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**Jane Dee Hull
Secretary of State**

CHAPTER 256

HOUSE BILL 2080

AN ACT

AMENDING SECTIONS 35-101, 35-151, 35-173, 35-193.02, 38-651.02, 41-101.03, 41-621, 41-622, 41-701, 41-702, 41-735, 41-790.01, 41-792.01 AND 41-793, ARIZONA REVISED STATUTES; RENUMBERING SECTION 41-702.01, ARIZONA REVISED STATUTES, AS SECTION 41-704; AMENDING TITLE 41, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-703; RELATING TO THE DEPARTMENT OF ADMINISTRATION.

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

2 Section 1. Section 35-101, Arizona Revised Statutes, is amended to
3 read:

4 35-101. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Allotment" means the allocation of an appropriation or other fund
7 source over a full fiscal year within a budget program, ~~class or subclass~~ OR
8 EXPENDITURE CLASS.

9 ~~2.~~ 2. "Budget estimates" means statements with accompanying
10 explanations, as provided by this chapter, in which a budget unit states its
11 financial requirements and requests appropriations.

12 ~~3.~~ 3. "Budget program" means functions and activities of a budget
13 unit or within a budget unit that are preplanned to fulfill a distinct
14 mission.

15 ~~4.~~ 4. "Budget unit" means any department, commission, board,
16 institution or other agency of the state organization receiving, expending
17 or disbursing state funds or incurring obligations against the state. Budget
18 unit includes the major budget units.

1 ~~6-~~ 5. "Claim" means a demand against the state for payment for
2 either:

3 (a) Goods delivered or, in the case of highway construction, goods or
4 facilities to be delivered by the federal government.

5 (b) Services performed.

6 ~~7-~~ 6. "Encumbrance" means an obligation in the form of ~~a-~~ ANY
7 purchase order, contract or other commitment which is chargeable to an
8 appropriation or ANY other authorized fund source and for which a part of
9 such fund source is reserved. It ceases to be an encumbrance when paid or
10 canceled.

11 ~~2-~~ 7. "~~Budget class~~" "EXPENDITURE CLASS" means one of the kinds of
12 expenditure denoting a class of services or commodities purchased or
13 properties acquired as specified in the classification of expenditures
14 prescribed by the director of the department of administration for use in
15 expenditure accounting, in making budget estimates and in the budget reports
16 and budgets.

17 8. "Major budget units" means the following agencies:

- 18 (a) The department of education.
19 (b) The Arizona board of regents, Arizona state university, Arizona
20 state university west campus, Arizona state university east campus, the
21 university of Arizona and northern Arizona university.
22 (c) The department of economic security.
23 (d) The state department of corrections.
24 (e) The department of juvenile corrections.
25 (f) The Arizona health care cost containment system.
26 (g) The department of health services.
27 (h) The department of public safety.
28 (i) The state board of directors for community colleges.
29 (j) The judiciary, including the supreme court, the court of appeals,
30 the superior court, the commissions on appellate and trial court appointments
31 and the commission on judicial conduct.
32 (k) The department of administration.
33 (l) The Arizona state lottery commission.
34 (m) The department of environmental quality.
35 (n) The department of transportation.
36 (o) The Arizona state schools for the deaf and the blind.

37 9. "Prepayment" means the payment of a claim before receiving the
38 goods or services.

39 10. "PURCHASE ORDER" MEANS A DOCUMENT THAT IS SIGNED BY THE APPROPRIATE
40 AGENCY AUTHORIZED SIGNATORY THAT REQUESTS A VENDOR TO DELIVER DESCRIBED GOODS
41 OR SERVICES AT A SPECIFIC PRICE AND THAT ON DELIVERY AND ACCEPTANCE OF THE
42 GOODS OR SERVICES BY THIS STATE BECOMES AN OBLIGATION OF THIS STATE.

1 Sec. 2. Section 35-151, Arizona Revised Statutes, is amended to read:
2 35-151. Encumbrance documents: issuance and disposition

3 A. Encumbrance documents shall be issued by the budget units against
4 appropriations to cover all obligations, actual or anticipated, except that
5 encumbrances are not required for gross payrolls and related employee
6 expenses of a budget unit, or, under procedures prescribed by the department
7 of administration, for expenditures not exceeding five hundred dollars.
8 Copies of these documents shall be submitted immediately to the ~~department~~
9 ~~of administration, which~~ HEAD OF THE BUDGET UNIT OR HIS DESIGNEE WHO shall
10 determine that the proposed expenditure is authorized by appropriation ~~and~~
11 ~~allotment~~ and that the amount involved does not exceed the unencumbered
12 balance of ~~such allotment~~ THE APPROPRIATION. If any proposed expenditure is
13 found to be contrary to the provisions of this chapter or any other provision
14 of law the ~~department of administration~~ HEAD OF THE BUDGET UNIT OR HIS
15 DESIGNEE shall ~~notify the head of the budget unit concerned that such~~
16 DISALLOW THE proposed expenditure is disallowed. If the encumbrance is found
17 to be in order it shall be charged to the appropriation setting aside the
18 ~~amount of the encumbrance to be used exclusively for payment of the claim~~
19 ~~when presented~~ IMMEDIATELY SUBMITTED OR ELECTRONICALLY TRANSMITTED TO THE
20 DEPARTMENT OF ADMINISTRATION CENTRAL ACCOUNTING SYSTEM, WHICH SHALL NOT
21 ACCEPT AN ENCUMBRANCE IN EXCESS OF THE APPROPRIATION. THE AMOUNT OF THE
22 ENCUMBRANCE SHALL BE SET ASIDE TO BE USED EXCLUSIVELY FOR PAYMENT OF THE
23 CLAIM WHEN PRESENTED. IF AN ADEQUATE APPROPRIATION BALANCE IS NOT AVAILABLE,
24 THE ACCOUNTING SYSTEM SHALL REJECT THE TRANSACTION.

25 B. The department of administration may require encumbrances for funds
26 of the state, except for the investment of public monies or permanent
27 endowment funds, which are not appropriated but are held in custody by the
28 state treasurer.

29 C. No encumbrance document may be approved by or for any budget unit
30 which will involve an expenditure of any amount in excess of the unencumbered
31 balance of the ~~allotment~~ APPROPRIATION or fund source to which the resulting
32 expenditure will be chargeable.

33 Sec. 3. Section 35-173, Arizona Revised Statutes, is amended to read:
34 35-173. Allotment of appropriations: limitations: exceptions

35 A. An "allotment schedule" means a ~~detail~~ DETAILED PLAN of
36 expenditures for a full fiscal year within a budget program, ~~class or~~
37 ~~subclass~~ OR EXPENDITURE CLASS.

38 B. Before ~~funds~~ MONIES from an authorized appropriation, or any other
39 source, can be obligated, an allotment schedule must be ~~submitted to and~~
40 approved AND ESTABLISHED by the department of administration. The allotment
41 schedule shall be based on the estimated annual requirement and shall
42 ~~schedule~~ DISTRIBUTE THE available ~~funds~~ SPENDING AUTHORITY to cover the
43 entire fiscal year's operations.

1 C. With the exception of the department of administration, the budget
2 unit may, upon approval of the director of the department of administration:

3 1. Transfer ~~funds~~ SPENDING AUTHORITY from one EXPENDITURE class ~~or~~
4 ~~subclass~~ to another.

5 2. Transfer ~~funds~~ SPENDING AUTHORITY between and within programs if
6 ~~funds are~~ SPENDING AUTHORITY IS appropriated to the budget unit by programs.

7 D. A transfer within a budget unit of ~~monies~~ SPENDING AUTHORITY
8 appropriated for land acquisition, capital projects or building renewal shall
9 be permissible only on approval of the joint committee on capital review.

10 E. No transfer to or from personal services or employee related
11 expenditures from OR TO any other BUDGET program, ~~budget class or subclass~~
12 ~~of expenditures~~ OR EXPENDITURE CLASS shall be permitted unless recommended
13 by the joint legislative budget committee and approved by the director of the
14 department of administration, except that the director of the department of
15 administration may transfer amounts equal to the gross payroll and related
16 employee expenses of a budget unit from the ~~funds~~ MONIES of a budget unit
17 available for ~~the~~ THIS purpose to payroll imprest accounts for the purpose
18 of paying employees of the budget unit and disbursing related employee
19 expenses.

20 F. A transfer of ~~funds~~ SPENDING AUTHORITY within the department of
21 administration shall be made only with the approval of the joint legislative
22 budget committee, except as provided in subsection E.

23 G. The provisions of this section shall not apply to the universities.

24 Sec. 4. Section 35-193.02, Arizona Revised Statutes, is amended to
25 read:

26 35-193.02. Special services revolving fund; contents;
27 administration; annual excess reversion

28 A. There is established a permanent revolving fund to be known as the
29 department of administration special services revolving fund. The services
30 covered by this fund shall include office supplies, office services, printing
31 and other administrative or management services. Payments into the fund shall
32 be made by state agencies which have been appropriated monies for the purpose
33 of paying for services performed by the department of administration for
34 other state agencies or to be performed by the department and for such other
35 purposes as may be designated by the legislature. The amount of payments by
36 the agencies shall not exceed the amounts budgeted to the agencies for such
37 designated purposes.

38 B. The monies shall be expended only on authorization of the director
39 of the department of administration.

40 C. The director shall ~~establish regulations~~ ADOPT RULES regarding the
41 time and manner in which payment shall be made into the fund by the state
42 agencies to which appropriations are made in accordance with subsection A.

1 D. Any amounts in excess of ~~twenty-five~~ TWO HUNDRED FIFTY thousand
2 dollars in the revolving fund at the close of the fiscal year shall revert
3 to the STATE general fund.

4 Sec. 5. Section 38-651.02, Arizona Revised Statutes, is amended to
5 read:

6 38-651.02. Expenditure of funds for group life and group
7 accidental death and dismemberment insurance;
8 group life coverage for former elected officials

9 A. The department of administration may expend public funds
10 appropriated for such purpose to procure group life insurance of ~~not to~~
11 ~~exceed~~ AT LEAST five thousand dollars in coverage and group accidental death
12 and dismemberment insurance of ~~not to exceed~~ AT LEAST five thousand dollars
13 in coverage for full-time officers and employees of the state and its
14 departments and agencies. The department of administration by rule shall
15 adopt standards for and designate qualifying plans and eligibility of
16 officers and employees to participate in such plans. Any group life
17 insurance and group accidental death and dismemberment insurance plan
18 designated as a qualifying plan by the department of administration must be
19 open for enrollment to all permanent full-time state employees.

20 B. The department of administration may by rule offer on a cost basis
21 additional group life and group accidental death and dismemberment insurance
22 to such officers and employees and the dependents of such officers and
23 employees in amounts of not to exceed:

24 1. For the officer or employee, three times the annual salary of such
25 officer or employee.

26 2. For the dependents of such officers or employees, an amount
27 prescribed by the department of administration.

28 C. The department of administration, by rule, may adopt standards to
29 establish group life insurance coverage for former elected officials of this
30 state and their dependents and to establish eligibility for the former
31 elected officials to participate in the coverage. The department of
32 administration may promulgate rules which provide that if the former elected
33 official dies before an insured surviving spouse the surviving spouse is
34 eligible to participate in the coverage. The standards may provide that all
35 or any group of the former elected officials, their dependents or a surviving
36 spouse may be grouped with officers and employees of this state or their
37 dependents as necessary to obtain life insurance coverage at favorable rates.
38 No public monies may be expended to pay the premium for insurance coverage
39 pursuant to this subsection.

1 Sec. 6. Section 41-101.03, Arizona Revised Statutes, is amended to
2 read:

3 41-101.03. State employee travel reduction program; designated
4 state agency; fund

5 A. The governor shall designate an appropriate state agency to
6 establish, administer and operate a ~~ride-sharing~~ TRAVEL REDUCTION program for
7 the transportation of state employees between their residences and their
8 place of work. The designated agency shall establish the ~~ride-sharing~~ TRAVEL
9 REDUCTION program for the voluntary participation by state employees in any
10 area of this state where a sufficiently large number of state employees
11 reside and where the costs of administering a ~~ride-sharing~~ TRAVEL REDUCTION
12 program would not be excessive.

13 B. There is established the state employee ~~ride-share~~ TRAVEL REDUCTION
14 fund which consists of monies appropriated by the legislature, unrestricted
15 private grants, gifts, contributions and ~~bequests~~ DEVISES, federal funds, and
16 fees. The state agency designated by the governor pursuant to this section
17 shall administer the fund and may disburse monies from the fund only in
18 direct support of the ~~ride-sharing~~ TRAVEL REDUCTION program established by
19 this section. Monies in the fund appropriated by the legislature are exempt
20 from the provisions of section 35-190, relating to lapsing of
21 appropriations.

22 Sec. 7. Section 41-621, Arizona Revised Statutes, is amended to read:

23 41-621. Purchase of insurance; coverage; limitations;
24 exclusions; definition

25 A. The department of administration shall obtain insurance against
26 loss, to the extent it is determined necessary and in the best interests of
27 the state as provided in subsection F of this section, on the following:

28 1. All state owned buildings, including those of the universities,
29 excluding buildings of community colleges, whether financed in whole or in
30 part by state monies or buildings in which the state has an insurable
31 interest as determined by the department of administration.

32 2. Contents in any buildings owned, leased or rented, in whole or in
33 part, by or to the state, excluding buildings of community colleges, and
34 reported to the department of administration.

35 3. The state and its departments, agencies, boards and commissions and
36 all officers, agents and employees thereof and such others as may be
37 necessary to accomplish the functions or business of the state and its
38 departments, agencies, boards and commissions against liability for acts or
39 omissions of any nature while acting in authorized governmental or
40 proprietary capacities and in the course and scope of employment or
41 authorization except as prescribed by this chapter.

42 4. All personal property reported to the department of administration,
43 including vehicles and aircraft owned by the state and its departments,
44 agencies, boards and commissions and all non-owned personal property which

1 is under the clear responsibility of this state because of written leases or
2 other written agreements.

3 5. The state and its departments, agencies, boards and commissions
4 against casualty, use and occupancy and liability losses of every nature
5 except as prescribed by this chapter.

6 6. Workers' compensation and employers' liability insurance.

7 7. Other exposures to loss where insurance may be required to protect
8 this state and its departments, agencies, boards and commissions and all
9 officers, agents and employees acting in the course and scope of employment
10 or authorization except as prescribed by this chapter.

11 B. To the extent it is determined necessary and in the best interests
12 of the state, the department of administration shall obtain insurance or
13 provide for state self-insurance against ~~loss~~ PROPERTY DAMAGE caused by
14 clients ~~in, or~~ AND LIABILITY COVERAGE resulting from, the direct or
15 incidental care of clients participating in programs of the state and its
16 departments, agencies, boards or commissions relating to custodial care. The
17 insurable programs shall include foster care, programs for the
18 developmentally disabled, an independent living program pursuant to section
19 8-521 and respite-sitter service programs. The department shall obtain
20 insurance or provide for state self-insurance pursuant to this subsection to
21 protect the clients participating in these programs and individual providers
22 of these program services on behalf of the state and its departments,
23 agencies, boards or commissions. THE INSURANCE PROVIDED UNDER THIS
24 SUBSECTION DOES NOT INCLUDE MEDICAL OR WORKERS' COMPENSATION COVERAGE FOR
25 PROVIDERS. The department may include in its annual budget request pursuant
26 to section 41-622, subsection D a charge for the insurance or self-insurance
27 provided in this subsection. To assist in carrying out the provisions of
28 this subsection, the department shall establish a seven member advisory board
29 in accordance with the following provisions:

30 1. The board shall consist of three members appointed by the director
31 of the department of administration, at least one of whom shall be a foster
32 parent, two members appointed by the director of the department of economic
33 security, one member appointed by the director of the state department of
34 corrections, and one member appointed by the administrative director of the
35 courts.

36 2. The board shall elect a chairman from among its members.

37 3. The board shall hold at least two meetings a year or shall meet at
38 the call of the chairman.

39 4. Board members shall serve for three year terms.

40 5. Board members are not eligible to receive compensation but are
41 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
42 article 2.

43 6. The board shall provide advice to the department regarding coverage
44 and administration of the provisions of this subsection and shall assist the

1 department in coordinating its activities pursuant to this subsection with
2 state departments, agencies, boards and commissions.

3 C. The department of administration may obtain insurance against loss,
4 to the extent it is determined necessary and in the best interests of the
5 state as provided in subsection F of this section for the professional
6 liability of individual physicians and psychiatrists who provide services
7 under a contract with the state department of corrections. Coverage is
8 limited to acts and omissions committed inside a state department of
9 corrections facility while in the performance of the contract and to
10 individual physicians and psychiatrists who demonstrate to the satisfaction
11 of the state department of corrections that they cannot otherwise obtain
12 professional liability coverage for the services required by the contract.
13 THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION MAY IMPOSE ON THE STATE
14 DEPARTMENT OF CORRECTIONS A DEDUCTIBLE OF NOT MORE THAN TEN THOUSAND DOLLARS
15 PER LOSS THAT ARISES OUT OF A PROFESSIONAL LIABILITY CLAIM PURSUANT TO THIS
16 SUBSECTION. DEDUCTIBLE AMOUNTS ESTABLISHED BY THE DIRECTOR SHALL BE SUBJECT
17 TO ANNUAL REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE.

18 D. The department of administration may obtain property, liability,
19 disability or workers' compensation insurance, self-insure or develop risk
20 retention pools to provide for payment of property loss or casualty claims
21 or disability insurance claims against contractors of this state with the
22 approval of the joint legislative budget committee. With respect to
23 insurance, self-insurance or risk retention pools for contractors licensed
24 and contracted to do work for this state, the coverage afforded applies with
25 respect to the conduct of the business entity of that contractor. The pool
26 is available to all contractors regardless of the amount that the state
27 contracted work bears in relation to the amount of nonstate contracted work.
28 The contractor shall be terminated from the pool if the contractor ceases to
29 be a state contractor.

30 E. The department of administration may determine, in the best
31 interests of the state, that state self-insurance is necessary or desirable
32 and, if that decision is made, shall provide for state self-insurance for
33 losses arising out of state property, liability or workers' compensation
34 claims prescribed by subsection A of this section. If the department of
35 administration provides state self-insurance, such coverage shall be excess
36 over any other valid and collectible insurance. THE DIRECTOR OF THE
37 DEPARTMENT OF ADMINISTRATION MAY IMPOSE ON STATE DEPARTMENTS, AGENCIES,
38 BOARDS AND COMMISSIONS A DEDUCTIBLE OF NOT MORE THAN TEN THOUSAND DOLLARS PER
39 LOSS THAT ARISES OUT OF A PROPERTY, LIABILITY OR WORKERS' COMPENSATION LOSS
40 PURSUANT TO THIS SUBSECTION. DEDUCTIBLE AMOUNTS ESTABLISHED BY THE DIRECTOR
41 SHALL BE SUBJECT TO ANNUAL REVIEW BY THE JOINT LEGISLATIVE BUDGET COMMITTEE.

42 F. In carrying out the provisions of this chapter, the department of
43 administration shall establish and provide the state with some or all of the
44 necessary risk management services, or shall contract for risk management

1 services pursuant to chapter 23 of this title, as the director of the
2 department of administration deems necessary in the best interest of the
3 state, and may, in addition to other specifications of such coverage as
4 deemed necessary, determine self-insurance to be established. The provisions
5 of chapter 23 of this title shall not apply to the department of
6 administration's procurement of insurance to cover losses arising out of
7 state property or liability claims prescribed in subsections A and D of this
8 section or excess loss insurance for the state's workers' compensation
9 liability for individual or aggregate claims, or both, in such amounts and
10 at such primary retention levels as the department of administration deems
11 in the best interest of the state. In purchasing insurance to cover losses
12 arising out of state property or liability claims prescribed by subsection
13 A of this section, the department of administration is not subject to the
14 provisions of title 20, chapter 2, article 5.

15 G. No successful bidder for risk management services pursuant to this
16 section shall be entitled to receive directly or indirectly any sales
17 commission, contingent commission, excess profit commission, or other
18 commissions, or anything of value, as payment for the risk management
19 services except those amounts received directly from this state as payment
20 for the risk management services.

21 H. The department of administration shall pay for purchased risk
22 management services, premiums for insurance on state property and state
23 liability and workers' compensation pursuant to the provisions of this
24 chapter.

25 I. A state officer, agent or employee acting in good faith, without
26 wanton disregard of his statutory duties and under the authority of an
27 enactment that is subsequently declared to be unconstitutional, invalid or
28 inapplicable is not personally liable for an injury or damage caused thereby
29 except to the extent that he would have been personally liable had the
30 enactment been constitutional, valid and applicable.

31 J. A state officer, agent or employee, except as otherwise provided
32 by statute, is not personally liable for an injury or damage resulting from
33 his act or omission in a public official capacity where the act or omission
34 was the result of the exercise of the discretion vested in him if the
35 exercise of the discretion was done in good faith without wanton disregard
36 of his statutory duties.

37 K. The state and its departments, agencies, boards and commissions are
38 immune from liability for losses arising out of a judgment for willful and
39 wanton conduct resulting in punitive or exemplary damages.

40 L. The following exclusions shall apply to subsections A, B and E of
41 this section:

42 1. Losses against this state and its departments, agencies, boards and
43 commissions ~~or its officers, agents or employees~~ that arise out of and are
44 directly attributable to an act or omission determined by a court to be a

1 felony by a ~~state officer, agent or employee~~ PERSON WHO IS PROVIDED COVERAGE
2 PURSUANT TO THIS ARTICLE unless the state knew of the person's propensity for
3 that action, except those acts arising out of the operation or use of a motor
4 vehicle.

5 2. Losses arising out of contractual breaches.

6 M. If self-insurance coverage is determined to exist, the attorney
7 general, with funds provided by the department of administration, shall
8 provide for the defense, either through his office or by appointment of
9 outside legal counsel, of the state and its departments, agencies, boards and
10 commissions and all officers, agents and employees thereof and such others
11 as are insured by the department of administration for or on account of their
12 acts or omissions covered pursuant to this chapter. All state departments,
13 agencies, boards and commissions, all officers, agents and employees thereof,
14 and such others as are insured by the department of administration shall
15 cooperate fully with the attorney general and department of administration
16 in the defense of claims arising pursuant to this chapter.

17 N. A claim for liability damages made pursuant to this chapter may be
18 settled and payment made up to the amount of twenty-five thousand dollars or
19 such higher limit as may be established by the joint legislative budget
20 committee with the approval of the director of the department of
21 administration. A claim over the amount of twenty-five thousand dollars up
22 to fifty thousand dollars or such higher limit as may be established by the
23 joint legislative budget committee may be settled and payment made with the
24 approval of the director of the department of administration and the attorney
25 general. Any claim over the amount of fifty thousand dollars or such higher
26 limit as may be established by the joint legislative budget committee may be
27 settled and payment made with the approval of the director of the department
28 of administration, the attorney general and the joint legislative budget
29 committee. If it is in the best interest of this state, the joint
30 legislative budget committee may establish higher settlement limits. Any
31 settlements involving amounts in excess of fifty thousand dollars or such
32 higher limit as may be established by the joint legislative budget committee
33 shall be approved by the department of administration, the attorney general
34 and the joint legislative budget committee pursuant to the authority granted.
35 The settlement of liability claims shall be solely the authority of the
36 department of administration, the attorney general and the joint legislative
37 budget committee. No state department, agency, board or commission or any
38 officer, agent or employee of this state may voluntarily make any payment,
39 assume any obligation, incur any expense or maintain the individual right of
40 consent for liability claims made pursuant to this chapter except as provided
41 by this section.

42 O. Neither the authority provided by this section to insure, nor the
43 exercise of such authority, shall:

1 1. Impose any liability on this state or the departments, agencies,
2 boards and commissions or any officers, agents and employees of this state
3 unless such liability otherwise exists.

4 2. Impair any defense this state or the departments, agencies, boards
5 and commissions or any officers, agents and employees of this state otherwise
6 may have.

7 P. The department of administration shall pay, on behalf of any state
8 officer, agent or employee, any damages, ~~including~~ EXCLUDING punitive
9 damages, for which the officer, agent or employee becomes legally responsible
10 if the acts or omissions resulting in liability were within the ~~officer,~~
11 ~~agent~~ OFFICER'S, AGENT'S or employee's course and scope of employment. THE
12 DEPARTMENT OF ADMINISTRATION MAY PAY FOR ALL DAMAGES HOWEVER DESIGNATED WHICH
13 THE OFFICER, AGENT OR EMPLOYEE BECOMES LEGALLY RESPONSIBLE FOR IF THE ACTS
14 OR OMISSIONS RESULTING IN LIABILITY ARE DETERMINED BY THE DIRECTOR OF THE
15 DEPARTMENT OF ADMINISTRATION TO BE WITHIN THE PERSON'S COURSE AND SCOPE OF
16 EMPLOYMENT.

17 Q. The department of administration shall adopt such rules as are
18 deemed necessary to carry out, implement and limit the provisions of this
19 chapter.

20 R. For purposes of determining whether a state officer, agent or
21 employee is entitled to coverage under this chapter, "within the course and
22 scope of employment or authorization" means:

23 1. The acts or omissions that the state officer, agent or employee is
24 employed or authorized to perform.

25 2. The acts or omissions of the state officer, agent or employee occur
26 substantially within the authorized time and space limit.

27 3. The acts or omissions are activated at least in part by a purpose
28 to serve this state or its departments, agencies, boards or commissions.

29 Sec. 8. Section 41-622, Arizona Revised Statutes, is amended to read:

30 41-622. Revolving funds for self-insured losses and
31 administrative costs; budget requests

32 A. There is established a permanent risk management revolving fund and
33 a permanent workers' compensation liability loss revolving fund in the
34 department of administration for the purchase of insurance, risk management
35 services including loss control services, payment of self-insured losses
36 pursuant to section 41-621, subsections A, B, C, ~~and~~ D AND E and
37 administrative costs necessary to carry out risk management services
38 prescribed by section 41-621. The department of administration shall pay for
39 claims processing costs, including adjusting costs, legal defense costs and
40 attorney fees, for any portion of claims falling within state self-insurance
41 coverage pursuant to the provisions of this chapter.

42 B. The permanent risk management revolving fund in the department of
43 administration shall exclude any property loss arising from damage due to
44 mechanical or electrical breakdown, ordinary wear and tear or obsolescence,

1 nonserviceability, mysterious disappearance or inventory shortage.
2 Mysterious disappearance shall not be construed to include a loss if there
3 is a reasonable presumption of theft. The department of administration,
4 subject to chapter 23 of this title, may advance or disburse monies to
5 contractors who rebuild state property as a result of self-insured losses or
6 to persons who supply goods or services in replacing self-insured losses.
7 The department of administration shall pay for claims processing costs,
8 including adjusting costs, legal defense costs and attorney fees, for any
9 portion of claims falling within state self-insurance coverage pursuant to
10 the provisions of this chapter.

11 C. To qualify for payment for loss by theft or burglary of state-owned
12 personal property, an agency, department, board or commission must show
13 evidence of forcible entry or that threat of violence was used in the taking
14 of the property or there must be a reasonable presumption of theft.

15 D. The department of administration shall present to the legislature
16 not later than September 1 of each year, in accordance with the provisions
17 of section 35-113, a budget request based on the actuarial needs for
18 liability losses, workers' compensation liability losses, property losses and
19 risk management administrative costs. The budget request shall be broken
20 down to reflect the amount of monies to be charged to each of the state
21 departments, agencies, boards and commissions and any others insured under
22 this chapter. Any state department, agency, board or commission that has an
23 amount for insurance included in its appropriation, whether specifically
24 stated or not, and any state department, agency, board or commission or
25 others insured under this chapter that receive funds other than those
26 appropriated shall be billed for the proportionate share of the charges for
27 insurance or self-insurance by the department of administration. In
28 collecting the agency billings for risk management charges, the director of
29 the department of administration may transfer the entire amount of the
30 billing for appropriated insurance from the agency account into the fund
31 designated in subsection A of this section at the start of the fiscal year
32 or in periodic payments during the fiscal year if necessitated by cash flow
33 restrictions. Those entities or persons insured under the provisions of this
34 chapter that are not state agencies, departments, boards, commissions or
35 employees or that do not receive funding from state sources shall pay
36 ANNUALLY the amount required by risk management to the permanent risk
37 management revolving fund or permanent workers' compensation liability loss
38 revolving fund before the coverage CONTINUES FOR EXISTING CLAIMS OR begins
39 FOR NEW CLAIMS MADE. These amounts shall be included in the budget request.
40 All monies received from all billings shall be deposited in the funds as
41 identified in subsection A of this section.

42 E. All monies recovered by the state pursuant to litigation, recovery,
43 salvage value of damaged property, proportionate share monies from any other
44 existing state funds, or otherwise, for damages relating to either a

1 liability, property or workers' compensation loss for which monies from the
2 risk management or workers' compensation liability loss funds have been or
3 will be paid shall be deposited in the respective revolving fund.

4 F. If a revolving fund is projected to be exhausted while the
5 legislature is in session, a special appropriation may be requested by the
6 department of administration for monies to meet the needs of the funds. If
7 the funds are exhausted at a time when the legislature is not in session, any
8 final judgment shall accrue interest and shall be payable upon appropriation
9 in the next succeeding regular session of the legislature. Interest on any
10 judgment against this state paid for out of the permanent risk management
11 revolving fund shall accrue at the average yield offered by United States
12 treasury bills during the course of the appeal and shall be paid in
13 accordance with this section. If the appeal is lost by this state, the
14 judgment amount plus interest at the rate prescribed in this subsection shall
15 be paid.

16 G. All monies deposited in the funds identified in subsection A of
17 this section are subject to annual legislative appropriation beginning in the
18 1992-1993 fiscal year to the department of administration for use pursuant
19 to this section and are exempt from the provisions of section 35-190,
20 relating to lapsing of appropriations.

21 H. Monies in the funds established pursuant to subsection A of this
22 section shall not be used for administrative costs, other than costs directly
23 related to liability, property loss claims, workers' compensation liability,
24 loss control services, risk management services or administration of the risk
25 management division, without approval of the joint legislative budget
26 committee.

27 I. A ten thousand dollar death benefit shall be paid from the workers'
28 compensation LIABILITY LOSS revolving fund to the estate of a deceased
29 volunteer, who is registered as a volunteer by the agency, board or
30 commission, or to an employee who is not subject to the provisions of section
31 38-651.02, upon proof of death while in the course and scope of duties as
32 defined PRESCRIBED in section 41-621, subsection P for any state agency,
33 board or commission.

34 Sec. 9. Section 41-701, Arizona Revised Statutes, is amended to read:

35 41-701. Department of administration; director; appointment

36 A. There is established a department of administration.

37 B. The direction, operation and control of the department is the
38 responsibility of the director.

39 C. The director shall be appointed by the governor, from a list of
40 qualified candidates submitted by the committee as provided in subsection D,
41 with the advice and consent of the senate and shall serve at the pleasure of
42 the governor.

43 D. The state personnel commission shall assist the governor in
44 preparing a job description for the position of director and recruiting

1 candidates for the position. The qualifications of the candidates shall be
2 reviewed by a committee of seven persons selected by the governor. The names
3 of all those candidates determined by the committee to be qualified for the
4 position shall be submitted to the governor for his consideration. The
5 governor may request additional names from the committee if he deems
6 necessary. For each subsequent vacancy in the position of director, a new
7 committee shall be appointed by the governor as provided herein.

8 ~~E. Compensation for the director shall be established pursuant to~~
9 ~~section 38-611.~~

10 Sec. 10. Section 41-702, Arizona Revised Statutes, is amended to read:

11 41-702. Deputy director; department organization; assistant
12 directors; compensation of officers

13 A. The director with the approval of the governor shall appoint a
14 deputy director of the department. THE DEPUTY DIRECTOR SERVES AT THE
15 PLEASURE OF THE DIRECTOR AND SHALL ASSIST THE DIRECTOR IN ADMINISTERING THE
16 DEPARTMENT BY PERFORMING THE DUTIES AND RESPONSIBILITIES THAT THE DIRECTOR
17 PRESCRIBES.

18 B. The director may establish, abolish or reorganize the positions or
19 organizational units within the department, subject to legislative
20 appropriation, if in ~~his~~ THE DIRECTOR'S judgment such modification of
21 organization would make the operation of the department more efficient,
22 effective or economical.

23 C. The director, WITH APPROVAL OF THE GOVERNOR, shall appoint an
24 assistant director qualified to head each ~~major~~ division, and each ~~such~~
25 assistant director shall serve at the pleasure of the director. ~~Compensation~~
26 ~~for the assistant directors shall be determined pursuant to section 38-611.~~
27 EACH ASSISTANT DIRECTOR IS RESPONSIBLE FOR THE FUNCTIONS PERFORMED BY THE
28 ASSISTANT DIRECTOR'S DIVISION.

29 D. THE DIRECTOR, DEPUTY DIRECTOR AND ASSISTANT DIRECTORS ARE ELIGIBLE
30 TO RECEIVE COMPENSATION PURSUANT TO SECTION 38-611.

31 Sec. 11. Title 41, chapter 4, article 1, Arizona Revised Statutes, is
32 amended by adding section 41-703, to read:

33 41-703. Duties of director

34 THE DIRECTOR SHALL:

35 1. BE DIRECTLY RESPONSIBLE TO THE GOVERNOR FOR THE DIRECTION, CONTROL
36 AND OPERATION OF THE DEPARTMENT.

37 2. PROVIDE ASSISTANCE TO THE GOVERNOR AND LEGISLATURE AS REQUESTED.

38 3. ADOPT RULES THE DIRECTOR DEEMS NECESSARY OR DESIRABLE TO FURTHER
39 THE OBJECTIVES AND PROGRAMS OF THE DEPARTMENT.

40 4. FORMULATE POLICIES, PLANS AND PROGRAMS TO EFFECTUATE THE MISSIONS
41 AND PURPOSES OF THE DEPARTMENT.

42 5. EMPLOY, DETERMINE THE CONDITIONS OF EMPLOYMENT AND PRESCRIBE THE
43 DUTIES AND POWERS OF ADMINISTRATIVE, PROFESSIONAL, TECHNICAL, SECRETARIAL,
44 CLERICAL AND OTHER PERSONS AS MAY BE NECESSARY IN THE PERFORMANCE OF THE

1 DEPARTMENT'S DUTIES AND CONTRACT FOR THE SERVICES OF OUTSIDE ADVISORS,
2 CONSULTANTS AND AIDES AS MAY BE REASONABLY NECESSARY.

3 6. MAKE CONTRACTS AND INCUR OBLIGATIONS WITHIN THE GENERAL SCOPE OF
4 THE DEPARTMENT'S ACTIVITIES AND OPERATIONS SUBJECT TO THE AVAILABILITY OF
5 MONIES.

6 7. CONTRACT WITH OR ASSIST OTHER DEPARTMENTS, AGENCIES AND
7 INSTITUTIONS OF THE STATE, LOCAL AND FEDERAL GOVERNMENTS IN THE FURTHERANCE
8 OF THE DEPARTMENT'S PURPOSES, OBJECTIVES AND PROGRAMS.

9 8. ACCEPT AND DISBURSE GRANTS, MATCHING MONIES AND DIRECT PAYMENTS
10 FROM PUBLIC OR PRIVATE AGENCIES FOR THE CONDUCT OF PROGRAMS THAT ARE
11 CONSISTENT WITH THE OVERALL PURPOSES AND OBJECTIVES OF THE DEPARTMENT.

12 9. ESTABLISH AND MAINTAIN SEPARATE FINANCIAL ACCOUNTS AS REQUIRED BY
13 FEDERAL LAW OR REGULATIONS.

14 10. ADVISE AND MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE
15 ON ALL MATTERS CONCERNING THE DEPARTMENT'S OBJECTIVES.

16 11. DELEGATE SUCH ADMINISTRATIVE FUNCTIONS, DUTIES AND POWERS AS THE
17 DIRECTOR DEEMS NECESSARY TO CARRY OUT THE EFFICIENT OPERATION OF THE
18 DEPARTMENT.

19 Sec. 12. Renumber

20 Section 41-702.01, Arizona Revised Statutes, is renumbered as section
21 41-704.

22 Sec. 13. Section 41-735, Arizona Revised Statutes, is amended to read:

23 41-735. Internal audit; authority to examine records;
24 divulgence of restricted information; violation;
25 classification; public records exception

26 A. Except as provided in subsection C, the department shall have
27 access to, and authority to examine, any and all books, accounts, reports,
28 vouchers, correspondence files and other records, bank accounts, money and
29 other property of any state agency, whether created by the constitution or
30 otherwise. An officer or employee of any such agency, having such records
31 under his control, shall permit access to and examination thereof upon the
32 request of the director or his authorized representative. Any officer or
33 person who knowingly fails or refuses to permit such access and examination
34 is guilty of a class 2 misdemeanor.

35 B. If the director or any member of his staff or other employee
36 knowingly divulges or makes known in any manner not permitted by law any
37 particulars of any record, document or information the disclosure of which
38 is restricted by law he is guilty of a class 5 felony.

39 C. Books, accounts, reports or other records which are prescribed
40 confidential with limited access by either state or federal law are not
41 subject to examination under this section.

42 D. DRAFT WORKING PAPERS AND OTHER DRAFT AUDIT FILES MAINTAINED BY THE
43 DEPARTMENT ARE NOT PUBLIC RECORDS AND ARE EXEMPT FROM TITLE 39, CHAPTER 1.
44 THE INFORMATION CONTAINED IN DRAFT WORKING PAPERS AND DRAFT AUDIT FILES

1 PREPARED PURSUANT TO A SPECIFIC AUDIT IS NOT SUBJECT TO DISCLOSURE, EXCEPT
2 TO THE ATTORNEY GENERAL OR TO ANY COUNTY ATTORNEY IN CONNECTION WITH AN
3 INVESTIGATION MADE OR ACTION TAKEN IN THE COURSE OF THEIR OFFICIAL DUTIES.
4 ON COMPLETION AND ISSUANCE OF THE FINAL AUDIT REPORT, DRAFT WORKING PAPERS
5 AND DRAFT AUDIT FILES BECOME PUBLIC RECORDS.

6 Sec. 14. Section 41-790.01, Arizona Revised Statutes, is amended to
7 read:

8 41-790.01. Exemptions; exception

9 A. There shall be exempt from the provisions of this article relating
10 to capital improvement plans:

11 1. Land acquisition, capital projects or building renewal by any state
12 agency if the total cost of the entire acquisition, project or building
13 renewal will not exceed ~~ten~~ TWENTY-FIVE thousand dollars.

14 2. Programs, projects or improvements of the state transportation
15 board relating to the construction, reconstruction, improvement or
16 maintenance of state highways or bridges.

17 B. The state board of directors for community colleges is exempt from
18 the provisions of this article, except that if the state board of directors
19 for community colleges requests an appropriation pursuant to section 15-1464,
20 subsection C, the state board of directors for community colleges shall
21 follow the provisions of section 41-793, subsections C and D for the campuses
22 or projects for which the monies are requested and shall submit the required
23 information to the department of administration.

24 C. Land acquisition, capital projects and building renewal relating
25 to buildings which serve as offices for the department of transportation
26 shall not be exempt.

27 Sec. 15. Section 41-792.01, Arizona Revised Statutes, is amended to
28 read:

29 41-792.01. Capital outlay stabilization fund; authorization for
30 collection of rental; basis of payment;
31 distribution of monies collected; transfer of
32 payment; definition

33 A. The capital outlay stabilization fund is established which shall
34 consist of monies paid into it in accordance with the provisions of
35 subsection D of this section and legislative appropriations to the account.
36 All monies in the fund are exempt from the provisions of section 35-190
37 relating to lapsing of appropriations.

38 B. The director shall make a recommendation for the allocation of a
39 varying sum to the capital outlay stabilization fund each year. No part of
40 the fund may be expended without specific appropriation from the legislature.

41 C. Each state department and each state agency when using space under
42 the jurisdiction of the department as prescribed in section 41-791 or when
43 using space in a building owned by or leased to the state shall pay a rental
44 as prescribed in subsection D or E of this section.

1 D. The rental rate authorized for agencies occupying state owned
2 buildings shall be determined by the joint committee on capital review after
3 recommendation by the director prior to the beginning of each fiscal year.
4 The rental is payable whether the department or agency is funded in whole or
5 in part by state monies. The department of administration shall transfer the
6 entire amount of the rental fee assessed on an agency from the agency account
7 into the capital outlay stabilization fund promptly at the start of each
8 fiscal year. During the remainder of the fiscal year, the department of
9 administration shall calculate pro rata adjustments to the rental fee on a
10 monthly basis to reflect any changes in the occupancy of state owned
11 buildings. The department shall transfer the amount of the rental fee
12 adjustment assessed on an agency from the agency account into the capital
13 outlay stabilization fund. The rental fee authorized for agencies occupying
14 state owned buildings is the greater of the amount included in each agency's
15 annual operating budget as reported by the staff of the joint legislative
16 budget committee or the pro rata adjusted amount based on actual occupancy.
17 The director of the department of administration, upon recommendation of the
18 joint committee on capital review, may authorize an exemption for one year
19 at a time for an agency from the full payment account transfer requirements
20 of this subsection if the agency can demonstrate a practice of making full
21 payment of rent on a different basis necessitated by its cash flow. If an
22 agency DOES NOT OCCUPY OR vacates state owned space after the beginning of
23 the fiscal year, the director of the department of administration, on ~~review~~
24 RECOMMENDATION of the joint committee on capital review, may authorize ~~an~~ A
25 WHOLE OR PARTIAL exemption from payment of the rental fee. The department
26 of administration shall report quarterly to the director of the joint
27 legislative budget committee on the status of rental fee collections and
28 adjustments.

29 E. The rental authorized for agencies occupying state leased buildings
30 shall be the GREATER OF THE amount included in each agency's annual operating
31 budget as reported by the staff of the joint legislative budget committee OR
32 THE PRO RATA ADJUSTED AMOUNT BASED ON ACTUAL OCCUPANCY. The rental amount
33 shall include the amount necessary to pay the lease or lease-purchase
34 obligation and may include the amount necessary to pay operating costs
35 associated with the lease-purchase buildings. The rental is payable whether
36 the department or agency is funded in whole or in part by state monies. At
37 the start of each fiscal year, the department of administration shall
38 transfer the entire amount of the rental fee assessed on an agency from the
39 agency account into the department of administration's ~~special services~~
40 ~~revolving~~ fund established ~~pursuant to section 35-193.02~~ FOR THE PURPOSES OF
41 THIS SUBSECTION. THE DEPARTMENT SHALL TRANSFER FROM THE APPLICABLE STATE
42 AGENCY BUDGETS AMOUNTS NECESSARY TO PAY ALL OPERATING COSTS ASSOCIATED WITH
43 A LEASE-PURCHASE BUILDING IN THE AMOUNTS REPORTED BY THE STAFF OF THE JOINT
44 LEGISLATIVE BUDGET COMMITTEE. DURING THE REMAINDER OF THE FISCAL YEAR, THE

1 DEPARTMENT OF ADMINISTRATION SHALL CALCULATE PRO RATA ADJUSTMENTS TO THE
2 RENTAL FEE ON A MONTHLY BASIS TO REFLECT ANY CHANGES IN THE OCCUPANCY OF
3 STATE LEASED BUILDINGS. The director of the department of administration,
4 on recommendation of the joint committee on capital review, may authorize an
5 exemption for an agency from the full payment account transfer requirements
6 of this subsection for one year periods if the agency can demonstrate a
7 practice of making full payment of rent on a different basis necessitated by
8 its cash flow. ~~The department shall transfer from the applicable state~~
9 ~~agency budgets amounts necessary to pay all operating costs associated with~~
10 ~~a lease purchase building in the amounts reported by the staff of the joint~~
11 ~~legislative budget committee.~~ IF AN AGENCY DOES NOT OCCUPY OR VACATES STATE
12 LEASED SPACE AFTER THE BEGINNING OF THE FISCAL YEAR, THE DIRECTOR OF THE
13 DEPARTMENT OF ADMINISTRATION, ON RECOMMENDATION OF THE JOINT COMMITTEE ON
14 CAPITAL REVIEW, MAY AUTHORIZE A WHOLE OR PARTIAL EXEMPTION FROM PAYMENT OF
15 THE RENTAL FEE.

16 F. State universities, community colleges and the department of
17 transportation are exempt from the provisions of this section, except when
18 these agencies are using space under the jurisdiction of the department of
19 administration.

20 G. For the purposes of this section, "state department" or "state
21 agency" means any department or agency of the executive or judicial branch
22 of state government.

23 Sec. 16. Section 41-793, Arizona Revised Statutes, is amended to read:

24 41-793. Capital improvement plans

25 A. The director shall submit a state capital improvement plan to the
26 governor no later than October 15 of each year with a copy furnished to the
27 governmental mall commission. The state capital improvement plan shall
28 contain the capital improvement plans as developed and prepared by the agency
29 responsible for each building system pursuant to subsection B of this
30 section. In no event shall the director modify a capital improvement plan
31 submitted by any agency other than the department.

32 B. The agency responsible for each building system established
33 pursuant to section 41-793.01 shall annually prepare a capital improvement
34 plan which contains proposals for state spending on land acquisition, capital
35 projects, energy systems, energy management systems and building renewal for
36 the building system. Copies of the plan shall be submitted to the director
37 no later than October 1 of each year. Each plan shall include:

38 1. A detailed list of all land acquisition and capital projects that
39 are recommended to be undertaken or continued for the building system during
40 the next ~~three~~ fiscal years YEAR, an explanation as to the need for each
41 acquisition or project, the effect of the recommended acquisition or capital
42 project on the future operating expenses of this state, recommendations as
43 to the priority of recommended acquisitions or capital projects and the means
44 of financing those acquisitions or projects.

1 2. Forecasts as to the requirements for land acquisition and capital
2 projects for the building system during the ~~two~~ FOUR fiscal years following
3 the ~~three~~ fiscal years YEAR provided for in paragraph 1 of this subsection
4 and for any additional periods as may be necessary or desirable for an
5 adequate presentation of the capital projects and a schedule for the planning
6 and implementation or construction of those capital projects.

7 3. A report on the status of all ongoing or recently completed land
8 acquisitions and capital projects for the building system, with a summary of
9 monies expended for each acquisition or project.

10 4. A report on the condition, maintenance and utilization of all
11 buildings within the building system that were inspected during the prior
12 fiscal year.

13 5. A report on the building renewal activities undertaken during the
14 past fiscal year, including the specific purposes for which monies were
15 expended, proposed activities for the current fiscal year and a prioritized
16 schedule of renewal projects proposed for the following fiscal year.

17 6. The amount of appropriation required in the following fiscal year
18 for building renewal as determined by the building renewal formula set forth
19 in section 41-793.01.

20 C. On or before June 1 of each year or thirty days after the state
21 legislature adjourns, whichever is later, each state agency under the
22 department of administration building system and not later than August 1 of
23 each year each agency under the board of regents building system shall
24 provide to the agency responsible for its building system:

25 1. A detailed list of land acquisition and capital projects the agency
26 seeks to undertake or continue in the next ~~three~~ fiscal years YEAR, an
27 explanation as to the need for each acquisition or project, the effect of the
28 acquisitions or capital projects on future operating expenses of this state,
29 including energy systems and energy management systems, and other relevant
30 supporting data requested by the agency responsible for the building system.

31 2. Forecasts as to the requirements for land acquisition or capital
32 projects of the agency for the ~~two~~ FOUR fiscal years following the ~~three~~
33 fiscal years YEAR provided for in paragraph 1 of this subsection and for any
34 additional periods as may be necessary or desirable for the adequate
35 presentation of the capital projects and a schedule for the planning and
36 implementation or construction of those capital projects.

37 3. A report on all ongoing or recently completed land acquisitions and
38 capital projects of the agency, with a summary of monies expended for each
39 acquisition or project, and energy consumption and expenditure information.

40 4. Any other information requested by the agency responsible for the
41 building system.

42 D. Each state agency in complying with subsection C, paragraph 1 of
43 this section and the agency responsible for each building system in complying

1 with subsection B, paragraph 1 of this section should give priority to fire
2 and life safety projects.

3 E. The agency responsible for a building system shall inspect the
4 condition, maintenance and utilization of each building within the building
5 system not less than once every three fiscal years and shall report its
6 findings pursuant to subsection B of this section.

7 F. The portion of the plan relating to the first fiscal year, to the
8 extent it deals with capital appropriations in the annual budget, constitutes
9 the recommendations of the agency responsible for the building system with
10 respect to capital appropriations in the budget for the next fiscal year.

11 G. The governor shall prescribe standard forms in accordance with the
12 provisions of this section to be used by state agencies in preparing and
13 submitting capital improvement plans. The forms prescribed shall be so
14 constructed as to allow each building system to adequately provide
15 information pertinent to its manner of operation.

APPROVED BY THE GOVERNOR APRIL 23, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 1996