

REFERENCE TITLE: Colorado River drought contingency amendments

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1227

Introduced by
Senators Fann: Kerr, Otondo

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-118; REPEALING SECTION 45-118, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-514, 45-611, 45-613 AND 45-615, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 11, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-615.01; REPEALING SECTION 45-615.01, ARIZONA REVISED STATUTES; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 312, SECTION 2; AMENDING SECTION 45-802.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 168, SECTION 4; AMENDING SECTIONS 45-851.01, 45-852.01, 45-853.01, 45-855.01 AND 45-2425, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO WATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 45, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 45-118, to read:

4 45-118. Arizona system conservation fund; purpose; report

5 A. THE ARIZONA SYSTEM CONSERVATION FUND IS ESTABLISHED CONSISTING
6 OF LEGISLATIVE APPROPRIATIONS, GRANTS AND CONTRIBUTIONS FROM PRIVATE AND
7 PUBLIC ENTITIES. THE DIRECTOR SHALL ADMINISTER THE FUND. MONIES IN THE
8 FUND ARE CONTINUOUSLY APPROPRIATED FOR THE PURPOSES OF THIS SECTION. THE
9 DIRECTOR MAY SPEND MONIES FROM THE FUND TO CONTRACT WITH COLORADO RIVER
10 WATER USERS IN THIS STATE THAT HOLD ENTITLEMENTS TO COLORADO RIVER WATER
11 UNDER THE DECREE IN ARIZONA V. CALIFORNIA TO FORGO WATER DELIVERIES OR
12 DIVERSIONS FOR THE PURPOSE OF CREATING SYSTEM CONSERVATION. CONTRACTS
13 ENTERED INTO PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 41,
14 CHAPTER 23.

15 B. SYSTEM CONSERVATION CREATED THROUGH THE USE OF THE FUND SHALL
16 PROVIDE FOR COLORADO RIVER WATER TO BE CONSERVED IN LAKE MEAD THROUGH A
17 VERIFIED REDUCTION IN EXISTING CONSUMPTIVE USE IN ORDER TO DECREASE THE
18 LIKELIHOOD OF LAKE ELEVATIONS DROPPING TO LEVELS THAT COULD RESULT IN
19 REDUCTIONS TO THIS STATE'S COLORADO RIVER ALLOCATION. SYSTEM CONSERVATION
20 MUST BE CREATED FOR THE BENEFIT OF THE COLORADO RIVER SYSTEM AND NOT FOR
21 THE BENEFIT OF ANY INDIVIDUAL COLORADO RIVER WATER USER.

22 C. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST
23 AND DIVEST MONIES EARNED AS PROVIDED BY SECTION 35-313, AND MONIES EARNED
24 FROM INVESTMENT SHALL BE CREDITED TO THE FUND. MONIES IN THE FUND ARE
25 EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
26 APPROPRIATIONS.

27 D. BEGINNING JULY 1, 2021 AND ON JULY 1 EACH YEAR THEREAFTER, THE
28 DIRECTOR SHALL SUBMIT A DETAILED REPORT TO THE GOVERNOR, THE PRESIDENT OF
29 THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PROVIDE A
30 COPY OF THIS REPORT TO THE SECRETARY OF STATE. THE REPORT SHALL DESCRIBE
31 THE EXPENDITURES MADE FROM THE FUND DURING THE PREVIOUS FISCAL YEAR AND
32 THE VOLUME OF WATER THAT WAS CONSERVED IN LAKE MEAD.

33 Sec. 2. Delayed repeal

34 Section 45-118, Arizona Revised Statutes, as added by this act, is
35 repealed from and after March 31, 2027.

36 Sec. 3. Section 45-514, Arizona Revised Statutes, is amended to
37 read:

38 45-514. Mineral extraction and metallurgical processing
39 permit; conditions for issuance; duration of permit

40 A. Except as provided in subsection D of this section, a person who
41 is engaged in or proposes to engage in the extraction and processing of
42 minerals shall be issued a permit to withdraw groundwater in the required
43 amount, if all of the following apply:

1 1. The amount of groundwater available for mineral extraction,
2 metallurgical processing and compliance with applicable environmental
3 controls under a dewatering permit is insufficient.

4 2. Uncommitted municipal and industrial central Arizona project
5 water is not available at the point where the operator's wellhead or
6 distribution system would otherwise be, at a cost which does not exceed
7 the current municipal and industrial central Arizona project delivery
8 rates.

9 3. Other surface water of adequate quality or effluent of adequate
10 quality is not available at the point where the operator's wellhead or
11 distribution system would otherwise be, at a cost, including treatment
12 costs, which does not exceed by twenty-five ~~per cent~~ PERCENT the cost the
13 operator would otherwise incur in withdrawing groundwater.

14 4. The applicant does not own or lease type 2 non-irrigation
15 grandfathered rights originally based on withdrawals of groundwater for
16 the extraction or processing of minerals that the applicant is not using
17 or leasing and that can be used at the proposed location without imposing
18 an unreasonable economic burden on the applicant.

19 B. A permit issued pursuant to this section shall be granted for a
20 period of up to fifty years, subject to renewal under the same criteria
21 used in granting the original permit.

22 C. If, during the duration of a mineral extraction and
23 metallurgical processing permit, the director determines that uncommitted
24 municipal and industrial central Arizona project water is available or
25 surface water of adequate quality or effluent of adequate quality is
26 available to the permittee at a cost comparable to groundwater, the
27 director may require the permittee to use such water in lieu of
28 groundwater.

29 D. Beginning January 1 of the calendar year following the year in
30 which a groundwater replenishment district is required to submit its
31 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,
32 and except for an application to renew a mineral extraction and
33 metallurgical processing permit, on receiving a permit application the
34 director shall not issue a permit for a well in the district unless at the
35 time the application is filed:

36 1. The director has determined that the district's plan for
37 operation is consistent with achieving the management goal, according to
38 section 45-576.03, subsection E, and the designation has not expired.

39 2. The master replenishment account, as established in section
40 45-858.01, does not have a debit balance in an amount in excess of the
41 amount allowed under section 45-576.01, subsection A, paragraph 3.

42 E. If, during the duration of a mineral extraction and
43 metallurgical processing permit issued after the effective date of this
44 amendment to this section, the permittee earns long-term storage credits
45 under section 45-852.01, subsection B for the storage of central Arizona

project water in the active management area in which the permittee has the right to withdraw groundwater pursuant to the permit, and the central Arizona project water qualified as water that cannot reasonably be used directly due solely to the exclusion of groundwater withdrawn by the permittee for mineral extraction or metallurgical processing pursuant to section 45-802.01, paragraph ~~22~~ 23, subdivision (c), the director shall establish a separate subaccount for those credits pursuant to section 45-852.01, subsection A. After each calendar year in which the permit is in effect, the director shall debit the subaccount by the amount of groundwater pumped by the permittee in the active management area during that calendar year pursuant to the permit, not to exceed the amount of long-term storage credits in the subaccount. This subsection shall not apply to:

1. A mineral extraction and metallurgical processing permit issued on or before the effective date of this amendment to this section, including any renewal or modification of the permit.

2. A mineral extraction and metallurgical processing permit unless the permittee was engaged in mineral extraction and metallurgical processing within an initial active management area on or before January 1, 2011.

Sec. 4. Section 45-611, Arizona Revised Statutes, is amended to read:

45-611. Groundwater withdrawal fee; amounts and purposes of fee; exception

A. Except as provided in subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person withdrawing groundwater in the Prescott active management area or the person who owns the right to withdraw the groundwater, in an amount not to exceed ~~five dollars~~ \$5 per acre-foot of groundwater withdrawn and beneficially used. The director shall levy and collect an annual withdrawal fee from each person withdrawing water, other than stored water, from a well in the Santa Cruz active management area or the person who owns the right to withdraw the water, in an amount not to exceed ~~five dollars~~ \$5 per acre-foot of water, other than stored water, that is withdrawn and beneficially used. For THE purposes of this article, the annual withdrawal fee levied and collected in the Santa Cruz active management area shall be considered a groundwater withdrawal fee. The actual amount of the fee levied and collected by the director pursuant to this subsection shall be set by the director as follows:

1. For administration and enforcement of this chapter, an amount not less than ~~fifty cents~~ \$.50 and not greater than ~~one dollar~~ \$1 per acre-foot per year. The initial fee for administration and enforcement shall be levied as soon as practicable after the active management area is established.

2. For augmentation of the water supply of the active management area, conservation assistance to water users within the active management area and monitoring and assessing water availability within the active management area, an amount not greater than ~~two dollars~~ \$2 per acre-foot per year.

3. For purchasing and retiring grandfathered rights, an amount not greater than ~~two dollars~~ \$2 per acre-foot per year. The initial fee for purchasing and retiring grandfathered rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of grandfathered rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee under this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for a non-irrigation use in the district.

B. A person, other than an irrigation district, who withdraws groundwater in an active management area from a non-exempt well for use pursuant to an irrigation grandfathered right that is appurtenant to ten or fewer irrigation acres and the person who owns the right to withdraw the groundwater are exempt from the groundwater withdrawal fee requirements of subsections A and C of this section for those withdrawals unless the irrigation acres are part of an integrated farming operation.

C. Except as provided in section 45-411.01, subsection C and subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person who withdraws groundwater in the Tucson, Phoenix and Pinal active management areas or the person who owns the right to withdraw the groundwater, in an amount of not more than ~~five dollars~~ \$5 per acre-foot of groundwater withdrawn and beneficially used. The director shall set the actual amount of the fee as follows:

1. In the Tucson and Phoenix active management areas, beginning in 2017, for administration and enforcement of this chapter, an amount of at least ~~fifty cents~~ \$.50 but not more than ~~one dollar~~ \$1 per acre-foot per year. In the Pinal active management area, beginning in 2017, for administration and enforcement of this chapter, an amount of not more than ~~one dollar~~ \$1 per acre-foot per year.

2. ~~Through 2016,~~ For augmentation of the water supply of the active management area, conservation assistance to water users within the active management area and monitoring and assessing water availability within the active management area, ~~an amount of not more than fifty cents per acre-foot per year, and after 2016,~~ an amount of not more than ~~two dollars~~ \$2 per acre-foot per year. If a permanent board of directors of an active management area water district assumes office under section 48-4831, the fee for augmentation under this paragraph shall not be levied in that active management area.

3. In the Tucson and Phoenix active management areas, for Arizona water banking purposes, the amount of ~~two dollars fifty cents~~ \$2.50 per acre-foot per year. In the Pinal active management area, ~~through 2016, for Arizona water banking purposes, including replenishment under chapter 15, article 3 of this title, the amount of two dollars fifty cents per acre-foot per year and, beginning in 2017,~~ for Arizona water banking purposes, including replenishment under chapter 15, article 3 of this title, an amount of not more than ~~two dollars fifty cents~~ \$2.50 per acre-foot per year, EXCEPT THAT NO FEE SHALL BE LEVIED IN THE PINAL ACTIVE MANAGEMENT AREA FOR THIS PURPOSE DURING CALENDAR YEARS 2020 THROUGH 2026.

4. For purchasing and retiring grandfathered rights, an amount of not more than ~~two dollars~~ \$2 per acre-foot per year. The initial fee for purchasing and retiring grandfathered rights shall be levied in the first year in which the director develops and implements a program for the purchase and retirement of grandfathered rights as part of the management plan for the active management area, but not earlier than January 1, 2006. The director may not levy a fee pursuant to this paragraph on a district member of a groundwater replenishment district that withdraws groundwater in the district for non-irrigation use in the district.

5. IN THE PINAL ACTIVE MANAGEMENT AREA, BEGINNING FROM AND AFTER DECEMBER 31, 2019 THROUGH FROM AND AFTER DECEMBER 31, 2026, AN AMOUNT OF NOT MORE THAN \$2.50 PER ACRE-FOOT PER YEAR FOR GROUNDWATER AND IRRIGATION EFFICIENCY PROJECTS.

Sec. 5. Section 45-613, Arizona Revised Statutes, is amended to read:

45-613. Use of withdrawal fees collected for augmentation and conservation and purchase and retirement of grandfathered rights, Arizona water banking purposes and groundwater and irrigation efficiency projects

A. Except as provided in section 45-615, paragraph 2 and sections 45-1972 and 48-4504, monies collected in an active management area for purposes of augmentation, conservation assistance and monitoring and assessing water availability under section 45-611, subsection A, paragraph 2 and subsection C, paragraph 2 shall be used only to finance the augmentation and conservation assistance programs that are part of the management plan for the active management area and to fund any projects that are authorized by the director for monitoring and assessing water availability within the active management area.

B. Monies collected in an active management area for the purpose of purchasing and retiring grandfathered rights under section 45-611, subsection A, paragraph 3 and subsection C, paragraph 4 shall be used only to finance the program for the purchase and retirement of grandfathered rights that is part of the management plan for the active management area.

C. Monies collected in an active management area for the purpose of Arizona water banking under section 45-611, subsection C, paragraph 3 shall be used only for the benefit of the active management area in which they are collected.

D. MONIES COLLECTED IN THE PINAL ACTIVE MANAGEMENT AREA FOR THE PURPOSE OF GROUNDWATER AND IRRIGATION EFFICIENCY PROJECTS UNDER SECTION 45-611, SUBSECTION C, PARAGRAPH 5 SHALL BE USED ONLY TO FINANCE PROJECTS FOR THE CONSTRUCTION AND REHABILITATION OF WELLS AND RELATED INFRASTRUCTURE FOR THE WITHDRAWAL AND EFFICIENT DELIVERY OF GROUNDWATER BY IRRIGATION DISTRICTS IN THE PINAL ACTIVE MANAGEMENT AREA.

Sec. 6. Section 45-615, Arizona Revised Statutes, is amended to read:

45-615. Deposits; divisions of collections into funds

Except as provided in section 45-113, subsection C, the director shall deposit, pursuant to sections 35-146 and 35-147, all monies collected by the department pursuant to section 45-611, subsection A, paragraphs 2 and 3 and subsection C, paragraphs 2, 3 and 4 and any other monies received for that purpose. Based on the statement of the director transmitted pursuant to section 45-614, subsection B, the monies collected shall be allocated as follows:

1. Except as provided in paragraph 2 of this section, monies received for the purpose of augmentation of the water supply of the active management area, conservation assistance to water users within the active management area and monitoring and assessing water availability within the active management area shall be kept in an augmentation and conservation assistance fund. Separate accounts for each active management area shall be maintained within the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

2. If an active management area water district has been established in an active management area, all monies received pursuant to section 45-611, subsection A, paragraph 2 for the purpose of augmentation of the water supply of that active management area shall be transmitted to the secretary-treasurer of the district for deposit in the general fund of the district.

3. Monies received for the purpose of purchase and retirement of grandfathered rights shall be kept in a purchase and retirement fund. Separate accounts for each active management area shall be maintained within the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

4. Monies received for the purpose of Arizona water banking shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona water banking fund.

1 5. MONIES COLLECTED BY THE DIRECTOR PURSUANT TO SECTION 45-611,
2 SUBSECTION C, PARAGRAPH 5 SHALL BE DEPOSITED IN THE TEMPORARY GROUNDWATER
3 AND IRRIGATION EFFICIENCY PROJECTS FUND ESTABLISHED BY SECTION 45-615.01.

4 Sec. 7. Title 45, chapter 2, article 11, Arizona Revised Statutes,
5 is amended by adding section 45-615.01, to read:

6 45-615.01. Temporary groundwater and irrigation efficiency
7 projects fund; purpose; report

8 A. THE TEMPORARY GROUNDWATER AND IRRIGATION EFFICIENCY PROJECTS
9 FUND IS ESTABLISHED FOR THE PURPOSE OF FUNDING PROJECTS FOR THE
10 CONSTRUCTION AND REHABILITATION OF WELLS AND RELATED INFRASTRUCTURE FOR
11 THE WITHDRAWAL AND EFFICIENT DELIVERY OF GROUNDWATER BY IRRIGATION
12 DISTRICTS IN THE PINAL ACTIVE MANAGEMENT AREA AND THE HARQUAHALA
13 IRRIGATION NON-EXPANSION AREA. THE FUND CONSISTS OF LEGISLATIVE
14 APPROPRIATIONS, GROUNDWATER WITHDRAWAL FEES COLLECTED IN THE PINAL ACTIVE
15 MANAGEMENT AREA PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPH 5,
16 GRANTS FROM FEDERAL AGENCIES AND MONIES DEPOSITED IN THE FUND BY
17 IRRIGATION DISTRICTS IN THE PINAL ACTIVE MANAGEMENT AREA AND THE
18 HARQUAHALA IRRIGATION NON-EXPANSION AREA. GROUNDWATER WITHDRAWAL FEES
19 DEPOSITED IN THE FUND SHALL BE ACCOUNTED FOR SEPARATELY FROM OTHER MONIES
20 IN THE FUND AND SHALL BE USED ONLY FOR CONSTRUCTING AND REHABILITATING
21 WELLS AND RELATED INFRASTRUCTURE IN THE PINAL ACTIVE MANAGEMENT AREA.
22 MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED FOR THE PURPOSES OF THIS
23 SECTION.

24 B. THE DIRECTOR MAY ACCEPT AND DEPOSIT INTO THE FUND MONIES,
25 GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IN CARRYING OUT THE
26 PURPOSES OF THIS SECTION.

27 C. THE DIRECTOR SHALL ADMINISTER THE FUND. ON NOTICE FROM THE
28 DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND
29 AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
30 CREDITED TO THE FUND.

31 D. THE DIRECTOR MAY GRANT MONIES FROM THE FUND TO IRRIGATION
32 DISTRICTS IN THE PINAL ACTIVE MANAGEMENT AREA AND THE HARQUAHALA
33 IRRIGATION DISTRICT FOR THE PURPOSES DESCRIBED IN SUBSECTION A OF THIS
34 SECTION. IN GRANTING MONIES FROM THE FUND, THE DIRECTOR MAY GIVE
35 PREFERENCE TO WELLS AND RELATED INFRASTRUCTURE THAT WOULD BE USED TO
36 RECOVER STORED WATER. GRANTS MADE TO THESE IRRIGATION DISTRICTS ARE
37 EXEMPT FROM TITLE 41, CHAPTER 24.

38 E. BEFORE DECEMBER 31 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO
39 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE
40 SENATE A WRITTEN REPORT DESCRIBING THE ACTIVITIES OF THE DEPARTMENT FOR
41 THE PRECEDING FISCAL YEAR RELATED TO EXPENDITURES FROM THE FUND. THE
42 REPORT SHALL INCLUDE AN ACCOUNTING FOR EXPENDITURES FROM THE FUND AND HOW
43 THE MONIES WERE USED TO FINANCE PROJECTS FOR THE CONSTRUCTION AND
44 REHABILITATION OF WELLS AND RELATED INFRASTRUCTURE FOR THE WITHDRAWAL AND

EFFICIENT DELIVERY OF GROUNDWATER BY IRRIGATION DISTRICTS IN THE PINAL ACTIVE MANAGEMENT AREA AND THE HARQUAHALA IRRIGATION NON-EXPANSION AREA.

F. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTIONS 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

G. ON JUNE 30, 2027, ANY UNENCUMBERED MONIES IN THE FUND SHALL BE PROPORTIONALLY DISTRIBUTED TO THE FUND'S CONTRIBUTORS BY DECEMBER 31, 2027 ACCORDING TO THE TOTAL AMOUNT OF MONIES DEPOSITED IN THE FUND BY EACH CONTRIBUTOR. THE PROPORTION OF THE UNENCUMBERED MONIES ATTRIBUTABLE TO GROUNDWATER WITHDRAWAL FEES LEVIED UNDER SECTION 45-611, SUBSECTION C, PARAGRAPH 5 SHALL BE DEPOSITED IN THE ARIZONA WATER BANKING FUND ESTABLISHED BY SECTION 45-2425 AND SHALL BE USED ONLY IN THE PINAL ACTIVE MANAGEMENT AREA IN THE SAME MANNER AS GROUNDWATER WITHDRAWAL FEES COLLECTED IN THE PINAL ACTIVE MANAGEMENT AREA PURSUANT TO SECTION 45-611, SUBSECTION C, PARAGRAPH 3.

H. ALL MONIES DEPOSITED IN THE TEMPORARY GROUNDWATER AND IRRIGATION EFFICIENCY PROJECTS FUND SHALL BE HELD IN TRUST. THE MONIES IN THE FUND MAY BE USED ONLY FOR THE PURPOSES PRESCRIBED IN THIS SECTION AND MAY NOT BE APPROPRIATED OR TRANSFERRED BY THE LEGISLATURE TO FUND THE GENERAL OPERATIONS OF THIS STATE OR TO OTHERWISE MEET THE OBLIGATIONS OF THE STATE GENERAL FUND. THIS SUBSECTION DOES NOT APPLY TO ANY TAXES OR OTHER LEVIES THAT ARE IMPOSED PURSUANT TO TITLE 42 OR 43.

Sec. 8. Delayed repeal

Section 45-615.01, Arizona Revised Statutes, as added by this act, is repealed from and after March 31, 2028.

Sec. 9. Section 45-802.01, Arizona Revised Statutes, as amended by Laws 2012, chapter 312, section 2, is amended to read:

45-802.01. Definitions

Unless the context otherwise requires, the terms defined in section 45-402 have the same meanings in this chapter and:

1. "Aquifer" means a geologic formation that contains sufficient saturated material to be capable of storing water and transmitting water in usable quantities to a well.

2. "Area of impact" means, as projected on the land surface, the area where the stored water has migrated or is located.

3. "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".

4. "Constructed underground storage facility" means a facility that meets the requirements of section 45-811.01 and that is designed and constructed to store water underground pursuant to permits issued under this chapter.

5. "District" means a groundwater replenishment district established under title 48, chapter 27.

1 6. "District member" means a member of the groundwater
2 replenishment district as provided by title 48, chapter 27.

3 7. "Electrical district" means a corporate body established
4 pursuant to title 48, chapter 12.

5 8. "EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY" MEANS A
6 MANAGED UNDERGROUND STORAGE FACILITY THAT MEETS ONE OF THE FOLLOWING
7 CONDITIONS:

8 (a) THE FACILITY IS OPERATED PURSUANT TO A STORAGE FACILITY PERMIT
9 THAT THE DIRECTOR ISSUED BEFORE JANUARY 1, 2019 AND THAT AUTHORIZES THE
10 STORAGE OF EFFLUENT AT THE FACILITY.

11 (b) THE FACILITY IS OPERATED PURSUANT TO A RENEWED OR MODIFIED
12 STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 IF
13 THE ORIGINAL STORAGE FACILITY PERMIT WAS ISSUED BEFORE JANUARY 1, 2019 AND
14 AUTHORIZED THE STORAGE OF EFFLUENT AT THE FACILITY.

15 (c) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
16 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
17 AT A LOCATION WHERE THE PERMIT HOLDER WAS AUTHORIZED TO STORE EFFLUENT
18 PURSUANT TO A STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED BEFORE
19 JANUARY 1, 2019.

20 (d) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR
21 ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT
22 AT THE FACILITY, AND THE APPLICATION TO OPERATE THE FACILITY WAS ON FILE
23 WITH THE DIRECTOR AS OF JANUARY 1, 2019.

24 ~~8.~~ 9. "Groundwater savings facility" means a facility that meets
25 the requirements of section 45-812.01 in an active management area or an
26 irrigation non-expansion area at which groundwater withdrawals are
27 eliminated or reduced by recipients who use in lieu water on a
28 gallon-for-gallon substitute basis for groundwater that otherwise would
29 have been pumped from within that active management area or irrigation
30 non-expansion area.

31 ~~9.~~ 10. "In lieu water" means water that is delivered by a storer
32 to a groundwater savings facility pursuant to permits issued under this
33 chapter and that is used in an active management area or an irrigation
34 non-expansion area by the recipient on a gallon-for-gallon substitute
35 basis for groundwater that otherwise would have been pumped from within
36 that active management area or irrigation non-expansion area.

37 ~~10.~~ 11. "Long-term storage account" means an account established
38 pursuant to section 45-852.01.

39 ~~11.~~ 12. "Long-term storage credit" means stored water that meets
40 the requirements of section 45-852.01 and that has been credited to a
41 long-term storage account.

42 ~~12.~~ 13. "Managed underground storage facility" means a facility
43 that meets the requirements of section 45-811.01 and that is designed and
44 managed to utilize the natural channel of a stream to store water
45 underground pursuant to permits issued under this chapter through

1 artificial and controlled releases of water other than surface water
2 naturally present in the stream. Surface water flowing in its natural
3 channel is not a managed underground storage facility.

4 ~~13.~~ 14. "Master replenishment account" means an account established
5 pursuant to section 45-858.01 for a groundwater replenishment district.

6 ~~14.~~ 15. "Recipient" means a person who receives in lieu water for
7 use at a groundwater savings facility.

8 ~~15.~~ 16. "Recoverable amount" means the amount of water, as
9 determined by the director, that will reach the aquifer through water
10 storage.

11 ~~16.~~ 17. "Replenishment" means the storage of water or use of
12 long-term storage credits by a groundwater replenishment district to
13 fulfill its duties under title 48, chapter 27, article 3, by a
14 multi-county water conservation district to fulfill its duties under title
15 48, chapter 22, article 4 or by an active management area water district
16 to fulfill its duties under title 48, chapter 28, article 7.

17 ~~17.~~ 18. "Reserve target" has the same meaning prescribed in section
18 48-3701.

19 ~~18.~~ 19. "Storage facility" means a groundwater savings facility or
20 an underground storage facility.

21 ~~19.~~ 20. "Stored water" means water that has been stored or saved
22 underground pursuant to a storage permit issued under this chapter.

23 ~~20.~~ 21. "Storer" means the holder of a water storage permit issued
24 pursuant to section 45-831.01 or a person to whom a water storage permit
25 has been conveyed pursuant to section 45-831.01, subsection F.

26 ~~21.~~ 22. "Underground storage facility" means a constructed
27 underground storage facility or a managed underground storage facility.

28 ~~22.~~ 23. "Water that cannot reasonably be used directly" means water
29 that the storer cannot reasonably put to a direct use during the calendar
30 year, including:

31 (a) Except as provided in subdivision (b) or except for an
32 agricultural improvement district as provided in subdivision (d), if the
33 storer is a municipal provider, the amount of central Arizona project
34 water that exceeds the amount of mined groundwater withdrawn during the
35 calendar year by the storer in the active management area in which the
36 storer's service area is located. If the storer withdrew mined
37 groundwater during a calendar year in which the storer stored central
38 Arizona project water underground pursuant to the storage permit, the
39 amount of central Arizona project water stored underground during that
40 year equal to the amount of mined groundwater withdrawn from the active
41 management area in which the storer's service area is located shall not be
42 credited to the storer's long-term storage account but may be considered
43 as being available for recovery by the storer on an annual basis under
44 section 45-851.01. In calculating the amount of mined groundwater
45 withdrawn by the storer from the active management area, the director, at

1 the request of the storer, shall exclude any groundwater withdrawn,
2 treated and delivered for direct use as part of a remedial action
3 undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the
4 purposes of this subdivision, "mined groundwater" and "municipal provider"
5 have the same meanings prescribed in section 45-561.

6 (b) If the storer is a municipal provider that has been designated
7 as having an assured water supply pursuant to section 45-576, the amount
8 of central Arizona project water that exceeds the amount of deficit
9 groundwater withdrawn during the calendar year by the storer in the active
10 management area in which the storer's service area is located. If the
11 storer withdrew deficit groundwater during a calendar year in which the
12 storer stored central Arizona project water underground pursuant to the
13 storage permit, the amount of the central Arizona project water stored
14 underground during that year equal to the amount of deficit groundwater
15 withdrawn from the active management area in which the storer's service
16 area is located shall not be credited to the storer's long-term storage
17 account but may be considered as being available for recovery by the
18 storer on an annual basis pursuant to section 45-851.01. In calculating
19 the amount of deficit groundwater withdrawn by the storer from the active
20 management area, the director, at the request of the storer, shall exclude
21 any groundwater withdrawn, treated and delivered for direct use as part of
22 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
23 article 5. For the purposes of this subdivision, "municipal provider" has
24 the same meaning prescribed in section 45-561 and "deficit groundwater"
25 means that amount of groundwater withdrawn within an active management
26 area for delivery and use within a service area by a municipal provider in
27 excess of the amount of groundwater that may be withdrawn by the municipal
28 provider consistent with the achievement of the active management area's
29 management goals as prescribed by rules adopted by the director pursuant
30 to section 45-576.

31 (c) Except as provided in subdivision (d), if the storer is not a
32 municipal provider, the amount of central Arizona project water stored in
33 an active management area that exceeds the amount of groundwater withdrawn
34 during the calendar year by the storer in that active management area. If
35 the storer withdrew groundwater in an active management area during a
36 calendar year in which the storer stored central Arizona project water
37 underground in that active management area pursuant to the storage permit,
38 the amount of central Arizona project water stored underground during that
39 year equal to the amount of groundwater withdrawn from the active
40 management area shall not be credited to the storer's long-term storage
41 account but may be considered as being available for recovery by the
42 storer on an annual basis under section 45-851.01. For the purposes of
43 this subdivision, "municipal provider" has the same meaning prescribed in
44 section 45-561. In calculating the amount of groundwater withdrawn by the

1 storer from the active management area, the director, at the request of
2 the storer, shall exclude:

3 (i) The amount of groundwater withdrawn, treated and delivered for
4 direct use as part of a remedial action undertaken pursuant to CERCLA or
5 title 49, chapter 2, article 5.

6 (ii) The amount of groundwater withdrawn by the storer during the
7 year for mineral extraction and metallurgical processing and delivered
8 during that year for direct use to an irrigation district that is
9 established pursuant to title 48, chapter 19 and that is located in the
10 same active management area from which the amount of groundwater was
11 withdrawn to the extent that the irrigation district or its customers
12 demonstrate a reduction in the amount of groundwater that they otherwise
13 would have withdrawn during that year within the irrigation district.

14 (iii) The amount of groundwater withdrawn by the storer during the
15 year for mineral extraction or metallurgical processing if the storer was
16 engaged in mineral extraction and metallurgical processing within an
17 initial active management area on or before January 1, 2011.

18 (d) The amount of central Arizona project water stored in an active
19 management area in any year after 1994 by an agricultural improvement
20 district established pursuant to title 48, chapter 17 for use at those
21 portions of electrical generating facilities that are constructed or
22 expanded after June 12, 1980, subject to both of the following:

23 (i) If groundwater was used during a year in an active management
24 area at those portions of the electrical generating facilities that were
25 owned and operated by the agricultural improvement district and that were
26 constructed or expanded after June 12, 1980, the amount of the central
27 Arizona project water stored during that year equal to the amount of the
28 groundwater withdrawn during the year for use at those portions of the
29 facilities that were owned and operated by the agricultural improvement
30 district and that were constructed or expanded after June 12, 1980 shall
31 not be credited to the agricultural improvement district's long-term
32 storage account but may be considered as being available for recovery by
33 the agricultural improvement district on an annual basis under section
34 45-851.01.

35 (ii) Long-term storage credits accrued as a result of the storage
36 of the central Arizona project water may be recovered within the active
37 management area by the agricultural improvement district only for the
38 purpose of providing central Arizona project water to electrical
39 generating facilities that were owned and operated by the agricultural
40 improvement district and only pursuant to any water requirement included
41 in a facility's certificate of environmental compatibility. Subject to
42 section 45-854.01, the long-term storage credits may be assigned by the
43 agricultural improvement district only to the owner of an electrical
44 generating facility for use pursuant to any water requirement included in
45 that facility's certificate of environmental compatibility.

(e) Surface water made available by dams constructed or modified after August 13, 1986.

~~(f) Until the year 2025:~~

~~(i)~~ (f) Effluent.

~~(iii)~~ (g) If the storage facility is in an active management area, water from outside the active management area that would not have reached the active management area without the efforts of the storer.

~~(iii)~~ (h) If the storage facility is outside of an active management area, water from outside the groundwater basin in which the storage facility is located that would not have reached the groundwater basin without the efforts of the storer.

~~(g)~~ (i) Water that is delivered through the central Arizona project and that is acquired by the Arizona water banking authority.

~~23.~~ 24. "Water storage" means adding water to an aquifer or saving water in an aquifer pursuant to permits issued under this chapter.

~~24.~~ 25. "Water storage permit" means a permit issued pursuant to section 45-831.01 to store water at a storage facility.

Sec. 10. Section 45-802.01, Arizona Revised Statutes, as amended by Laws 2013, chapter 168, section 4, is amended effective from and after December 31, 2024, to read:

45-802.01. Definitions

Unless the context otherwise requires, the terms defined in section 45-402 have the same meanings in this chapter and:

1. "Aquifer" means a geologic formation that contains sufficient saturated material to be capable of storing water and transmitting water in usable quantities to a well.

2. "Area of impact" means, as projected on the land surface, the area where the stored water has migrated or is located.

3. "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code sections 9601 through 9657), commonly known as "superfund".

4. "Constructed underground storage facility" means a facility that meets the requirements of section 45-811.01 and that is designed and constructed to store water underground pursuant to permits issued under this chapter.

5. "District" means a groundwater replenishment district established under title 48, chapter 27.

6. "District member" means a member of the groundwater replenishment district as provided by title 48, chapter 27.

7. "Electrical district" means a corporate body established pursuant to title 48, chapter 12.

8. "EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY" MEANS A MANAGED UNDERGROUND STORAGE FACILITY THAT MEETS ONE OF THE FOLLOWING CONDITIONS:

(a) THE FACILITY IS OPERATED PURSUANT TO A STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED BEFORE JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT AT THE FACILITY.

(b) THE FACILITY IS OPERATED PURSUANT TO A RENEWED OR MODIFIED STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 IF THE ORIGINAL STORAGE FACILITY PERMIT WAS ISSUED BEFORE JANUARY 1, 2019 AND AUTHORIZED THE STORAGE OF EFFLUENT AT THE FACILITY.

(c) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT AT A LOCATION WHERE THE PERMIT HOLDER WAS AUTHORIZED TO STORE EFFLUENT PURSUANT TO A STORAGE FACILITY PERMIT THAT THE DIRECTOR ISSUED BEFORE JANUARY 1, 2019.

(d) THE FACILITY IS OPERATED PURSUANT TO A PERMIT THAT THE DIRECTOR ISSUED AFTER JANUARY 1, 2019 AND THAT AUTHORIZES THE STORAGE OF EFFLUENT AT THE FACILITY, AND THE APPLICATION TO OPERATE THE FACILITY WAS ON FILE WITH THE DIRECTOR AS OF JANUARY 1, 2019.

~~8-~~ 9. "Groundwater savings facility" means a facility that meets the requirements of section 45-812.01 in an active management area or an irrigation non-expansion area at which groundwater withdrawals are eliminated or reduced by recipients who use in lieu water on a gallon-for-gallon substitute basis for groundwater that otherwise would have been pumped from within that active management area or irrigation non-expansion area.

~~9-~~ 10. "In lieu water" means water that is delivered by a storer to a groundwater savings facility pursuant to permits issued under this chapter and that is used in an active management area or an irrigation non-expansion area by the recipient on a gallon-for-gallon substitute basis for groundwater that otherwise would have been pumped from within that active management area or irrigation non-expansion area.

~~10-~~ 11. "Long-term storage account" means an account established pursuant to section 45-852.01.

~~11-~~ 12. "Long-term storage credit" means stored water that meets the requirements of section 45-852.01 and that has been credited to a long-term storage account.

~~12-~~ 13. "Managed underground storage facility" means a facility that meets the requirements of section 45-811.01 and that is designed and managed to utilize the natural channel of a stream to store water underground pursuant to permits issued under this chapter through artificial and controlled releases of water other than surface water naturally present in the stream. Surface water flowing in its natural channel is not a managed underground storage facility.

~~13-~~ 14. "Master replenishment account" means an account established pursuant to section 45-858.01 for a groundwater replenishment district.

~~14-~~ 15. "Recipient" means a person who receives in lieu water for use at a groundwater savings facility.

~~15-~~ 16. "Recoverable amount" means the amount of water, as determined by the director, that will reach the aquifer through water storage.

~~16-~~ 17. "Replenishment" means the storage of water or use of long-term storage credits by a groundwater replenishment district to fulfill its duties under title 48, chapter 27, article 3, by a multi-county water conservation district to fulfill its duties under title 48, chapter 22, article 4 or by an active management area water district to fulfill its duties under title 48, chapter 28, article 7.

~~17-~~ 18. "Reserve target" has the same meaning prescribed in section 48-3701.

~~18-~~ 19. "Storage facility" means a groundwater savings facility or an underground storage facility.

~~19-~~ 20. "Stored water" means water that has been stored or saved underground pursuant to a storage permit issued under this chapter.

~~20-~~ 21. "Storer" means the holder of a water storage permit issued pursuant to section 45-831.01 or a person to whom a water storage permit has been conveyed pursuant to section 45-831.01, subsection F.

~~21-~~ 22. "Underground storage facility" means a constructed underground storage facility or a managed underground storage facility.

~~22-~~ 23. "Water that cannot reasonably be used directly" means water that the storer cannot reasonably put to a direct use during the calendar year, including:

(a) Except as provided in subdivision (b) or except for an agricultural improvement district as provided in subdivision (d), if the storer is a municipal provider, the amount of central Arizona project water that exceeds the amount of mined groundwater withdrawn during the calendar year by the storer in the active management area in which the storer's service area is located. If the storer withdrew mined groundwater during a calendar year in which the storer stored central Arizona project water underground pursuant to the storage permit, the amount of central Arizona project water stored underground during that year equal to the amount of mined groundwater withdrawn from the active management area in which the storer's service area is located shall not be credited to the storer's long-term storage account but may be considered as being available for recovery by the storer on an annual basis under section 45-851.01. In calculating the amount of mined groundwater withdrawn by the storer from the active management area, the director, at the request of the storer, shall exclude any groundwater withdrawn, treated and delivered for direct use as part of a remedial action undertaken pursuant to CERCLA or title 49, chapter 2, article 5. For the purposes of this subdivision, "mined groundwater" and "municipal provider" have the same meanings prescribed in section 45-561.

(b) If the storer is a municipal provider that has been designated as having an assured water supply pursuant to section 45-576, the amount

1 of central Arizona project water that exceeds the amount of deficit
2 groundwater withdrawn during the calendar year by the storer in the active
3 management area in which the storer's service area is located. If the
4 storer withdrew deficit groundwater during a calendar year in which the
5 storer stored central Arizona project water underground pursuant to the
6 storage permit, the amount of the central Arizona project water stored
7 underground during that year equal to the amount of deficit groundwater
8 withdrawn from the active management area in which the storer's service
9 area is located shall not be credited to the storer's long-term storage
10 account but may be considered as being available for recovery by the
11 storer on an annual basis pursuant to section 45-851.01. In calculating
12 the amount of deficit groundwater withdrawn by the storer from the active
13 management area, the director, at the request of the storer, shall exclude
14 any groundwater withdrawn, treated and delivered for direct use as part of
15 a remedial action undertaken pursuant to CERCLA or title 49, chapter 2,
16 article 5. For the purposes of this subdivision, "municipal provider" has
17 the same meaning prescribed in section 45-561 and "deficit groundwater"
18 means that amount of groundwater withdrawn within an active management
19 area for delivery and use within a service area by a municipal provider in
20 excess of the amount of groundwater that may be withdrawn by the municipal
21 provider consistent with the achievement of the active management area's
22 management goals as prescribed by rules adopted by the director pursuant
23 to section 45-576.

24 (c) Except as provided in subdivision (d), if the storer is not a
25 municipal provider, the amount of central Arizona project water stored in
26 an active management area that exceeds the amount of groundwater withdrawn
27 during the calendar year by the storer in that active management area. If
28 the storer withdrew groundwater in an active management area during a
29 calendar year in which the storer stored central Arizona project water
30 underground in that active management area pursuant to the storage permit,
31 the amount of central Arizona project water stored underground during that
32 year equal to the amount of groundwater withdrawn from the active
33 management area shall not be credited to the storer's long-term storage
34 account but may be considered as being available for recovery by the
35 storer on an annual basis under section 45-851.01. For the purposes of
36 this subdivision, "municipal provider" has the same meaning prescribed in
37 section 45-561. In calculating the amount of groundwater withdrawn by the
38 storer from the active management area, the director, at the request of
39 the storer, shall exclude:

40 (i) The amount of any groundwater withdrawn, treated and delivered
41 for direct use as part of a remedial action undertaken pursuant to CERCLA
42 or title 49, chapter 2, article 5.

43 (ii) The amount of groundwater withdrawn by the storer during the
44 year for mineral extraction or metallurgical processing if the storer was

engaged in mineral extraction and metallurgical processing within an initial active management area on or before January 1, 2011.

(d) The amount of central Arizona project water stored in an active management area in any year after 1994 by an agricultural improvement district established pursuant to title 48, chapter 17 for use at those portions of electrical generating facilities that are constructed or expanded after June 12, 1980, subject to both of the following:

(i) If groundwater was used during a year in an active management area at those portions of the electrical generating facilities that were owned and operated by the agricultural improvement district and that were constructed or expanded after June 12, 1980, the amount of the central Arizona project water stored during that year equal to the amount of the groundwater withdrawn during the year for use at those portions of the facilities that were owned and operated by the agricultural improvement district and that were constructed or expanded after June 12, 1980 shall not be credited to the agricultural improvement district's long-term storage account but may be considered as being available for recovery by the agricultural improvement district on an annual basis under section 45-851.01.

(ii) Long-term storage credits accrued as a result of the storage of the central Arizona project water may be recovered within the active management area by the agricultural improvement district only for the purpose of providing central Arizona project water to electrical generating facilities that were owned and operated by the agricultural improvement district and only pursuant to any water requirement included in a facility's certificate of environmental compatibility. Subject to section 45-854.01, the long-term storage credits may be assigned by the agricultural improvement district only to the owner of an electrical generating facility for use pursuant to any water requirement included in that facility's certificate of environmental compatibility.

(e) Surface water made available by dams constructed or modified after August 13, 1986.

~~(f) Until the year 2025:~~

~~(i)~~ (f) Effluent.

~~(ii)~~ (g) If the storage facility is in an active management area, water from outside the active management area that would not have reached the active management area without the efforts of the storer.

~~(iii)~~ (h) If the storage facility is outside of an active management area, water from outside the groundwater basin in which the storage facility is located that would not have reached the groundwater basin without the efforts of the storer.

~~(g)~~ (i) Water that is delivered through the central Arizona project and that is acquired by the Arizona water banking authority.

~~23.~~ 24. "Water storage" means adding water to an aquifer or saving water in an aquifer pursuant to permits issued under this chapter.

~~24.~~ 25. "Water storage permit" means a permit issued pursuant to section 45-831.01 to store water at a storage facility.

Sec. 11. Section 45-851.01, Arizona Revised Statutes, is amended to read:

45-851.01. Recovery of stored water on an annual basis

A. Except as provided in subsections B, ~~and~~ E AND F of this section, a storer may recover the recoverable amount of water stored after January 1 of a calendar year on or before December 31 of the same calendar year.

B. If water is stored pursuant to a water storage permit and its use is based on a decreed or appropriative water right, the approximate recoverable amount of water stored in a month shall be recovered on or before the last day of the following month or within the same calendar year, whichever is earlier, unless the water is credited to a long-term storage account as prescribed by section 45-852.01.

C. Water stored after January 1 of a calendar year and not recovered on or before December 31 of the same calendar year may be credited to the storer's long-term storage account to the extent that the stored water is eligible for long-term storage credits as prescribed by section 45-852.01.

D. Water that is stored after January 1 of a calendar year, that is not recovered on or before December 31 of the same calendar year and that is not eligible to be credited to the storer's long-term storage account may not be recovered at any other time.

E. If the water stored was effluent stored at a managed underground storage facility that DOES NOT QUALIFY AS AN EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY AND THAT has not been designated as a facility that could add value to a national park, national monument or state park, the storer may recover during a year only fifty ~~per cent~~ PERCENT of the recoverable amount of water stored between January 1 and December 31 of that year. If the storer recovers during the year less than fifty ~~per cent~~ PERCENT of the recoverable amount of the water stored during that year, the difference between fifty ~~per cent~~ PERCENT of the recoverable amount and the amount of stored water recovered during the year may be credited to the storer's long-term storage account to the extent that the stored water is eligible for long-term storage credits as prescribed by section 45-852.01.

F. IF THE WATER STORED WAS EFFLUENT STORED AT A MANAGED UNDERGROUND STORAGE FACILITY THAT QUALIFIES AS AN EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY AND THAT HAS NOT BEEN DESIGNATED AS A FACILITY THAT COULD ADD VALUE TO A NATIONAL PARK, NATIONAL MONUMENT OR STATE PARK, THE STORER MAY RECOVER DURING A YEAR ONLY NINETY-FIVE PERCENT OF THE RECOVERABLE AMOUNT OF THE WATER STORED BETWEEN JANUARY 1 AND DECEMBER 31 OF THAT YEAR. IF THE STORER RECOVERS DURING THE YEAR LESS THAN NINETY-FIVE PERCENT OF THE RECOVERABLE AMOUNT OF THE WATER STORED

DURING THAT YEAR, THE DIFFERENCE BETWEEN NINETY-FIVE PERCENT OF THE RECOVERABLE AMOUNT AND THE AMOUNT OF STORED WATER RECOVERED DURING THE YEAR MAY BE CREDITED TO THE STORER'S LONG-TERM STORAGE ACCOUNT TO THE EXTENT THAT THE STORED WATER IS ELIGIBLE FOR LONG-TERM STORAGE CREDITS AS PRESCRIBED BY SECTION 45-852.01.

Sec. 12. Section 45-852.01, Arizona Revised Statutes, is amended to read:

45-852.01. Long-term storage accounts

A. The director shall establish one long-term storage account for each person holding long-term storage credits. The director shall establish subaccounts within the long-term storage account according to each active management area, irrigation non-expansion area, groundwater basin or groundwater subbasin in which the person's stored water is located. The long-term storage account shall be further subdivided by type of water, if the person holds long-term storage credits for more than one type of water.

B. Water stored pursuant to a water storage permit at a storage facility may be credited to a long-term storage account if the director determines that all of the following apply:

1. EITHER:

(a) The water that was stored was water that cannot reasonably be used directly.

(b) THE WATER WAS STORED IN A GROUNDWATER SAVINGS FACILITY AND THE DIRECTOR DETERMINES THAT THE STORAGE PROVIDES A WATER MANAGEMENT BENEFIT TO THE ACTIVE MANAGEMENT AREA WHERE THE WATER WAS STORED.

2. If the stored water was stored at a storage facility within an active management area, either:

(a) The water would not have been naturally recharged within the active management area.

(b) If the water was stored at a managed underground storage facility that has been designated as a facility that could add value to a national park, national monument or state park and the water stored is effluent, the water stored is water that could have been used or disposed of by the storer by means other than discharging the effluent into the stream.

3. The stored water was not recovered on an annual basis pursuant to section 45-851.01.

C. The director shall credit ninety-five ~~per cent~~ PERCENT of the recoverable amount of stored water that meets the requirements of subsection B of this section to the storer's long-term storage account, except that:

1. If the water was stored at a managed underground storage facility that DOES NOT QUALIFY AS AN EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY AND THAT had not been designated at the time of storage as a facility that could add value to a national park, national monument

1 or state park and the water stored is effluent, the director shall credit
2 to the storer's long-term storage account fifty ~~per cent~~ PERCENT of the
3 recoverable amount of water that meets the requirements of subsection B of
4 this section. For storage of effluent in a managed underground storage
5 facility that is located in a recreational corridor channelization
6 district established pursuant to title 48, chapter 35, the director may
7 increase the storage credits earned from fifty ~~per cent~~ PERCENT to
8 ninety-five ~~per cent~~ PERCENT if both of the following apply:

9 (a) The effluent was not discharged into the stream where the
10 facility is located before the permit application for that facility was
11 filed.

12 (b) The director determines that the storage of effluent in the
13 facility will provide a greater benefit to aquifer conditions in the
14 active management area or, if outside an active management area, to the
15 groundwater basin than would accrue to the active management area or
16 groundwater basin if the effluent is used or disposed of in another
17 manner.

18 2. If the water was stored at a groundwater savings facility and
19 the storer has not met the burden of proving that one hundred ~~per cent~~
20 PERCENT of the in lieu water was used on a gallon-for-gallon substitute
21 basis for groundwater, the director shall credit to the storer's long-term
22 storage account only the percentage of the in lieu water that meets the
23 requirements of subsection B of this section and that was proven to the
24 director's satisfaction as being used on a gallon-for-gallon substitute
25 basis for groundwater.

26 3. The director shall credit to the storer's long-term storage
27 account ninety ~~per cent~~ PERCENT of the recoverable amount of the water
28 that meets the requirements of subsection B of this section if all of the
29 following apply:

30 (a) The stored water was central Arizona project water that
31 qualifies as water that cannot reasonably be used directly due solely to
32 the exclusion of groundwater withdrawn by the storer for mineral
33 extraction or metallurgical processing under section 45-802.01, paragraph
34 ~~22~~ 23, subdivision (c).

35 (b) The storer was engaged in mineral extraction and metallurgical
36 processing within an initial active management area on or before January
37 1, 2011.

38 (c) All exterior boundaries of the storage facility that is used to
39 store the stored water are more than twenty miles from a well owned by the
40 storer on January 1, 2012 and that well is not an exempt well and any one
41 or more of the following apply:

42 (i) The well is an existing well as defined in section 45-591,
43 paragraph 1.

44 (ii) The department has issued a permit for the well under section
45 45-599, subsection C.

(iii) The well was drilled pursuant to a mineral extraction and metallurgical processing permit issued by the department under section 45-514.

4. Except as otherwise provided in ~~paragraphs 1, PARAGRAPH 2 and 3~~ of this subsection, the director shall credit to the storer's long-term storage account or conservation district account one hundred ~~per cent~~ PERCENT of the recoverable amount of water that meets the requirements of subsection B of this section if any of the following applies:

(a) The water stored was effluent THAT WAS STORED AT A CONSTRUCTED UNDERGROUND STORAGE FACILITY, A GROUNDWATER SAVINGS FACILITY OR A MANAGED UNDERGROUND STORAGE FACILITY THAT WAS DESIGNATED AT THE TIME OF STORAGE AS A FACILITY THAT COULD ADD VALUE TO A NATIONAL PARK, NATIONAL MONUMENT OR STATE PARK.

(b) The water was stored in an active management area and the stored water is water from outside the active management area that would not have reached the active management area without the efforts of the holder of the long-term storage credits.

(c) The water was stored outside an active management area and the stored water is water from outside the groundwater basin in which the water was stored that would not have reached the groundwater basin without the efforts of the holder of the long-term storage credits.

(d) The water was stored for purposes of establishing and maintaining a replenishment reserve pursuant to section 48-3772, subsection E.

(e) The water was stored for replenishment purposes pursuant to section 48-3771 and credited directly to a conservation district account pursuant to section 45-859.01, subsection E.

D. The director shall credit a person's long-term storage account by the amount of long-term storage credits assigned to that person by another holder of long-term storage credits pursuant to section 45-854.01.

E. The director shall debit the appropriate subaccount of a person's long-term storage account:

1. One hundred ~~per cent~~ PERCENT of the amount of stored water that the holder of the long-term storage credits has recovered during the calendar year pursuant to the permit.

2. The amount of long-term storage credits that the person has assigned to another person or transferred to a master replenishment account, conservation district account or water district account.

3. If the water was stored in an active management area, the amount of water during the calendar year that migrates to a location outside the active management area or to a location within the active management area where it cannot be beneficially used within a reasonable period of time by persons other than the storer with rights to withdraw and use groundwater.

4. If the water was stored outside of an active management area, the amount of water during the calendar year that migrates to a location

1 outside the groundwater basin in which the storage facility is located or
2 to a location in the groundwater basin where it cannot be beneficially
3 used within a reasonable period of time by persons other than the storer
4 with rights to withdraw and use groundwater.

5 5. The amount of long-term storage credits that the storer,
6 pursuant to section 45-853.01, subsection B, has applied to offset
7 groundwater withdrawn or used in excess of the storer's per capita
8 municipal conservation requirements under the second management plan.

9 6. The amount of long-term storage credits that are held by the
10 Arizona water banking authority and that the authority has chosen to
11 extinguish.

12 F. To the extent the total amount of water withdrawn by a person
13 from wells designated as recovery wells pursuant to section 45-834.01
14 during a calendar year exceeds the amount of stored water recovered by the
15 person on an annual basis pursuant to section 45-851.01 and the amount of
16 long-term storage credits recovered by the person, the excess amount of
17 water recovered shall be considered groundwater withdrawn pursuant to
18 chapter 2 of this title.

19 Sec. 13. Section 45-853.01, Arizona Revised Statutes, is amended to
20 read:

21 45-853.01. Restricted uses of long-term storage credits

22 A. If the director has included an amount of long-term storage
23 credits under section 45-855.01:

24 1. In determining whether to issue a certificate of assured water
25 supply to the holder of the long-term storage credits, that amount of
26 long-term storage credits shall be recovered only for a use that, as
27 determined by the director, supplies water to the subdivision to which the
28 certificate of assured water supply applies.

29 2. In designating or redesignating a city, town or private water
30 company as having an assured water supply, that amount of long-term
31 storage credits shall be recovered only for a use that, as determined by
32 the director, supplies water to that city, town or private water company.

33 3. In determining whether to issue a report of adequate water
34 supply for a subdivision to the holder of long-term storage credits, that
35 amount of long-term storage credits shall be recovered only for a use
36 that, as determined by the director, supplies water to the subdivision to
37 which the report of adequate water supply applies.

38 4. In designating a city, town or private water company as having
39 an adequate water supply, that amount of long-term storage credits shall
40 be recovered only for a use that, as determined by the director, supplies
41 water to that city, town or private water company.

42 B. The storer of long-term storage credits may apply those
43 long-term storage credits to offset any amount of groundwater that the
44 storer withdraws or uses before 2000 in excess of the storer's per capita
45 municipal conservation requirement in violation of the second management

plan if the storer proves to the satisfaction of the director that the following conditions are met:

1. The storer stored the water at a storage facility that is located in the same active management area as the storer's service area.

2. The long-term storage credits used to offset the storer's per capita municipal conservation requirements violation were earned before 2000.

3. The water stored was effluent or central Arizona project water.

C. Long-term storage credits ~~may not be used to demonstrate an assured water supply or an adequate water supply if the long-term storage credits were~~ accrued by storing effluent at a managed underground storage facility that has not been designated as a facility that could add value to a national park, national monument or state park **MAY BE USED TO DEMONSTRATE AN ASSURED WATER SUPPLY OR AN ADEQUATE WATER SUPPLY ONLY IF BOTH OF THE FOLLOWING APPLY:**

1. THE MANAGED UNDERGROUND STORAGE FACILITY QUALIFIES AS AN EXISTING EFFLUENT MANAGED UNDERGROUND STORAGE FACILITY.

2. THE LONG-TERM STORAGE CREDITS WERE ACCRUED AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

Sec. 14. Section 45-855.01, Arizona Revised Statutes, is amended to read:

45-855.01. Effect of long-term storage credits on assured water supply and adequate water supply

A. In an active management area, ~~except as provided in section 45-853.01, subsection C,~~ and on the request of a person who holds long-term storage credits, the director shall include the amount of long-term storage credits requested by the person in determining whether to issue a certificate of assured water supply to the person pursuant to section 45-576, or if the person is a city, town or private water company, whether to designate or redesignate the city, town or private water company as having an assured water supply. This subsection ~~shall~~ **DOES** not ~~be construed to~~ prohibit or require the director to include projected additions to a long-term storage account in determining whether to issue a certificate of assured water supply to the person, or if the person is a city, town or private water company, whether to designate or redesignate the city, town or private water company as having an assured water supply.

B. Outside an active management area, ~~except as provided in section 45-853.01, subsection C~~ and on the request of a person who holds long-term storage credits, the director shall include the amount of long-term storage credits requested by the person in determining whether to issue a report of adequate water supply pursuant to section 45-108 for a subdivision to the person, or if the person is a city, town or private water company, whether to designate the city, town or private water company as having an adequate water supply. This subsection ~~shall~~ **DOES** not ~~be construed to~~ prohibit or require the director to include projected

additions to a long-term storage account in determining whether to issue a report of adequate water supply for a subdivision to the person, or if the person who holds the long-term storage account is a city, town or private water company, whether to designate the city, town or private water company as having an adequate water supply.

C. Long-term storage credits included by the director in making the determinations and designations in subsections A and B of this section are not assignable by the person holding the credits, unless the director has determined that the credits will continue to be used for the subdivision for which the certificate of assured water supply or certificate of adequate water supply has been issued or for the service area that has been designated as having an assured water supply or an adequate water supply.

Sec. 15. Section 45-2425, Arizona Revised Statutes, is amended to read:

45-2425. Arizona water banking fund

A. The Arizona water banking fund is established and shall include subaccounts based on funding sources. The authority shall administer the banking fund in accordance with this chapter.

B. The banking fund consists of all of the following:

1. Monies appropriated from the state general fund by the legislature for water banking purposes other than replenishment under chapter 15, article 3 of this title.

2. Monies appropriated from the state general fund by the legislature for replenishment under chapter 15, article 3 of this title.

3. Reimbursement for the distribution of long-term storage credits, collected by the authority in accordance with section 45-2457, subsection B, paragraph 2.

4. Monies paid to the authority by the recipients of in lieu water at a groundwater savings facility, in accordance with section 45-2455, subsection C.

5. Monies collected in accordance with section 45-611, subsection C, paragraph 3.

6. Monies deposited in the banking fund in accordance with section 48-3715.03, subsection B.

7. Monies paid to the authority by agencies that have entered into interstate water banking agreements with the authority in accordance with section 45-2471. All monies received through an interstate water banking agreement with the state of Nevada that are not used to purchase or store water or otherwise fulfill contractual obligations with the state of Nevada are subject to legislative appropriation.

8. Monies paid to the authority by persons and Indian communities in this state that have entered into water banking services agreements with the authority in accordance with section 45-2458.

1 9. MONIES DEPOSITED IN THE FUND IN ACCORDANCE WITH SECTION
2 45-615.01, SUBSECTION G.

3 C. In addition to the monies prescribed in this section, the
4 authority may accept any gifts, grants or donations and deposit those
5 monies in the banking fund.

6 D. Monies in the banking fund are exempt from the provisions of
7 section 35-190 relating to lapsing of appropriations. On notice from the
8 authority, the state treasurer shall invest and divest monies in the fund
9 as provided by section 35-313, and monies earned from investment shall be
10 credited to the banking fund. The authority may invest the monies paid to
11 the authority in accordance with section 45-2471 with the state treasurer
12 pursuant to section 35-326.

13 E. The authority may use the banking fund to pay all reasonable
14 expenses incurred in carrying out its duties and responsibilities in
15 accordance with this chapter.

16 F. The authority shall establish a reserve subaccount in the fund
17 for the deposit of monies to be used for the purposes of article 5 of this
18 chapter.

19 Sec. 16. Arizona water banking authority; long-term storage
20 credits; exchanges; limitations; fees; delayed
21 repeal

22 A. On or before December 31, 2019, the Arizona water banking
23 authority may enter into agreements to exchange long-term storage credits
24 accrued or purchased in one active management area with monies collected
25 pursuant to section 45-611, subsection C, paragraph 3, Arizona Revised
26 Statutes, for long-term storage credits held by other persons in another
27 active management area, on request of the director, if the director
28 determines both of the following:

29 1. The exchange is beneficial to water management in this state.

30 2. The exchange will not substantially impair the authority's
31 ability to meet its firming obligation under section 45-2491, Arizona
32 Revised Statutes.

33 B. The term of any agreement entered into pursuant to subsection A
34 of this section shall not extend beyond December 31, 2026.

35 C. Notwithstanding section 45-2457, subsection B, paragraph 6,
36 Arizona Revised Statutes, the authority may distribute or extinguish
37 long-term storage credits obtained by exchange pursuant to subsection A of
38 this section for any purpose otherwise authorized under section 45-2457,
39 subsection B, paragraph 6, Arizona Revised Statutes, for the benefit of
40 any active management area.

41 D. An exchange of long-term storage credits pursuant to subsection
42 A of this section is exempt from any fee established by the department of
43 water resources for an assignment of long-term storage credits pursuant to
44 section 45-854.01, Arizona Revised Statutes.

45 E. This section is repealed from and after December 31, 2030.

1 Sec. 17. Legislative intent; possible Colorado River
 2 shortage; temporary groundwater and irrigation
 3 efficiency fund; projects

4 A. The legislature finds that the people of Arizona are dependent
 5 on Colorado River water to meet a significant portion of their water
 6 needs. In times of shortages in this state's annual Colorado River
 7 entitlement, deliveries through the central Arizona project are the first
 8 to be reduced. In particular, irrigation districts in central Arizona
 9 have relied on central Arizona project deliveries of Colorado River water
 10 to replace the withdrawal of groundwater for agricultural purposes. As the
 11 junior priority users within the central Arizona project system,
 12 deliveries for agricultural use are reduced first.

13 B. It is anticipated that the prolonged drought in the Colorado
 14 River basin will require the Secretary of the Interior to declare a
 15 shortage as soon as 2020. The legislature finds that reductions in
 16 deliveries of central Arizona project water to irrigated agriculture in
 17 central Arizona would cause substantial injury to the local economy and
 18 seriously harm the general economy and welfare of this state and its
 19 citizens.

20 C. It is therefore declared to be the public policy of this state
 21 that in the interest of protecting and stabilizing the general economy and
 22 welfare of this state and its citizens it is necessary to establish the
 23 temporary groundwater and irrigation efficiency projects fund to be
 24 partially funded by a state general fund appropriation and a temporary
 25 groundwater withdrawal fee to be collected in the Pinal active management
 26 area in place of a groundwater withdrawal fee authorized to be collected
 27 in the active management area for Arizona water banking purposes.
 28 Contributions to the fund will also be made by the irrigation districts
 29 within the Pinal active management area and the Harquahala irrigation non-
 30 expansion area. Monies in the fund are to be used to fund projects to
 31 construct and rehabilitate groundwater wells and related infrastructure
 32 for the withdrawal and efficient delivery of groundwater by irrigation
 33 districts in the Pinal active management area and the Harquahala
 34 irrigation non-expansion area. On completion of these construction and
 35 rehabilitation projects, the fund will terminate. The legislature does
 36 not intend to grant authorities or imply authority to perform any tasks or
 37 accept any responsibilities not expressly set forth in this legislation.

38 Sec. 18. Appropriation; temporary groundwater and irrigation
 39 efficiency projects fund; exemption

40 A. The sum of \$5,000,000 is appropriated from the state general
 41 fund in fiscal year 2018-2019 to the temporary groundwater and irrigation
 42 efficiency projects fund established by section 45-615.01, Arizona Revised
 43 Statutes, as added by this act.

1 B. The appropriation made in subsection A of this section is exempt
2 from the provisions of section 35-190, Arizona Revised Statutes, relating
3 to lapsing of appropriations.

4 Sec. 19. Appropriation: Arizona system conservation fund:
5 exemption

6 A. The sum of \$30,000,000 is appropriated from the state general
7 fund in fiscal year 2019-2020 to the Arizona system conservation fund
8 established by section 45-118, Arizona Revised Statutes, as added by this
9 act.

10 B. The appropriation made in subsection A of this section is exempt
11 from the provisions of section 35-190, Arizona Revised Statutes, relating
12 to lapsing of appropriations.

13 Sec. 20. Severability

14 If a provision of this act or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other
16 provisions or applications of the act that can be given effect without the
17 invalid provision or application, and to this end the provisions of this
18 act are severable.

19 Sec. 21. Emergency

20 This act is an emergency measure that is necessary to preserve the
21 public peace, health or safety and is operative immediately as provided by
22 law.