05. Powers; compensation

6 The board may, subject to legislative budgetary control within the
7 limitations of this article:

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

18 2. Make such contracts, leases and agreements and incur such
19 obligations as are reasonably necessary or desirable within the general
20 scope of its activities and operations to enable it to perform adequately
21 its duties.

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

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

44 5. Construct at state parks and monuments necessary sanitary and
45 other facilities including picnic tables, fireplaces, campsites, service

1 buildings and maintenance shops, and contract with private persons for the
2 construction and operation of cabins, hotels and restaurants, and like
3 establishments.

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

8 7. Solicit and work in cooperation with the department of
9 transportation and the highway departments of various counties and the
10 United States federal highway administration for necessary roads and
11 trails within the state parks and monuments and access roads to state
12 parks and monuments. For the purposes of this paragraph, the board may
13 designate roads, spurs and other traffic related appurtenances within
14 state park boundaries as public highways. Designation of roads, spurs or
15 other traffic related appurtenances as public highways shall not prohibit
16 the board from closing such public highways when the park is closed,
17 charging for admission to the park to persons using the public highway
18 within the park or otherwise managing such public highways in the same
19 manner as other 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. The board may enter into agreements for the purpose of
23 accepting payment for fees or other charges imposed pursuant to this
24 article by alternative payment methods, including credit cards, charge
25 cards, debit cards and electronic funds transfers. The collecting officer
26 shall deduct any fee charged or withheld by a company providing the
27 alternative payment method under an agreement with the board before the
28 revenues are transferred to the board.

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 ARIZONA STATE parks AND TRAILS board are subject to review and approval by
32 the legislature. After a board rule has been finally adopted pursuant to
33 chapter 6 of this title, the board shall immediately forward a certified
34 copy of the rule to the legislature. The legislature may review and, by
35 concurrent resolution, approve, disapprove or modify such rule. However,
36 such rule shall be given full force and effect pending legislative review.
37 If no concurrent resolution is passed by the legislature with respect to
38 the rule within one year following receipt of a certified copy of the
39 rule, the rule shall be deemed to have been approved by the legislature.
40 If the legislature disapproves a rule or a section of a rule, the board
41 shall immediately discontinue the use of any procedure, action or
42 proceeding authorized or required by the rule or section of the rule. If
43 the legislature modifies a rule or section of a rule, the board shall
44 immediately suspend the use of any procedure, action or proceeding
45 authorized or required by the rule or section of the rule until the

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

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

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

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

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

21 Sec. 20. Section 41-511.11, Arizona Revised Statutes, is amended to
22 read:

23 41-511.11. Disposition of gifts; Arizona state parks and
24 trails donations fund

25 Monies from unconditional gifts, donations, bequests and endowments,
26 ~~which~~ THAT are not specifically designated to the ARIZONA state parks AND
27 TRAILS revenue fund, shall be deposited, pursuant to sections 35-146 and
28 35-147, by the board in a fund to be known as the ARIZONA state parks AND
29 TRAILS donations fund, for use by the board in accomplishing its
30 objectives and duties. All expenditures from the ARIZONA state parks AND
31 TRAILS donations fund shall be made ~~upon~~ ON claims duly itemized, verified
32 and approved by the Arizona state parks AND TRAILS board.

33 Sec. 21. Section 41-511.13, Arizona Revised Statutes, is amended to
34 read:

35 41-511.13. Violations; classification

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

39 B. It is unlawful for a person to violate any provision of this
40 article or rule or regulation prescribed under the provisions of this
41 article.

42 C. Unless a different or other penalty or punishment is
43 specifically prescribed, the person who violates any provisions of this
44 article or who violates or fails to comply with a lawful order, rule or

1 regulation of the Arizona state parks AND TRAILS board is guilty of a
2 class 2 misdemeanor.

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

6 Sec. 22. Repeal

7 Section 41-511.14, Arizona Revised Statutes, is repealed.

8 Sec. 23. Section 41-511.15, Arizona Revised Statutes, is amended to
9 read:

10 41-511.15. Arizona trail; fund; definition

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

14 B. The Arizona state parks AND TRAILS board shall:

15 1. Participate in planning, establishing, developing, maintaining
16 and preserving the trail.

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

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

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

29 5. Coordinate the board's trail plan with federal, state and local
30 activities and land uses that may affect the trail and with private
31 nonprofit support organizations to assist in planning, developing,
32 promoting and preserving the trail.

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

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

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

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

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

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

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

9 E. The Arizona trail fund is established consisting of legislative
10 appropriations and donations to the fund. The Arizona state parks AND
11 TRAILS board shall administer the fund. The monies in the fund are
12 continuously appropriated for the sole purpose of maintaining and
13 preserving the Arizona trail.

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

17 Sec. 24. Section 41-511.16, Arizona Revised Statutes, is amended to
18 read:

19 41-511.16. Rock climbing state park; fees, gifts and
20 donations; disposition

21 A. The Arizona state parks AND TRAILS board shall establish a rock
22 climbing state park subject to all of the following conditions:

23 1. The conveyance of approximately two thousand acres of bureau of
24 land management land by the United States secretary of the interior,
25 pursuant to the recreational and public purposes act (43 United States
26 Code sections 869 through 869-4), to the Arizona state parks AND TRAILS
27 board. The land is located in Gila county and is generally described as:
28 the south 1/2 of section 4, township 4 south, range 15 east; southeast 1/4
29 of section 5, township 4 south, range 15 east; all of section 8, township
30 4 south, range 15 east, except north 1/2, of the southwest 1/4 and
31 southeast 1/4, southeast 1/4; north 1/2, and the north 1/2 of the
32 southwest 1/4 of section 9, township 4 south, range 15 east; north 1/2
33 section 16, township 4 south, range 15 east, except southeast 1/4 of the
34 northeast 1/4; the north 1/2 of section 17, township 4 south, range 15
35 east.

36 2. The conveyance or lease of three parcels of state trust land
37 totaling approximately one hundred sixty acres to the Arizona state parks
38 AND TRAILS board. The trust lands are located in Gila county and are
39 generally described as: the southeast 1/4 of the southeast 1/4 of section
40 8, township 4 south, range 15 east; south 1/2 of the southeast 1/4,
41 section 9, township 4 south, range 15 east; southeast 1/4 of the northeast
42 1/4, section 16, township 4 south, range 15 east.

43 3. The establishment of a park access road as specified by the
44 United States Congress and a public access easement on the access road
45 being transferred to the Arizona state parks AND TRAILS board.

1 B. Notwithstanding the provisions of section 41-511.05, paragraph
2 3, additions to the rock climbing state park, up to five hundred acres,
3 shall not require additional legislative authorization.

4 C. The Arizona state parks AND TRAILS board shall use its best
5 efforts to prevent trespass onto private lands adjacent to the boundaries
6 of the rock climbing state park and shall provide access to the owners of
7 any private lands within the exterior boundary of the state park.

8 D. The Arizona state parks AND TRAILS board may charge user fees
9 and concession fees and collect monies from other revenue generating
10 activities. The ARIZONA state parks AND TRAILS board shall deposit,
11 pursuant to sections 35-146 and 35-147, all monies collected in the
12 ARIZONA state parks AND TRAILS revenue fund established by section
13 41-511.21.

14 E. The Arizona state parks AND TRAILS board may accept gifts and
15 donations toward the acquisition, management and operations of the rock
16 climbing state park. The Arizona state parks AND TRAILS board shall
17 deposit, pursuant to sections 35-146 and 35-147, any gifts or donations
18 collected in the ARIZONA state parks AND TRAILS donations fund established
19 by section 41-511.11 and account for these monies separately.

20 F. The Arizona state parks AND TRAILS board shall ensure public
21 access to the rock climbing state park.

22 G. Nothing in the establishment of the rock climbing state park
23 shall be construed to impose any new or additional management
24 requirements, restrictions or regulations under the laws of this state on
25 the permitting, management of or the conduct of activities on any lands
26 outside the state park, or to impose restrictions on these activities in
27 addition to those applicable to the same land within and outside the state
28 park, before its designation as a state park.

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

33 Sec. 25. Section 41-511.17, Arizona Revised Statutes, is amended to
34 read:

35 41-511.17. Sustainable state parks and roads fund

36 The sustainable state parks and roads fund is established consisting
37 of monies received pursuant to section 43-622. The Arizona state parks
38 AND TRAILS board shall administer the fund. Monies in the fund are
39 continuously appropriated. The Arizona state parks AND TRAILS board shall
40 use the monies in the fund to operate, maintain and make capital
41 improvements to buildings, roads, parking lots, highway entrances and any
42 related structure used to operate state parks.

1 Sec. 26. Section 41-511.18, Arizona Revised Statutes, is amended to
2 read:

3 41-511.18. Spur Cross Ranch state park

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 13. The Columbian lode mining claim, designated by the surveyor
44 general as survey number 2685, embracing a portion of the unsurveyed

1 domain in the cave creek mining district, as conveyed and more
2 particularly described in patent recorded in book 99 of deeds, page 10.

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

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

11 Sec. 27. Section 41-511.19, Arizona Revised Statutes, is amended to
12 read:

13 41-511.19. Catalina state park

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

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

31 B. The Arizona state parks **AND TRAILS** board or its successor may
32 lease or purchase from anyone any of the lands described in subsection A
33 **OF THIS SECTION** for Catalina state park purposes, subject to the
34 availability of ~~funds~~ **MONIES** appropriated for such purposes by the
35 legislature.

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

40 Sec. 28. Section 41-511.20, Arizona Revised Statutes, is amended to
41 read:

42 41-511.20. Authorized emergency use of water from Lake
43 Patagonia by city of Nogales

44 A. Notwithstanding any provision of law to the contrary, whenever
45 an emergency exists, as determined by the mayor of the city of Nogales,

1 Arizona, and concurred in by the director of water resources, that there
2 is not sufficient water for use by such city and that there is no other
3 water available from any other practical source, then the ARIZONA state
4 parks AND TRAILS board shall, upon ON request by such mayor, SHALL
5 authorize such city to remove from Lake Patagonia such amount of water as
6 needed to supply the city with sufficient water. The city of Nogales
7 shall provide the means for transferring such water.

8 B. The director of water resources shall assess a fee to the city
9 of Nogales for the use of such water based upon ON the value of the
10 water. Such fee shall be paid by the city to the ARIZONA state parks AND
11 TRAILS board Lake Patagonia account.

12 Sec. 29. Section 41-511.21, Arizona Revised Statutes, is amended to
13 read:

14 41-511.21. Arizona state parks and trails revenue fund;
15 purpose: exemption

16 A. The ARIZONA state parks AND TRAILS revenue fund is established
17 consisting of:

18 1. Monies received from the sale of park posters, park postcards,
19 books, souvenirs and sundry items pursuant to section 41-511.05,
20 paragraph 4.

21 2. Monies appropriated by the legislature for the purpose of
22 enhancing state parks.

23 3. Unconditional gifts and donations specifically designated to the
24 revenue fund, except for unconditional gifts, donations, bequests and
25 endowments deposited in the ARIZONA state parks AND TRAILS donations fund
26 pursuant to section 41-511.11.

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

29 5. Surcharges on park reservations.

30 6. Sale of park assets.

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

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

33 2. For use by the board to acquire and develop real property and
34 improvements as state parks consistent with the purposes and objectives
35 prescribed in section 41-511.03, subject to review by the joint committee
36 on capital review.

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

39 D. The board may collect monies as a surcharge on park reservations
40 and shall determine the surcharge rate as provided in section 41-511.05,
41 paragraph 8 after considering the costs to plan and administer the
42 reservation system.

43 E. On notice from the board, the state treasurer shall invest and
44 divest the monies in the ARIZONA state parks AND TRAILS revenue fund as

1 provided by section 35-313, and monies earned from investment shall be
2 credited to the fund.

3 F. Monies in the ARIZONA state parks AND TRAILS revenue fund are
4 exempt from section 35-190, relating to lapsing of appropriations. The
5 purposes for which monies were expended during the preceding fiscal year
6 shall be delineated in the agency's annual report pursuant to section
7 41-511.12.

8 Sec. 30. Section 41-511.22, Arizona Revised Statutes, is amended to
9 read:

10 41-511.22. Trail systems plan; deposit of monies; definition

11 A. The board shall prepare a trail systems plan that:

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

14 2. Assesses the physical condition of the systems.

15 3. Assesses usage of trails.

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

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

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

23 C. Monies from gifts, grants and other donations received by the
24 board for the trail systems plan shall be deposited in a separate account
25 of the ARIZONA state parks AND TRAILS donations fund established by
26 section 41-511.11 and may be allocated by the board for special trail
27 project priorities established annually by the board.

28 D. Monies deposited in the state parks donations fund account shall
29 be used for providing state monies up to an amount equal to the amount of
30 cash, materials and labor from any other source for the planning,
31 acquisition, maintenance or operation of the trails and for administrative
32 expenses of not more than twenty ~~percent~~ PERCENT of total account monies.

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

35 Sec. 31. Section 41-511.23, Arizona Revised Statutes, is amended to
36 read:

37 41-511.23. Conservation acquisition board; land conservation
38 fund; conservation donation and public
39 conservation accounts; livestock and crop
40 conservation fund

41 A. The conservation acquisition board is established, as an
42 advisory body to the Arizona state parks AND TRAILS board, consisting of
43 the following members who are appointed by the governor, at least one of
44 whom shall be experienced in soliciting money from private sources:

- 1 1. One state land lessee.
- 2 2. One member who is qualified by experience in managing large
- 3 holdings of private land for income production or conservation purposes.
- 4 3. One member of the state bar of Arizona who is experienced in the
- 5 practice of private real estate law.
- 6 4. One real estate appraiser who is licensed or certified under
- 7 title 32, chapter 36.
- 8 5. One member who is qualified by experience in marketing real
- 9 estate.
- 10 6. One representative of a conservation organization.
- 11 7. One representative of a state public educational institution.
- 12 B. The governor shall designate a presiding member of the board.
- 13 The term of office is five years except that initial members shall assign
- 14 themselves by lot to terms of one, two, three, two members for four and
- 15 two members for five years in office.
- 16 C. The conservation acquisition board shall:
- 17 1. Solicit donations to the conservation donation account.
- 18 2. Consult with entities such as private land trusts, state land
- 19 lessees, the state land department, the Arizona state parks AND TRAILS
- 20 board and others to identify conservation areas that are reclassified
- 21 pursuant to section 37-312 and that are suitable for funding.
- 22 3. Recommend to the Arizona state parks AND TRAILS board
- 23 appropriate grants from the land conservation fund.
- 24 D. The land conservation fund is established consisting of the
- 25 following accounts:
- 26 1. The conservation donation account consisting of monies received
- 27 as donations. Donations to the account are subject to any lawful
- 28 conditions the donor may prescribe, including any conditions on the use of
- 29 the money or reversion to the donor. Monies in the account are exempt
- 30 from the provisions of section 35-190 relating to lapsing of
- 31 appropriations.
- 32 2. The public conservation account consisting of monies
- 33 appropriated to the account from the state general fund and monies from
- 34 any other designated source. In fiscal years 2000-2001 through 2010-2011,
- 35 the sum of twenty million dollars is appropriated each fiscal year from
- 36 the state general fund to the public conservation account in the land
- 37 conservation fund for the purposes of this section. Monies in the account
- 38 are appropriated for the purposes of this section, and the Arizona state
- 39 parks AND TRAILS board may spend monies in the account without further
- 40 legislative authorization. Each expenditure of monies from the public
- 41 conservation account for purposes listed under subsection G, paragraph 2
- 42 of this section shall be matched by an equal expenditure of monies from
- 43 the conservation donation account or from other private or governmental
- 44 sources.

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

8 F. The monies in the fund are exempt from the provisions of section
9 35-190 relating to lapsing of appropriations.

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

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

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

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

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

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

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

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

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

10 (h) Shall prepare a report of the disposition of monies
11 appropriated to the fund each fiscal year and provide a copy of the report
12 to the governor, to the Arizona state parks AND TRAILS board and to any
13 person who requests a copy.

14 2. The remainder of the monies to the Arizona state parks AND
15 TRAILS board for the exclusive purpose of granting monies to the state or
16 any of its political subdivisions, or to a nonprofit organization that is
17 exempt from federal income taxation under section 501(c) of the internal
18 revenue code and that has the purpose of preserving open space, for the
19 following purposes only:

20 (a) To purchase or lease state trust lands that are classified as
21 suitable for conservation purposes pursuant to title 37, chapter 2,
22 article 4.2. A grant of money under this subdivision to a nonprofit
23 organization is conditioned on the organization providing reasonable
24 public access to any land that is wholly or partly purchased with that
25 money. The organization shall agree with the Arizona state parks AND
26 TRAILS board that it will impose a restrictive covenant, running with the
27 title to the land, granting such access and providing for reversion to
28 this state of any interest in the property acquired with money granted
29 under this subdivision on the failure to comply with the terms of the
30 covenant. The Arizona state parks AND TRAILS board and the state land
31 commissioner have standing to either enforce the covenant or recover the
32 amount of the grant from the current owner, with interest from the date
33 the grant was awarded to the nonprofit organization.

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

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

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

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

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

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

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

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

7 1. The Arizona state parks AND TRAILS board shall not grant more
8 than fifty ~~per cent~~ PERCENT of the monies with respect to land in one
9 county in any fiscal year.

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

13 3. The Arizona state parks AND TRAILS board may adopt rules to
14 establish qualifications of nonprofit organizations for purposes of
15 applying for and receiving money granted.

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

20 I. The Arizona state parks AND TRAILS board shall administer the
21 land conservation fund. On notice from the board, the state treasurer
22 shall invest and divest monies in either account in the fund as provided
23 by section 35-313, and monies earned from investments shall be credited to
24 a separate administration account to pay the board's expenses of
25 administering the land conservation and acquisition program under
26 subsection G, paragraph 2 of this section, which shall not exceed five ~~per~~
27 ~~cent~~ PERCENT of the amount deposited in the public conservation account in
28 any fiscal year or five hundred thousand dollars, whichever is less.
29 Investment earnings in excess of five hundred thousand dollars are
30 appropriated to the Arizona state parks AND TRAILS board for the purpose
31 of operating state parks.

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

36 Sec. 32. Section 41-511.25, Arizona Revised Statutes, is amended to
37 read:

38 41-511.25. Arizona outdoor recreation coordinating
39 commission; members; powers and duties

40 A. The Arizona outdoor recreation coordinating commission is
41 established. The commission shall be composed of seven members consisting
42 of the director of the Arizona game and fish department, the director of
43 the Arizona state parks AND TRAILS board and five members appointed by the
44 governor. The ex officio members may not serve as officers of the
45 commission. Of the members appointed by the governor three shall be

1 professional full-time parks and recreation department directors of a
2 county, city, or town and no two shall reside in the same county. Two
3 members appointed by the governor shall be from the general public and
4 each shall have broad experience in outdoor recreation. Of the five
5 appointed members, no more than two shall reside in the same county. Each
6 appointed member shall be appointed for a term of three years. Appointed
7 members shall be reimbursed for expenses incurred while attending meetings
8 called by the commission as prescribed by section 38-624.

9 B. The commission shall:

10 1. Review statewide outdoor recreation and lake improvement plans
11 and provide comments to the Arizona state parks AND TRAILS board.

12 2. Review budget proposals for the use of land and water
13 conservation fund surcharges and the state lake improvement fund for
14 planning and administration and provide recommendations to the Arizona
15 state parks AND TRAILS board.

16 3. Establish criteria and policies for the equitable distribution
17 of funding, review applications for eligible projects and determine the
18 amount of funding, if any, for each project to be funded from the land and
19 water conservation fund, the state lake improvement fund and the
20 off-highway vehicle recreation fund.

21 Sec. 33. Section 41-512, Arizona Revised Statutes, is amended to
22 read:

23 41-512. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Director" means the director of the department of
26 transportation.

27 2. "Historic road" means a highway, street, road or route that is
28 of historical or cultural importance in the settlement and development of
29 Arizona and is established or designated as a historic road by the
30 transportation board.

31 3. "Historical society" means the Arizona historical society.

32 4. "Parks AND TRAILS board" means the Arizona state parks AND
33 TRAILS board.

34 5. "Parkway" means an area along either or both sides of a highway,
35 street, road or route acquired in fee or by easement by the governmental
36 body having jurisdiction over the highway, street, road or route for the
37 protection of geographic, natural flora or scenic values, and established
38 or designated as a parkway by the transportation board.

39 6. "Scenic road" means a highway, street, road or route through a
40 scenic area that is established or designated as a scenic road by the
41 transportation board.

42 7. "Transportation board" means the transportation board of the
43 department of transportation.

1 Sec. 34. Section 41-514, Arizona Revised Statutes, is amended to
2 read:

3 41-514. Administration; advisory committee; composition;
4 duties; designation of parkways and historic and
5 scenic roads

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

18 B. The advisory committee shall:

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

21 2. Prepare recommendations to the transportation board as to those
22 highways or areas appropriate for establishment or designation as parkways
23 or historic or scenic roads.

24 3. Review established or designated parkways or historic or scenic
25 roads and recommend to the transportation board their continuation or
26 deletion as parkways or historic or scenic roads.

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

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

33 E. If the parkway or historic or scenic road to be established or
34 designated is not a state highway or route, the establishment or
35 designation is not effective unless the board or body exercising
36 jurisdiction over such road agrees to such establishment or designation.

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

41 1. The subdivision plat provides internal access to the one mile
42 access roads across the parkway and would accommodate access to such
43 access roads from unsubdivided adjoining lands.

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

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

7 Sec. 35. Section 41-519, Arizona Revised Statutes, is amended to
8 read:

9 41-519. Yarnell Hill memorial

10 A. The Arizona state parks AND TRAILS board shall establish the
11 Yarnell Hill memorial state park subject to the following conditions:

12 1. The Yarnell Hill memorial site board recommends that the Arizona
13 state parks AND TRAILS board purchase the land for the memorial site.

14 2. The Arizona state parks AND TRAILS board purchases the Yarnell
15 Hill memorial site pursuant to title 37, chapter 2, article 3.

16 3. The Yarnell Hill memorial site board approves the design and
17 construction of the memorial.

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

20 B. The Arizona state parks AND TRAILS board may enter into an
21 intergovernmental agreement pursuant to title 11, chapter 7, article 3
22 with the county in which the park is located for the maintenance and
23 preservation of the Yarnell Hill memorial and access road.

24 Sec. 36. Section 41-519.02, Arizona Revised Statutes, is amended to
25 read:

26 41-519.02. Yarnell Hill memorial fund; exemption

27 A. The Yarnell Hill memorial fund is established consisting of
28 legislative appropriations and donations to the fund. The Yarnell Hill
29 memorial site board shall administer the fund. On notice from the Yarnell
30 Hill memorial site board, the state treasurer shall invest and divest
31 monies in the fund as provided by section 35-313, and monies earned from
32 investment shall be credited to the fund. The monies in the fund are
33 exempt from section 35-190 relating to lapsing of appropriations. The
34 monies in the fund and any additional donations to the fund must be used
35 for:

36 1. Purchasing land for the Yarnell Hill memorial.

37 2. Purchasing, designing and constructing the Yarnell Hill
38 memorial.

39 3. Maintaining and preserving the Yarnell Hill memorial and access
40 road.

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

43 B. Beginning on January 1, 2017, the Arizona state parks AND TRAILS
44 board shall administer the fund.

1 Sec. 37. Section 41-881, Arizona Revised Statutes, is amended to
2 read:

3 41-881. Historic property rehabilitation program;
4 administration; purposes; special projects; state
5 contribution; standards; protective covenant;
6 report

7 A. ~~A~~ THE state historic property rehabilitation program is
8 established to be administered by the Arizona state parks AND TRAILS board
9 through the state historic preservation officer. All decisions relating
10 to the program by the state historic preservation officer are subject to
11 approval by the Arizona state parks AND TRAILS board. The state historic
12 preservation officer may provide for the staff necessary for the operation
13 of the program.

14 B. Monies from appropriations may be allocated by the state
15 historic preservation officer for special project priorities established
16 annually by the state historic preservation officer.

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

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

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

40 Sec. 38. Section 41-1005, Arizona Revised Statutes, is amended to
41 read:

42 41-1005. Exemptions

43 A. This chapter does not apply to any:

- 1 1. Rule that relates to the use of public works, including streets
2 and highways, under the jurisdiction of an agency if the effect of the
3 order is indicated to the public by means of signs or signals.
- 4 2. Order or rule of the Arizona game and fish commission that does
5 the following:
 - 6 (a) Opens, closes or alters seasons or establishes bag or
7 possession limits for wildlife.
 - 8 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
 - 9 (c) Establishes a license classification, fee or application fee
10 pursuant to title 17, chapter 3, article 2.
- 11 3. Rule relating to section 28-641 or to any rule regulating motor
12 vehicle operation that relates to speed, parking, standing, stopping or
13 passing enacted pursuant to title 28, chapter 3.
- 14 4. Rule concerning only the internal management of an agency that
15 does not directly and substantially affect the procedural or substantive
16 rights or duties of any segment of the public.
- 17 5. Rule that only establishes specific prices to be charged for
18 particular goods or services sold by an agency.
- 19 6. Rule concerning only the physical servicing, maintenance or care
20 of agency owned or operated facilities or property.
- 21 7. Rule or substantive policy statement concerning inmates or
22 committed youths of a correctional or detention facility in secure custody
23 or patients admitted to a hospital, if made by the state department of
24 corrections, the department of juvenile corrections, the board of
25 executive clemency or the department of health services or a facility or
26 hospital under the jurisdiction of the state department of corrections,
27 the department of juvenile corrections or the department of health
28 services.
- 29 8. Form whose contents or substantive requirements are prescribed
30 by rule or statute, and instructions for the execution or use of the form.
- 31 9. Capped fee-for-service schedule adopted by the Arizona health
32 care cost containment system administration pursuant to title 36,
33 chapter 29.
- 34 10. Fees prescribed by section 6-125.
- 35 11. Order of the director of water resources adopting or modifying
36 a management plan pursuant to title 45, chapter 2, article 9.
- 37 12. Fees established under section 3-1086.
- 38 13. Fees established under sections 41-4010 and 41-4042.
- 39 14. Rule or other matter relating to agency contracts.
- 40 15. Fees established under section 32-2067 or 32-2132.
- 41 16. Rules made pursuant to section 5-111, subsection A.
- 42 17. Rules made by the Arizona state parks **AND TRAILS** board
43 concerning the operation of the Tonto natural bridge state park, the
44 facilities located in the Tonto natural bridge state park and the entrance
45 fees to the Tonto natural bridge state park.

- 1 18. Fees or charges established under section 41-511.05.
2 19. Emergency medical services protocols except as provided in
3 section 36-2205, subsection B.
4 20. Fee schedules established pursuant to section 36-3409.
5 21. Procedures of the state transportation board as prescribed in
6 section 28-7048.
7 22. Rules made by the state department of corrections.
8 23. Fees prescribed pursuant to section 32-1527.
9 24. Rules made by the department of economic security pursuant to
10 section 46-805.
11 25. Schedule of fees prescribed by section 23-908.
12 26. Procedure that is established pursuant to title 23, chapter 6,
13 article 6.
14 27. Rules, administrative policies, procedures and guidelines
15 adopted for any purpose by the Arizona commerce authority pursuant to
16 chapter 10 of this title if the authority provides, as appropriate under
17 the circumstances, for notice of an opportunity for comment on the
18 proposed rules, administrative policies, procedures and guidelines.
19 28. Rules made by a marketing commission or marketing committee
20 pursuant to section 3-414.
21 29. Administration of public assistance program monies authorized
22 for liabilities that are incurred for disasters declared pursuant to
23 sections 26-303 and 35-192.
24 30. User charges, tolls, fares, rents, advertising and sponsorship
25 charges, services charges or similar charges established pursuant to
26 section 28-7705.
27 31. Administration and implementation of the hospital assessment
28 pursuant to section 36-2901.08, except that the Arizona health care cost
29 containment system administration must provide notice and an opportunity
30 for public comment at least thirty days before establishing or
31 implementing the administration of the assessment.
32 32. Rules made by the Arizona department of agriculture to adopt
33 and implement the provisions of the federal milk ordinance as prescribed
34 by section 3-605.
35 B. Notwithstanding subsection A, paragraph 21 of this section, at
36 such time as the federal highway administration authorizes the
37 privatization of rest areas, the state transportation board shall make
38 rules governing the lease or license by the department of transportation
39 to a private entity for the purposes of privatization of a rest area.
40 C. Coincident with the making of a final rule pursuant to an
41 exemption from the applicability of this chapter under this section,
42 another statute or session law, the agency shall file a copy of the rule
43 with the secretary of state for publication pursuant to section 41-1012
44 and provide a copy to the council.

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

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

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

22 Sec. 39. Repeal

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

25 Sec. 40. Section 41-2501, Arizona Revised Statutes, as amended by
26 Laws 2016, chapter 214, section 2 and chapter 312, section 7, is amended
27 to read:

28 41-2501. Applicability

29 A. This chapter applies only to procurements initiated after
30 January 1, 1985 unless the parties agree to its application to
31 procurements initiated before that date.

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

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

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

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

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

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

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

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

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

37 ~~K.~~ J. The state transportation board and the director of the
38 department of transportation are exempt from this chapter other than
39 section 41-2586 for the procurement of construction or reconstruction,
40 including engineering services, of transportation facilities or highway
41 facilities and any other services that are directly related to land
42 titles, appraisals, real property acquisition, relocation, property
43 management or building facility design and construction for highway
44 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 AND TRAILS board 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 AND TRAILS board 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.~~ FF. Expenditures of monies in the Arizona agricultural
23 protection fund established by section 3-3304 are exempt from this
24 chapter.

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

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

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

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

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

1 ~~MM~~ LL. This chapter does not apply to contracts for credit
2 reporting services.

3 ~~NN~~ MM. This chapter does not apply to contracts entered into by
4 the department of child safety:

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

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

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

13 Sec. 41. Section 41-3023.06, Arizona Revised Statutes, is amended
14 to read:

15 41-3023.06. Arizona state parks and trails board; termination
16 July 1, 2023

17 A. The Arizona state parks AND TRAILS board terminates on July
18 1, 2023.

19 B. Title 41, chapter 3, article 1.1 ~~is~~ AND THIS SECTION ARE
20 repealed on January 1, 2024.

21 Sec. 42. Section 42-12101, Arizona Revised Statutes, is amended to
22 read:

23 42-12101. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Commercial historic property" means real property that:

26 (a) Meets the criteria for classification as class one, paragraph
27 12 pursuant to section 42-12001 or class four pursuant to section
28 42-12004, subsection A, paragraphs 2 through 9.

29 (b) Is listed in the national register of historic places
30 established and maintained under the national historic preservation act
31 (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as
32 amended.

33 (c) Meets the minimum standards of maintenance established by rule
34 by the Arizona state parks AND TRAILS board.

35 2. "Noncommercial historic property" means real property:

36 (a) That is listed in the national register of historic places
37 established and maintained under the national historic preservation act
38 (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as
39 amended.

40 (b) That meets the minimum standards of maintenance established by
41 rule by the Arizona state parks AND TRAILS board.

42 (c) On which no business or enterprise is conducted with the intent
43 of earning a profit.

