

Senate Engrossed

~~ASRS; employer contributions; prepayment~~  
(now: ASRS; lease-purchase agreements; contributions; prepayment)

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## SENATE BILL 1082

AN ACT

AMENDING SECTIONS 15-342 AND 38-737, ARIZONA REVISED STATUTES; REPEALING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 25; AMENDING SECTION 41-1279.03, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 3, SECTION 11; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-342, Arizona Revised Statutes, is amended to  
3 read:

4 15-342. Discretionary powers

5 The governing board may:

6 1. Expel pupils for misconduct.

7 2. Exclude from grades one through eight children under six years  
8 of age.

9 3. Make such separation of groups of pupils as it deems advisable.

10 4. Maintain such special schools during vacation as deemed  
11 necessary for the benefit of the pupils of the school district.

12 5. Allow a superintendent or principal or representatives of the  
13 superintendent or principal to travel for a school purpose, as determined  
14 by a majority vote of the board. The board may allow members and  
15 members-elect of the board to travel within or without the school district  
16 for a school purpose and receive reimbursement. Any expenditure for  
17 travel and subsistence pursuant to this paragraph shall be as provided in  
18 title 38, chapter 4, article 2. The designated post of duty referred to  
19 in section 38-621 shall be construed, for school district governing board  
20 members, to be the member's actual place of residence, as opposed to the  
21 school district office or the school district boundaries. Such  
22 expenditures shall be a charge against the budgeted school district funds.  
23 The governing board of a school district shall prescribe procedures and  
24 amounts for reimbursement of lodging and subsistence expenses.  
25 Reimbursement amounts shall not exceed the maximum amounts established  
26 pursuant to section 38-624, subsection C.

27 6. Construct or provide in rural districts housing facilities for  
28 teachers and other school employees that the board determines are  
29 necessary to operate the school.

30 7. Sell or lease to the state, a county, a city, another school  
31 district or a tribal government agency any school property required for a  
32 public purpose if the sale or lease of the property will not affect the  
33 normal operations of a school within the school district.

34 8. Annually budget and spend monies for membership in an  
35 association of school districts within this state.

36 9. Enter into leases or lease-purchase agreements for school  
37 buildings or grounds, or both, as lessor or as lessee, for periods of less  
38 than twenty years subject to voter approval for construction of school  
39 buildings as prescribed in section 15-341, subsection A, paragraph 7.

40 10. Subject to title 41, chapter 56, sell school sites or enter  
41 into leases or lease-purchase agreements for school buildings and grounds,  
42 as lessor or as lessee, for a period of twenty years or more, but not to  
43 exceed ninety-nine years, if authorized by a vote of the school district  
44 electors in an election called by the governing board as provided in  
45 section 15-491, except that authorization by the school district electors

1 in an election is not required if one of the following requirements is  
2 met:

3 (a) The market value of the school property is less than \$50,000 or  
4 the property is procured through a renewable energy development agreement,  
5 an energy performance contract, which among other items includes a  
6 renewable energy power service agreement, or a simplified energy  
7 performance contract pursuant to section 15-213.01.

8 (b) The buildings and sites are completely funded with monies  
9 distributed by the ~~school facilities~~ division OF SCHOOL FACILITIES within  
10 the department of administration or at the direction of the school  
11 facilities oversight board, or its predecessor.

12 (c) The transaction involves the sale of improved or unimproved  
13 property pursuant to an agreement with the school facilities oversight  
14 board in which the school district agrees to sell the improved or  
15 unimproved property and transfer the proceeds of the sale to the school  
16 facilities oversight board in exchange for monies from the school  
17 facilities oversight board for the acquisition of a more suitable school  
18 site. For a sale of property acquired by a school district before July 9,  
19 1998, a school district shall transfer to the school facilities oversight  
20 board that portion of the proceeds that equals the cost of the acquisition  
21 of a more suitable school site. If there are any remaining proceeds after  
22 the transfer of monies to the school facilities oversight board, a school  
23 district shall only use those remaining proceeds for future land purchases  
24 approved by the school facilities oversight board, or for capital  
25 improvements not funded by the school facilities oversight board for any  
26 existing or future facility.

27 (d) The transaction involves the sale of improved or unimproved  
28 property pursuant to a formally adopted plan and the school district uses  
29 the proceeds of this sale to purchase other property that will be used for  
30 similar purposes as the property that was originally sold if the sale  
31 proceeds of the improved or unimproved property are used within two years  
32 after the date of the original sale to purchase the replacement  
33 property. If the sale proceeds of the improved or unimproved property are  
34 not used within two years after the date of the original sale to purchase  
35 replacement property, the sale proceeds shall be used toward paying any  
36 outstanding bonded indebtedness. If any sale proceeds remain after paying  
37 for outstanding bonded indebtedness, or if the district has no outstanding  
38 bonded indebtedness, sale proceeds shall be used to reduce the district's  
39 primary tax levy. A school district shall not use this subdivision unless  
40 all of the following conditions exist:

41 (i) The school district is the sole owner of the improved or  
42 unimproved property that the school district intends to sell.

43 (ii) The school district did not purchase the improved or  
44 unimproved property that the school district intends to sell with monies  
45 that were distributed pursuant to title 41, chapter 56.

1 (iii) The transaction does not violate section 15-341,  
2 subsection G.

3 11. Review the decision of a teacher to promote a pupil to a grade  
4 or retain a pupil in a grade in a common school or to pass or fail a pupil  
5 in a course in high school. The pupil has the burden of proof to overturn  
6 the decision of a teacher to promote, retain, pass or fail the pupil. In  
7 order to sustain the burden of proof, the pupil shall demonstrate to the  
8 governing board that the pupil has mastered the academic standards adopted  
9 by the state board of education pursuant to sections 15-701 and 15-701.01.  
10 If the governing board overturns the decision of a teacher pursuant to  
11 this paragraph, the governing board shall adopt a written finding that the  
12 pupil has mastered the academic standards. Notwithstanding title 38,  
13 chapter 3, article 3.1, the governing board shall review the decision of a  
14 teacher to promote a pupil to a grade or retain a pupil in a grade in a  
15 common school or to pass or fail a pupil in a course in high school in  
16 executive session unless a parent or legal guardian of the pupil or the  
17 pupil, if emancipated, disagrees that the review should be conducted in  
18 executive session and then the review shall be conducted in an open  
19 meeting. If the review is conducted in executive session, the board shall  
20 notify the teacher of the date, time and place of the review and shall  
21 allow the teacher to be present at the review. If the teacher is not  
22 present at the review, the board shall consult with the teacher before  
23 making its decision. Any request, including the written request as  
24 provided in section 15-341, the written evidence presented at the review  
25 and the written record of the review, including the decision of the  
26 governing board to accept or reject the teacher's decision, shall be  
27 retained by the governing board as part of its permanent records.

28 12. Provide transportation or site transportation loading and  
29 unloading areas for any child or children if deemed for the best interest  
30 of the district, whether within or without the district, county or state.

31 13. Enter into intergovernmental agreements and contracts with  
32 school districts or other governing bodies as provided in section 11-952.  
33 Intergovernmental agreements and contracts between school districts or  
34 between a school district and other governing bodies as provided in  
35 section 11-952 are exempt from competitive bidding under the procurement  
36 rules adopted by the state board of education pursuant to section 15-213.

37 14. Include in the curricula it prescribes for high schools in the  
38 school district career and technical education, vocational education and  
39 technology education programs and career and technical, vocational and  
40 technology program improvement services for the high schools, subject to  
41 approval by the state board of education. The governing board may  
42 contract for the provision of career and technical, vocational and  
43 technology education as provided in section 15-789.

44 15. Suspend a teacher or administrator from the teacher's or  
45 administrator's duties without pay for a period of time of not to exceed

1 ten school days, if the board determines that suspension is warranted  
2 pursuant to section 15-341, subsection A, paragraph 21 or 22.

3 16. Dedicate school property within an incorporated city or town to  
4 that city or town or within a county to that county for use as a public  
5 right-of-way if both of the following apply:

6 (a) Pursuant to an ordinance adopted by the city, town or county,  
7 there will be conferred on the school district privileges and benefits  
8 that may include benefits related to zoning.

9 (b) The dedication will not affect the normal operation of any  
10 school within the district.

11 17. Enter into option agreements for the purchase of school sites.

12 18. Donate surplus or outdated learning materials, educational  
13 equipment and furnishings to nonprofit community organizations if the  
14 governing board determines that the anticipated cost of selling the  
15 learning materials, educational equipment or furnishings equals or exceeds  
16 the estimated market value of the materials.

17 19. Prescribe policies to assess reasonable fees for students to  
18 use district-provided parking facilities. The fees are to be applied by  
19 the district solely against costs incurred in operating or securing the  
20 parking facilities. Any policy adopted by the governing board pursuant to  
21 this paragraph shall include a fee waiver provision in appropriate cases  
22 of need or economic hardship.

23 20. Establish alternative education programs that are consistent  
24 with the laws of this state to educate pupils, including pupils who have  
25 been reassigned pursuant to section 15-841, subsection E or F.

26 21. Require a period of silence to be observed at the commencement  
27 of the first class of the day in the schools. If a governing board  
28 chooses to require a period of silence to be observed, the teacher in  
29 charge of the room in which the first class is held shall announce that a  
30 period of silence not to exceed one minute in duration will be observed  
31 for meditation, and during that time no activities shall take place and  
32 silence shall be maintained.

33 22. Require students to wear uniforms.

34 23. Exchange unimproved property or improved property, including  
35 school sites, if the governing board determines that the improved property  
36 is unnecessary for the continued operation of the school district without  
37 requesting authorization by a vote of the school district electors and if  
38 the governing board determines that the exchange is necessary to protect  
39 the health, safety or welfare of pupils or if the governing board  
40 determines that the exchange is based on sound business principles for  
41 either:

42 (a) Unimproved or improved property of equal or greater value.

43 (b) Unimproved property that the owner contracts to improve if the  
44 value of the property ultimately received by the school district is of  
45 equal or greater value.

1           24. For common and high school pupils, assess reasonable fees for  
2 optional extracurricular activities and programs conducted when the common  
3 or high school is not in session, except that fees shall not be charged  
4 for pupils' access to or use of computers or related materials. For high  
5 school pupils, the governing board may assess reasonable fees for fine  
6 arts and vocational education courses and for optional services, equipment  
7 and materials offered to the pupils beyond those required to successfully  
8 complete the basic requirements of any other course, except that fees  
9 shall not be charged for pupils' access to or use of computers or related  
10 materials. Fees assessed pursuant to this paragraph shall be adopted at a  
11 public meeting after notice has been given to all parents of pupils  
12 enrolled at schools in the district and shall not exceed the actual costs  
13 of the activities, programs, services, equipment or materials. The  
14 governing board shall authorize principals to waive the assessment of all  
15 or part of a fee assessed pursuant to this paragraph if it creates an  
16 economic hardship for a pupil. For the purposes of this paragraph,  
17 "extracurricular activity" means any optional, noncredit, educational or  
18 recreational activity that supplements the education program of the  
19 school, whether offered before, during or after regular school hours.

20           25. Notwithstanding section 15-341, subsection A, paragraphs 7 and  
21 9, construct school buildings and purchase or lease school sites, without  
22 a vote of the school district electors, if the buildings and sites are  
23 totally funded from one or more of the following:

24           (a) Monies in the unrestricted capital outlay fund, except that the  
25 estimated cost shall not exceed \$250,000 for a district that uses section  
26 15-949.

27           (b) Monies distributed at the direction of the school facilities  
28 oversight board established by section 41-5701.02 or by the ~~school~~  
29 ~~facilities~~ division OF SCHOOL FACILITIES within the department of  
30 administration pursuant to title 41, chapter 56.

31           (c) Monies specifically donated for the purpose of constructing  
32 school buildings.

33 This paragraph does not eliminate the requirement for an election to raise  
34 revenues for a capital outlay override pursuant to section 15-481 or a  
35 bond election pursuant to section 15-491.

36           26. Conduct a background investigation that includes a fingerprint  
37 check conducted pursuant to section 41-1750, subsection G for certificated  
38 personnel and personnel who are not paid employees of the school district,  
39 as a condition of employment. A school district may release the results  
40 of a background check to another school district for employment purposes.  
41 The school district may charge the costs of fingerprint checks to its  
42 fingerprinted employee, except that the school district may not charge the  
43 costs of fingerprint checks for personnel who are not paid employees of  
44 the school district.

1           27. Unless otherwise prohibited by law, sell advertising as  
2 follows:

3           (a) Advertisements shall be age appropriate and not promote any  
4 substance that is illegal for minors such as alcohol, tobacco and drugs or  
5 gambling. Advertisements shall comply with the state sex education policy  
6 of abstinence.

7           (b) Advertising approved by the governing board for the exterior of  
8 school buses may appear only on the sides of the bus in the following  
9 areas:

10           (i) The signs shall be below the seat level rub rail and not extend  
11 above the bottom of the side windows.

12           (ii) The signs shall be at least three inches from any required  
13 lettering, lamp, wheel well or reflector behind the service door or stop  
14 signal arm.

15           (iii) The signs shall not extend from the body of the bus so as to  
16 allow a handhold or present a danger to pedestrians.

17           (iv) The signs shall not interfere with the operation of any door  
18 or window.

19           (v) The signs shall not be placed on any emergency doors.

20           (c) The school district shall establish an advertisement fund that  
21 is composed of revenues from the sale of advertising. The monies in an  
22 advertisement fund are not subject to reversion.

23           28. Assess reasonable damage deposits to pupils in grades seven  
24 through twelve for using textbooks, musical instruments, band uniforms or  
25 other equipment required for academic courses. The governing board shall  
26 adopt policies on any damage deposits assessed pursuant to this paragraph  
27 at a public meeting called for this purpose after providing notice to all  
28 parents of pupils in grades seven through twelve in the school district.  
29 Principals of individual schools within the district may waive the damage  
30 deposit requirement for any textbook or other item if the payment of the  
31 damage deposit would create an economic hardship for the pupil. The  
32 school district shall return the full amount of the damage deposit for any  
33 textbook or other item if the pupil returns the textbook or other item in  
34 reasonably good condition within the time period prescribed by the  
35 governing board. For the purposes of this paragraph, "in reasonably good  
36 condition" means the textbook or other item is in the same or a similar  
37 condition as it was when the pupil received it, plus ordinary wear and  
38 tear.

39           29. Notwithstanding section 15-1105, expend surplus monies in the  
40 civic center school fund for maintenance and operations or unrestricted  
41 capital outlay if sufficient monies are available in the fund after  
42 meeting the needs of programs established pursuant to section 15-1105.

43           30. Notwithstanding section 15-1143, spend surplus monies in the  
44 community school program fund for maintenance and operations or  
45 unrestricted capital outlay if sufficient monies are available in the fund

1 after meeting the needs of programs established pursuant to section  
2 15-1142.

3 31. Adopt guidelines to standardize the format of the school report  
4 cards required by section 15-746 for schools within the district.

5 32. Adopt policies that require parental notification when a law  
6 enforcement officer interviews a pupil on school grounds. Policies  
7 adopted pursuant to this paragraph shall not impede a peace officer from  
8 performing the peace officer's duties. If the school district governing  
9 board adopts a policy that requires parental notification:

10 (a) The policy may provide reasonable exceptions to the parental  
11 notification requirement.

12 (b) The policy shall set forth whether and under what circumstances  
13 a parent may be present when a law enforcement officer interviews the  
14 pupil, including reasonable exceptions to the circumstances under which a  
15 parent may be present when a law enforcement officer interviews the pupil,  
16 and shall specify a reasonable maximum time after a parent is notified  
17 that an interview of a pupil by a law enforcement officer may be delayed  
18 to allow the parent to be present.

19 33. Enter into voluntary partnerships with any party to finance  
20 with monies other than school district monies and cooperatively design  
21 school facilities that comply with the adequacy standards prescribed in  
22 section 41-5711 and the square footage per pupil requirements pursuant to  
23 section 41-5741, subsection D, paragraph 3, subdivision (b). The design  
24 plans and location of any such school facility shall be submitted to the  
25 school facilities oversight board for approval pursuant to section  
26 41-5741, subsection 0. If the school facilities oversight board approves  
27 the design plans and location of any such school facility, the party in  
28 partnership with the school district may cause to be constructed and the  
29 district may begin operating the school facility before monies are  
30 distributed at the direction of the school facilities oversight board  
31 pursuant to section 41-5741. Monies distributed from the new school  
32 facilities fund to a school district in a partnership with another party  
33 to finance and design the school facility shall be paid to the school  
34 district pursuant to section 41-5741. The school district shall reimburse  
35 the party in partnership with the school district from the monies paid to  
36 the school district pursuant to section 41-5741, in accordance with the  
37 voluntary partnership agreement. Before the school facilities oversight  
38 board directs the distribution of any monies pursuant to this subsection,  
39 the school district shall demonstrate to the school facilities oversight  
40 board that the facilities to be funded pursuant to section 41-5741,  
41 subsection 0 meet the minimum adequacy standards prescribed in section  
42 41-5711. If the cost to construct the school facility exceeds the amount  
43 that the school district receives from the new school facilities fund, the  
44 partnership agreement between the school district and the other party  
45 shall specify that, except as otherwise provided by the other party, any

1 such excess costs shall be the responsibility of the school district. The  
2 school district governing board shall adopt a resolution in a public  
3 meeting that an analysis has been conducted on the prospective effects of  
4 the decision to operate a new school with existing monies from the school  
5 district's maintenance and operations budget and how this decision may  
6 affect other schools in the school district. If a school district  
7 acquires land by donation at an appropriate school site approved by the  
8 school facilities oversight board and a school facility is financed and  
9 built on the land pursuant to this paragraph, the school facilities  
10 oversight board shall direct the distribution of an amount equal to twenty  
11 percent of the fair market value of the land that can be used for academic  
12 purposes. The school district shall place the monies in the unrestricted  
13 capital outlay fund and increase the unrestricted capital budget limit by  
14 the amount of the monies placed in the fund. Monies distributed under  
15 this paragraph shall be distributed from the new school facilities fund  
16 pursuant to section 41-5741. If a school district acquires land by  
17 donation at an appropriate school site approved by the school facilities  
18 oversight board and a school facility is financed and built on the land  
19 pursuant to this paragraph, the school district shall not receive monies  
20 for the donation of real property pursuant to section 41-5741, subsection  
21 F. It is unlawful for:

22 (a) A county, city or town to require as a condition of any land  
23 use approval that a landowner or landowners that entered into a  
24 partnership pursuant to this paragraph provide any contribution, donation  
25 or gift, other than a site donation, to a school district. This  
26 subdivision only applies to the property in the voluntary partnership  
27 agreement pursuant to this paragraph.

28 (b) A county, city or town to require as a condition of any land  
29 use approval that the landowner or landowners located within the  
30 geographic boundaries of the school subject to the voluntary partnership  
31 pursuant to this paragraph provide any donation or gift to the school  
32 district except as provided in the voluntary partnership agreement  
33 pursuant to this paragraph.

34 (c) A community facilities district established pursuant to title  
35 48, chapter 4, article 6 to be used for reimbursement of financing the  
36 construction of a school pursuant to this paragraph.

37 (d) A school district to enter into an agreement pursuant to this  
38 paragraph with any party other than a master planned community party. Any  
39 land area consisting of at least three hundred twenty acres that is the  
40 subject of a development agreement with a county, city or town entered  
41 into pursuant to section 9-500.05 or 11-1101 shall be deemed to be a  
42 master planned community. For the purposes of this subdivision, "master  
43 planned community" means a land area consisting of at least three hundred  
44 twenty acres, which may be noncontiguous, that is the subject of a zoning  
45 ordinance approved by the governing body of the county, city or town in

1 which the land is located that establishes the use of the land area as a  
2 planned area development or district, planned community development or  
3 district, planned unit development or district or other land use category  
4 or district that is recognized in the local ordinance of such county, city  
5 or town and that specifies the use of such land is for a master planned  
6 development.

7 34. Enter into an intergovernmental agreement with a presiding  
8 judge of the juvenile court to implement a law-related education program  
9 as defined in section 15-154. The presiding judge of the juvenile court  
10 may assign juvenile probation officers to participate in a law-related  
11 education program in any school district in the county. The cost of  
12 juvenile probation officers who participate in the program implemented  
13 pursuant to this paragraph shall be funded by the school district.

14 35. Offer to sell outdated learning materials, educational  
15 equipment or furnishings at a posted price commensurate with the value of  
16 the items to pupils who are currently enrolled in that school district  
17 before those materials are offered for public sale.

18 36. If the school district is a small school district as defined in  
19 section 15-901, and if allowed by federal law, opt out of federal grant  
20 opportunities if the governing board determines that the federal  
21 requirements impose unduly burdensome reporting requirements.

22 37. Prescribe and enforce policies and procedures for the emergency  
23 administration of inhalers by trained employees of the school district and  
24 nurses who are under contract with the school district pursuant to section  
25 15-158.

26 38. Develop policies and procedures to allow principals to budget  
27 for or assist with budgeting federal, state and local monies.

28 39. Subject to article IX, section 7, constitution of Arizona, the  
29 laws pertaining to travel and subsistence, gifts, grants, including  
30 federal grants, or devises and policies adopted by the department of  
31 education, provide food and beverages at school district events, including  
32 official school functions and trainings.

33 40. ENTER INTO LEASE-PURCHASE AGREEMENTS OF SCHOOL BUILDINGS OR  
34 GROUNDS, OR BOTH, FOR PERIODS OF UP TO THE MAXIMUM AMORTIZATION PERIOD AS  
35 DETERMINED BY THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION  
36 38-737, SUBSECTION D AND APPLY AMOUNTS RECEIVED UNDER THE LEASE-PURCHASE  
37 AGREEMENT AS LESSOR TO PAY AMOUNTS TO THE ARIZONA STATE RETIREMENT SYSTEM  
38 PURSUANT TO SECTION 38-737, SUBSECTION D AND TO CREATE RESERVES TO  
39 SUPPLEMENT THE PAYMENTS AS DEEMED NECESSARY BY THE GOVERNING BOARD. LEASE  
40 PAYMENTS PAYABLE AS LESSEE UNDER THE LEASE-PURCHASE AGREEMENTS SHALL BE  
41 BUDGETED AND PAYABLE FROM THE SAME SOURCE FROM WHICH PAYMENTS OF AMOUNTS  
42 TO THE ARIZONA STATE RETIREMENT SYSTEM ARE OTHERWISE MADE AND ANY OTHER  
43 LEGALLY AVAILABLE SOURCES. AUTHORIZATION BY THE SCHOOL DISTRICT ELECTORS  
44 IN AN ELECTION CALLED BY THE GOVERNING BOARD AS PROVIDED IN SECTION

1 15-491, SUBSECTION A, PARAGRAPH 4 IS NOT REQUIRED FOR LEASE-PURCHASE  
2 AGREEMENTS ENTERED INTO PURSUANT TO THIS PARAGRAPH.

3 Sec. 2. Section 38-737, Arizona Revised Statutes, is amended to  
4 read:

5 38-737. Employer contributions; prepayment; definitions

6 A. Employer contributions shall be a percentage of compensation of  
7 all employees of the employers, excluding the compensation of those  
8 employees who are members of the defined contribution program administered  
9 by ASRS, as determined by the ASRS actuary pursuant to this section for  
10 June 30 of the fiscal year immediately preceding the preceding fiscal  
11 year, except that beginning with fiscal year 2001-2002 the contribution  
12 rate shall not be less than two percent of compensation of all employees  
13 of the employers. Beginning July 1, 2011 through June 29, 2016, the total  
14 employer contribution shall be determined on the projected unit credit  
15 method. Beginning June 30, 2016, the board shall determine the actuarial  
16 cost method pursuant to section 38-714. The total employer contributions  
17 shall be equal to the employer normal cost plus the amount required to  
18 amortize the past service funding requirement over a period that is  
19 determined by the board and consistent with generally accepted actuarial  
20 standards. In determining the past service funding period, the board  
21 shall seek to improve the funded status whenever the ASRS trust fund is  
22 less than one hundred percent funded.

23 B. All contributions made by the employer and allocated to the fund  
24 established by section 38-712 are irrevocable and shall be used as  
25 benefits under this article or to pay expenses of ASRS.

26 C. The required employer contributions shall be determined on an  
27 annual basis by an actuary who is selected by the board and who is a  
28 fellow of the society of actuaries. ASRS shall provide by December 1 of  
29 each fiscal year to the governor, the speaker of the house of  
30 representatives and the president of the senate the contribution rate for  
31 the ensuing fiscal year and the unfunded actuarial accrued liability, the  
32 funded status based on the actuarial value of assets and market value of  
33 assets and the annualized rate of return and the ten-year rate of return  
34 as of June 30 of the prior fiscal year.

35 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AN EMPLOYER  
36 MAY PREPAY THE EMPLOYER'S 401(a) PENSION CONTRIBUTIONS DIRECTLY TO ASRS  
37 ACCORDING TO A WRITTEN AGREEMENT BETWEEN THE EMPLOYER AND ASRS AS FOLLOWS:

38 1. 401(a) PENSION CONTRIBUTIONS THAT THE EMPLOYER PREPAYS ACCORDING  
39 TO THIS SUBSECTION MAY BE DEPOSITED, AS DETERMINED BY THE EMPLOYER AND  
40 MANAGED BY ASRS, DIRECTLY IN EITHER THE ASRS TRUST FUND ESTABLISHED BY  
41 SECTION 38-712 OR A SECTION 115 TRUST.

42 2. ASRS SHALL DETERMINE THE FOLLOWING OPTIONS AVAILABLE TO THE  
43 EMPLOYER:

44 (a) THE EARNINGS ACCRUAL RATE.

45 (b) THE AMORTIZATION TIME PERIODS.

- 1 (c) THE FREQUENCY AND DATES THAT PREPAYMENTS CAN BE MADE.  
2 (d) THE MAXIMUM AND MINIMUM AMOUNT OF 401(a) PENSION CONTRIBUTIONS  
3 THAT THE EMPLOYER CAN PREPAY.  
4 (e) ANY OTHER OPTIONS OR OBLIGATIONS THAT THE EMPLOYER MAY HAVE  
5 WHEN ENTERING INTO THIS WRITTEN AGREEMENT.  
6 3. THE 401(a) PENSION CONTRIBUTIONS THE EMPLOYER PREPAYS AND THE  
7 ACCRUED EARNINGS SHALL BE MANAGED AT THE DISCRETION OF ASRS SUBJECT TO  
8 SECTION 38-718.  
9 4. 401(a) PENSION CONTRIBUTIONS THAT THE EMPLOYER PREPAYS AND  
10 ACCRUED EARNINGS MAY BE USED SOLELY TO REDUCE THE EMPLOYER'S FUTURE 401(a)  
11 PENSION CONTRIBUTIONS AS REQUIRED FROM THE EMPLOYER PURSUANT TO THIS  
12 SECTION AND SECTION 38-735.  
13 5. THE EMPLOYER SHALL DETERMINE WHEN TO USE THE 401(a) PENSION  
14 CONTRIBUTIONS THE EMPLOYER PREPAYS AND THE ACCRUED EARNINGS FROM THOSE  
15 401(a) PENSION CONTRIBUTIONS.  
16 6. ASRS SHALL PROVIDE THE EMPLOYER AN ANNUAL STATEMENT OF 401(a)  
17 PENSION CONTRIBUTIONS THE EMPLOYER PREPAID AND THE ACCRUED EARNINGS.  
18 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, AN  
19 EMPLOYER MAY NOT PREPAY 401(a) PENSION CONTRIBUTIONS ACCORDING TO THIS  
20 SUBSECTION AFTER THE EMPLOYER REPORTS ZERO OR LESS THAN ZERO NET PENSION  
21 LIABILITY ON THE EMPLOYER'S MOST RECENT APPLICABLE GOVERNMENTAL ACCOUNTING  
22 STANDARDS REPORT.  
23 8. AFTER THE EMPLOYER REPORTS ZERO OR LESS THAN ZERO NET PENSION  
24 LIABILITY ON THE EMPLOYER'S MOST RECENT APPLICABLE GOVERNMENTAL ACCOUNTING  
25 STANDARDS REPORT, THE EMPLOYER SHALL ELECT AN AMORTIZATION SCHEDULE BY  
26 WRITTEN AGREEMENT WITH ASRS, AND THE AMORTIZATION PERIOD SHALL BEGIN THE  
27 FOLLOWING FISCAL YEAR.  
28 9. AFTER AN EMPLOYER ELECTS AMORTIZATION TERMS, ASRS SHALL PROVIDE  
29 THE EMPLOYER AN ANNUAL AMORTIZATION SCHEDULE THAT IS CURRENT AND BASED ON  
30 THE EMPLOYER'S ELECTION.  
31 10. IF ASRS DETERMINES TO NO LONGER OFFER THE OPTION OF PREPAYING  
32 THE EMPLOYER'S 401(a) PENSION CONTRIBUTIONS DIRECTLY TO ASRS, ANY 401(a)  
33 PENSION CONTRIBUTIONS THE EMPLOYER PREPAYS AND THE ACCRUED EARNINGS  
34 REMAINING ON ACCOUNT SHALL BE USED FOR FUTURE OBLIGATIONS ACCORDING TO THE  
35 WRITTEN AGREEMENT BETWEEN THE EMPLOYER AND ASRS.  
36 11. ASSETS TRANSFERRED IN OR OUT OF OR HELD IN THE ASRS TRUST FUND  
37 ESTABLISHED BY SECTION 38-712, OR A SECTION 115 TRUST, AND THE ACCRUED  
38 EARNINGS ARE EXEMPT FROM STATE, COUNTY AND MUNICIPAL TAXES.  
39 12. THE LEGISLATURE INTENDS THAT THE ACCRUED EARNINGS NOT BE  
40 SUBJECT TO FEDERAL INCOME TAX. ASRS MAY ADOPT ADDITIONAL RULES, POLICIES  
41 AND PROCEDURES AS ASRS DEEMS NECESSARY OR APPROPRIATE TO FULFILL THE  
42 LEGISLATURE'S INTENT THAT THE ACCRUED EARNINGS NOT BE SUBJECT TO FEDERAL  
43 INCOME TAX.  
44 13. IF ASRS RECEIVES NOTIFICATION FROM THE UNITED STATES INTERNAL  
45 REVENUE SERVICE THAT THIS SUBSECTION OR ANY PORTION OF THIS SUBSECTION

1 WILL JEOPARDIZE THE TAX-EXEMPT STATUS OF THE 401(a) PENSION CONTRIBUTIONS  
2 THE EMPLOYER PREPAYS ACCORDING TO THIS SUBSECTION AND THE ACCRUED  
3 EARNINGS, THE PORTION OF THIS SUBSECTION THAT WILL CAUSE THE  
4 DISQUALIFICATION DOES NOT APPLY.

5 E. ANY EMPLOYER MAY ENTER INTO AN AGREEMENT PRESCRIBED IN  
6 SUBSECTION D OF THIS SECTION AND BORROW TO FUND ANY AMOUNTS TO BE PAID  
7 PURSUANT TO THE AGREEMENT BY ANY MEANS LEGALLY AVAILABLE TO THE EMPLOYER.

8 F. FOR THE PURPOSES OF THIS SECTION:

9 1. "401(a) PENSION CONTRIBUTIONS" MEANS THE PORTION OF AN  
10 EMPLOYER'S PENSION CONTRIBUTION THAT IS SPECIFIC TO THE RETIREMENT PROGRAM  
11 ESTABLISHED UNDER THIS ARTICLE AND QUALIFIED UNDER SECTION 401(a) OF THE  
12 INTERNAL REVENUE CODE.

13 2. "SECTION 115 TRUST" MEANS A TRUST WHOSE INCOME IS EXEMPT FROM  
14 GROSS INCOME PURSUANT TO SECTION 115 OF THE INTERNAL REVENUE CODE FOR  
15 ESSENTIAL GOVERNMENT FUNCTIONS INTEGRAL TO THIS STATE AND ITS POLITICAL  
16 SUBDIVISIONS.

17 Sec. 3. Repeal

18 Section 41-1279.03, Arizona Revised Statutes, as amended by Laws  
19 2021, chapter 405, section 25, is repealed.

20 Sec. 4. Section 41-1279.03, Arizona Revised Statutes, as amended by  
21 Laws 2019, chapter 3, section 11, is amended to read:

22 41-1279.03. Powers and duties

23 A. The auditor general shall:

24 1. Prepare an audit plan for approval by the committee and report  
25 to the committee the results of each audit and investigation and other  
26 reviews conducted by the auditor general.

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

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

1           4. Perform special research requests, special audits and related  
2 assignments as designated by the committee and conduct performance audits,  
3 special audits, special research requests and investigations of any state  
4 agency, whether created by the constitution or otherwise, as may be  
5 requested by the committee.

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

9           6. In the tenth year and in each fifth year thereafter in which a  
10 transportation excise tax is in effect in a county as provided in section  
11 42-6106 or 42-6107, conduct a performance audit that:

12           (a) Reviews past expenditures and future planned expenditures of  
13 the transportation excise revenues and determines the impact of the  
14 expenditures in solving transportation problems within the county and, for  
15 a transportation excise tax in effect in a county as provided in section  
16 42-6107, determines whether the expenditures of the transportation excise  
17 revenues comply with section 28-6392, subsection B.

18           (b) Reviews projects completed to date and projects to be completed  
19 during the remaining years in which a transportation excise tax is in  
20 effect. Within six months after each review period, the auditor general  
21 shall present a report to the speaker of the house of representatives and  
22 the president of the senate detailing findings and making recommendations.

23           (c) Reviews, determines, reports and makes recommendations to the  
24 speaker of the house of representatives and the president of the senate  
25 whether the distribution of ARIZONA highway user revenues complies with  
26 title 28, chapter 18, article 2.

27           7. If requested by the committee, conduct performance audits of  
28 counties and incorporated cities and towns receiving ARIZONA highway user  
29 revenue fund monies pursuant to title 28, chapter 18, article 2 to  
30 determine whether the monies are being spent as provided in section  
31 28-6533, subsection B.

32           8. Perform special audits designated pursuant to law if the auditor  
33 general determines that there are adequate monies appropriated for the  
34 auditor general to complete the audit. If the auditor general determines  
35 the appropriated monies are inadequate, the auditor general shall notify  
36 the committee.

37           9. Establish a schoolwide audit team in the office of the auditor  
38 general to conduct performance audits and monitor school districts to  
39 determine the percentage of every dollar spent in the classroom by the  
40 school district. Each school district shall prominently post on its  
41 website home page a copy of its profile pages that displays the percentage  
42 of every dollar spent in the classroom by that school district from the  
43 most recent status report issued by the auditor general pursuant to this  
44 paragraph. The performance audits shall determine whether school  
45 districts that receive monies from the Arizona English language learner

1 fund established by section 15-756.04 and the statewide compensatory  
2 instruction fund established by section 15-756.11 comply with title 15,  
3 chapter 7, article 3.1. The auditor general shall determine, through  
4 random selection, the school districts to be audited each year, subject to  
5 review by the joint legislative audit committee. A school district that  
6 is subject to an audit pursuant to this paragraph shall notify the auditor  
7 general in writing whether the school district agrees or disagrees with  
8 the findings and recommendations of the audit and whether the school  
9 district will implement the findings and recommendations, implement  
10 modifications to the findings and recommendations or refuse to implement  
11 the findings and recommendations. The school district shall submit to the  
12 auditor general a written status report on the implementation of the audit  
13 findings and recommendations every six months for two years after an audit  
14 conducted pursuant to this paragraph. The auditor general shall review  
15 the school district's progress toward implementing the findings and  
16 recommendations of the audit every six months after ~~receipt of~~ RECEIVING  
17 the district's status report for two years. The auditor general may  
18 review a school district's progress beyond this two-year period for  
19 recommendations that have not yet been implemented by the school district.  
20 The auditor general shall provide a status report of these reviews to the  
21 joint legislative audit committee. The school district shall participate  
22 in any hearing scheduled during this review period by the joint  
23 legislative audit committee or by any other legislative committee  
24 designated by the joint legislative audit committee. FOR THE PURPOSES OF  
25 THE ARIZONA SCHOOL DISTRICT SPENDING REPORT PREPARED PURSUANT TO THIS  
26 PARAGRAPH, LEASE PAYMENTS MADE BY A SCHOOL DISTRICT PURSUANT TO SECTION  
27 15-342, PARAGRAPH 40 SHALL BE ASSOCIATED WITH THE FUNCTIONAL SPENDING  
28 CATEGORY IN THE SAME PROPORTION AS THE SCHOOL DISTRICT'S RETIREMENT  
29 CONTRIBUTIONS.

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

35 B. The auditor general may:

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

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

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

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

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

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

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

17           Sec. 5. Emergency

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