

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 324

**HOUSE BILL 2038**

AN ACT

AMENDING SECTION 6-126, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 141, SECTION 1; REPEALING SECTION 6-126, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 330, SECTION 1; AMENDING SECTION 13-4314, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 15, SECTION 7; REPEALING SECTION 13-4314, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 203, SECTION 8; AMENDING SECTION 15-341, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 90, SECTION 4 AND CHAPTER 226, SECTION 3; REPEALING SECTION 15-341, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 376, SECTION 3; AMENDING SECTION 15-905, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 236, SECTION 20; REPEALING SECTION 15-905, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 342, SECTION 8; REPEALING SECTION 17-273, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 375, SECTION 1; AMENDING SECTION 20-448, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 370, SECTION 2; REPEALING SECTION 20-448, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 355, SECTION 1; TRANSFERRING TITLE 20, CHAPTER 3, ARTICLE 13, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 20, ARIZONA REVISED STATUTES, AS CHAPTER 2, ARTICLE 13; AMENDING SECTION 20-1009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 279, SECTION 11; REPEALING SECTION 20-1009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 339, SECTION 4; AMENDING SECTION 20-1015, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 113, SECTION 52; REPEALING SECTION 20-1015, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 339, SECTION 6; AMENDING SECTION 20-1057, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 37, SECTION 15 AND CHAPTER 282, SECTION 3; REPEALING SECTION 20-1057, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000,

CHAPTER 355, SECTION 5; AMENDING SECTION 28-2051, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 343, SECTION 10; PROVIDING FOR THE DELAYED REPEAL OF SECTION 28-2051, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 198, SECTION 1; TRANSFERRING SECTION 28-6956, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 28, CHAPTER 20, ARTICLE 3, ARIZONA REVISED STATUTES; AMENDING SECTION 32-128, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 86, SECTION 10, CHAPTER 113, SECTION 76 AND CHAPTER 124, SECTION 5; REPEALING SECTION 32-128, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 193, SECTION 269; AMENDING SECTION 32-852.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 12, SECTION 3; REPEALING SECTION 32-852.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 113, SECTION 82 AND LAWS 2000, CHAPTER 193, SECTION 275; AMENDING SECTION 32-2623, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1991, CHAPTER 152, SECTION 7; REPEALING SECTION 32-2623, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 220, SECTION 10; REPEALING LAWS 2000, CHAPTER 340, SECTION 2; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 38-844.02 THROUGH 38-844.09, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2533, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 135, SECTION 12; REPEALING SECTION 41-2533, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 316, SECTION 6; AMENDING SECTION 41-2534, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 135, SECTION 13; REPEALING SECTION 41-2534, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 316, SECTION 7; REPEALING SECTION 41-2537, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 316, SECTION 9; REPEALING SECTION 41-2546, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 316, SECTION 13; AMENDING SECTION 41-2577, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 135, SECTION 19; REPEALING SECTION 41-2577, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 316, SECTION 18; AMENDING SECTION 42-1253, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 250, SECTION 10; REPEALING SECTION 42-1253, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 63, SECTION 2; AMENDING SECTION 42-5074, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 63, SECTION 6; REPEALING SECTION 42-5074, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 372, SECTION 10; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 33, SECTION 1, CHAPTER 63, SECTION 7, CHAPTER 214, SECTION 1 AND CHAPTER 359, SECTION 1; REPEALING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 372, SECTION 11; AMENDING SECTION 42-6003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1997, CHAPTER 274, SECTION 62; REPEALING SECTION 42-6003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 297, SECTION 4; AMENDING SECTION 42-19116, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 344, SECTION 55; REPEALING SECTION 42-19116, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 253, SECTION 28; TRANSFERRING SECTION 46-300.04, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 46, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES; AMENDING SECTION 49-242, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 26, SECTION 10; REPEALING SECTION 49-242, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 399, SECTION 3; REPEALING LAWS 2000, CHAPTER 399, SECTION 5; AMENDING SECTION 49-543, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 193, SECTION 579 AND

CHAPTER 405, SECTION 35; REPEALING SECTION 49-543, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, SEVENTH SPECIAL SESSION, CHAPTER 1, SECTION 24; AMENDING LAWS 1999, CHAPTER 38, SECTION 2, AS AMENDED BY LAWS 2000, CHAPTER 20, SECTION 1; REPEALING LAWS 2000, CHAPTER 63, SECTION 12; REPEALING LAWS 2000, CHAPTER 405, SECTION 37; REPEALING LAWS 2000, CHAPTER 3, SECTION 20; AMENDING LAWS 2000, CHAPTER 390, SECTIONS 27 AND 28; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Purpose

3 1. Section 6-126, Arizona Revised Statutes, was amended by Laws 2000,  
4 chapter 141, section 1 and Laws 2000, chapter 330, section 1. The chapter  
5 330 version failed to amend the chapter 141 version, which was effective on  
6 the governor's signature pursuant to article IX, section 22, Constitution of  
7 Arizona, and therefore did not comply with article IV, part 2, section 14,  
8 Constitution of Arizona. To accomplish the intent of these enactments, this  
9 act amends the Laws 2000, chapter 141 version of section 6-126, Arizona  
10 Revised Statutes, to incorporate the amendments made by Laws 2000, chapter  
11 330 and the chapter 330 version is repealed.

12 2. Section 13-4314, Arizona Revised Statutes, was amended by Laws  
13 1999, chapter 15, section 7 and Laws 1999, chapter 203, section 8. These two  
14 versions could not be blended because of the delayed effective date of the  
15 chapter 203 version. In order to combine these two versions, this act amends  
16 the Laws 1999, chapter 15 version of section 13-4314, Arizona Revised  
17 Statutes, to incorporate the amendments made by Laws 1999, chapter 203 and  
18 the chapter 203 version is repealed.

19 3. Section 15-341, Arizona Revised Statutes, was amended by Laws 2000,  
20 chapter 90, section 4, Laws 2000, chapter 226, section 3 and Laws 2000,  
21 chapter 376, section 3. The chapter 376 version could not be blended because  
22 it failed to amend the chapter 226 version, which was an emergency enactment,  
23 and therefore did not comply with article IV, part 2, section 14,  
24 Constitution of Arizona. To accomplish the intent of these enactments, this  
25 act amends the 2000 blended version of section 15-341, Arizona Revised  
26 Statutes, to incorporate the amendments made by Laws 2000, chapter 376 and  
27 the chapter 376 version is repealed.

28 4. Section 15-905, Arizona Revised Statutes, was amended by Laws 2000,  
29 chapter 236, section 20 and Laws 2000, chapter 342, section 8. The chapter  
30 342 version failed to amend the chapter 236 version, which was an emergency  
31 enactment, and therefore did not comply with article IV, part 2, section 14,  
32 Constitution of Arizona. To accomplish the intent of these enactments, this  
33 act amends the Laws 2000, chapter 236 version of section 15-905, Arizona  
34 Revised Statutes, to incorporate the amendments made by Laws 2000, chapter  
35 342 and the chapter 342 version is repealed.

36 5. Section 17-273, Arizona Revised Statutes, was amended by Laws 2000,  
37 chapter 167, section 1 and Laws 2000, chapter 375, section 1. The only  
38 change made by chapter 375 was the correction of an internal reference in  
39 subsection A. That change was also made in the chapter 167 version. In  
40 order to repeal the double amendment activity, this act repeals section  
41 17-273, Arizona Revised Statutes, as amended by Laws 2000, chapter 375.

42 6. Section 20-448, Arizona Revised Statutes, was amended by Laws 2000,  
43 chapter 355, section 1 and Laws 2000, chapter 370, section 2. These two  
44 versions could not be blended because of the delayed effective date of the  
45 chapter 355 version. In order to combine these two versions, this act amends

1 the Laws 2000, chapter 370 version of section 20-448, Arizona Revised  
2 Statutes, to incorporate the amendments made by Laws 2000, chapter 355 and  
3 the chapter 355 version is repealed.

4 7. Laws 2000, chapter 319, section 12 added a new article 13, which  
5 consists of section 20-489, to title 20, chapter 3, Arizona Revised Statutes.  
6 However, the new article is part of title 20, chapter 2, Arizona Revised  
7 Statutes. In order to correct a potentially defective enactment, this act  
8 transfers title 20, chapter 3, article 13, Arizona Revised Statutes, as part  
9 of title 20, chapter 2, Arizona Revised Statutes.

10 8. Section 20-1009, Arizona Revised Statutes, was amended by Laws  
11 2000, chapter 279, section 11 and Laws 2000, chapter 339, section 4. These  
12 two versions could not be blended because of the delayed effective date of  
13 the chapter 339 version. In order to combine these two versions, this act  
14 amends the Laws 2000, chapter 279 version of section 20-1009, Arizona Revised  
15 Statutes, to incorporate the amendments made by Laws 2000, chapter 339 and  
16 the chapter 339 version is repealed.

17 9. Section 20-1015, Arizona Revised Statutes, was amended by Laws  
18 2000, chapter 113, section 52 and Laws 2000, chapter 339, section 6. These  
19 two versions could not be blended because of the delayed effective date of  
20 the chapter 339 version. In order to combine these two versions, this act  
21 amends the Laws 2000, chapter 113 version of section 20-1015, Arizona Revised  
22 Statutes, to incorporate the amendments made by Laws 2000, chapter 339 and  
23 the chapter 339 version is repealed.

24 10. Section 20-1057, Arizona Revised Statutes, was amended by Laws  
25 2000, chapter 37, section 15, Laws 2000, chapter 282, section 3 and Laws  
26 2000, chapter 355, section 5. The chapter 355 version could not be blended  
27 because of the delayed effective date. In order to combine these versions,  
28 this act amends the 2000 blended version of section 20-1057, Arizona Revised  
29 Statutes, to incorporate the amendments made by Laws 2000, chapter 355 and  
30 the chapter 355 version is repealed.

31 11. Section 28-2051, Arizona Revised Statutes, was amended by Laws  
32 2000, chapter 198, section 1 and Laws 2000, chapter 343, section 10. These  
33 two versions could not be blended because of the delayed effective date of  
34 the chapter 198 version. In order to combine these two versions, this act  
35 amends the Laws 2000, chapter 343 version of section 28-2051, Arizona Revised  
36 Statutes, to incorporate the amendments made by Laws 2000, chapter 198 and  
37 the chapter 198 version is repealed.

38 12. Section 28-6956, Arizona Revised Statutes, was added by Laws 2000,  
39 chapter 123, section 3 to title 28, chapter 20, article 4, Arizona Revised  
40 Statutes. However, these sections are part of article 3. In order to  
41 correct a potentially defective enactment, this act transfers section  
42 28-6956, Arizona Revised Statutes, as part of title 28, chapter 20, article  
43 3, Arizona Revised Statutes.

44 13. Section 32-128, Arizona Revised Statutes, was amended by Laws 2000,  
45 chapter 86, section 10, Laws 2000, chapter 113, section 76, Laws 2000,

1 chapter 124, section 5 and Laws 2000, chapter 193, section 269. The chapter  
2 193 version could not be blended because it failed to amend the chapter 86  
3 version, which was an emergency enactment, and therefore did not comply with  
4 article IV, part 2, section 14, Constitution of Arizona. To accomplish the  
5 intent of these enactments, this act amends the 2000 blended version of  
6 section 32-128, Arizona Revised Statutes, to incorporate the amendments made  
7 by Laws 2000, chapter 193 and the chapter 193 version is repealed.

8 14. Section 32-852.01, Arizona Revised Statutes, was amended by Laws  
9 2000, chapter 12, section 3, Laws 2000, chapter 113, section 82 and Laws  
10 2000, chapter 193, section 275. These versions could not be blended because  
11 chapter 113 and chapter 193 failed to amend the chapter 12 version, which was  
12 an emergency enactment, and therefore did not comply with article IV, part  
13 2, section 14, Constitution of Arizona. To accomplish the intent of these  
14 enactments, this act amends the Laws 2000, chapter 12 version of section  
15 32-852.01, Arizona Revised Statutes, to include the amendments made by Laws  
16 2000, chapter 113 and Laws 2000, chapter 193 and the chapter 113 and chapter  
17 193 versions are repealed.

18 15. Section 32-2623, Arizona Revised Statutes, was amended by Laws  
19 2000, chapter 220, section 10. However, in subsection A, three words in this  
20 enactment failed to conform to House and Senate Rules that prescribe that in  
21 amending existing statutes new language must be shown in capital letters.  
22 This act amends the previous valid version of section 32-2623, Arizona  
23 Revised Statutes, to incorporate the amendments made by Laws 2000, chapter  
24 220 and the chapter 220 version is repealed.

25 16. Laws 2000, chapter 340, section 2 prescribed the delayed repeal of  
26 sections 38-844.02 through 38-844.09, Arizona Revised Statutes. However, the  
27 delayed repeal was not included in the title of the act in violation of  
28 article IV, part 2, section 13, Constitution of Arizona. In order to correct  
29 a potentially defective enactment, this act repeals Laws 2000, chapter 340,  
30 section 2 and reenacts the delayed repeal.

31 17. Section 41-2533, Arizona Revised Statutes, was amended by Laws  
32 2000, chapter 135, section 12 and Laws 2000, chapter 316, section 6. The  
33 chapter 316 version failed to amend the chapter 135 version, which was an  
34 emergency enactment, and therefore did not comply with article IV, part 2,  
35 section 14, Constitution of Arizona. To accomplish the intent of these  
36 enactments, this act amends the Laws 2000, chapter 135 version of section  
37 41-2533, Arizona Revised Statutes, to incorporate the amendments made by Laws  
38 2000, chapter 316 and the chapter 316 version is repealed.

39 18. Section 41-2534, Arizona Revised Statutes, was amended by Laws  
40 2000, chapter 135, section 13 and Laws 2000, chapter 316, section 7. The  
41 chapter 316 version failed to amend the chapter 135 version, which was an  
42 emergency enactment, and therefore did not comply with article IV, part 2,  
43 section 14, Constitution of Arizona. To accomplish the intent of these  
44 enactments, this act amends the Laws 2000, chapter 135 version of section

1 41-2534, Arizona Revised Statutes, to incorporate the amendments made by Laws  
2 2000, chapter 316 and the chapter 316 version is repealed.

3 19. Sections 41-2537 and 41-2546, Arizona Revised Statutes, were  
4 amended by Laws 2000, chapter 316, sections 9 and 13, respectively, and Laws  
5 2000, chapter 135, sections 14 and 15, respectively. The chapter 316  
6 versions failed to amend the chapter 135 versions, which were emergency  
7 enactments, and therefore did not comply with article IV, part 2, section 14,  
8 Constitution of Arizona. However, the only amendments made by Laws 2000,  
9 chapter 316 were technical changes and were also made by Laws 2000, chapter  
10 135. Therefore, this act repeals the Laws 2000, chapter 316 versions of  
11 sections 41-2537 and 41-2546, Arizona Revised Statutes.

12 20. Sections 41-2577, Arizona Revised Statutes, was amended by Laws  
13 2000, chapter 135, section 19 and Laws 2000, chapter 316, section 18. The  
14 chapter 316 version failed to amend the chapter 135 version, which was an  
15 emergency enactment, and therefore did not comply with article IV, part 2,  
16 section 14, Constitution of Arizona. To accomplish the intent of these  
17 enactments, this act amends the Laws 2000, chapter 135 version of section  
18 41-2577, Arizona Revised Statutes, to incorporate the amendments made by Laws  
19 2000, chapter 316 and the chapter 316 version is repealed.

20 21. Section 42-1253, Arizona Revised Statutes, was amended by Laws  
21 2000, chapter 63, section 2. The version of this section that was amended  
22 (Laws 1999, chapter 250, section 10) was not effective until January 1, 2001  
23 and the Laws 2000, chapter 63 amendment had an effective date of July 18,  
24 2000. In order to correct a potentially defective enactment, this act amends  
25 the previous valid version of section 42-1253, Arizona Revised Statutes, to  
26 incorporate the amendments made by Laws 2000, chapter 63 and the chapter 63  
27 version is repealed.

28 22. Section 42-5074, Arizona Revised Statutes, was amended by Laws  
29 2000, chapter 63, section 6 and Laws 2000, chapter 372, section 10. The  
30 chapter 372 version was conditioned on voter approval at the 2000 general  
31 election. Since that version was approved by the voters, this act amends the  
32 Laws 2000, chapter 63 version of section 42-5074, Arizona Revised Statutes,  
33 to incorporate the amendments made by Laws 2000, chapter 372 and the chapter  
34 372 version is repealed.

35 23. Section 42-5075, Arizona Revised Statutes, was amended by Laws  
36 2000, chapter 33, section 1, Laws 2000, chapter 63, section 7, Laws 2000,  
37 chapter 214, section 1, Laws 2000, chapter 359, section 1 and Laws 2000,  
38 chapter 372, section 11. The chapter 372 version was conditioned on voter  
39 approval at the 2000 general election. Since that version was approved by  
40 the voters, this act amends the 2000 blended version of section 42-5075,  
41 Arizona Revised Statutes, to incorporate the amendments made by Laws 2000,  
42 chapter 372 and the chapter 372 version is repealed.

43 24. Section 42-6003, Arizona Revised Statutes, was amended by Laws  
44 2000, chapter 297, section 4. However, this enactment did not reflect the  
45 amendments made by Laws 1997, chapter 274, section 62. In order to comply

1 with article IV, part 2, section 14, Constitution of Arizona, this act amends  
2 the previous valid version of section 42-6003, Arizona Revised Statutes, to  
3 incorporate the amendments made by Laws 2000, chapter 297 and the chapter 297  
4 version is repealed.

5 25. Section 42-19116, Arizona Revised Statutes, was amended by Laws  
6 1999, chapter 253, section 28 and Laws 1999, chapter 344, section 55. These  
7 two versions could not be blended because of the delayed effective date of  
8 the chapter 253 version. In order to combine these two versions, this act  
9 amends the Laws 1999, chapter 344 version of section 42-19116, Arizona  
10 Revised Statutes, to incorporate the amendments made by Laws 1999, chapter  
11 253 and the chapter 253 version is repealed.

12 26. Section 46-300.04, Arizona Revised Statutes, was added by Laws  
13 2000, chapter 393, section 9 to title 46, chapter 2, Arizona Revised  
14 Statutes, without designating its placement in article 5. In order to  
15 correct a potentially defective enactment, this act transfers section  
16 46-300.04, Arizona Revised Statutes, for placement in title 46, chapter 2,  
17 article 5, Arizona Revised Statutes.

18 27. Section 49-242, Arizona Revised Statutes, as amended by Laws 1999,  
19 chapter 26, section 10, was amended by Laws 2000, chapter 399, section 3, but  
20 the procedure used to enact the section did not result in the desired  
21 effective date of January 1, 2001. In order to correct a potentially  
22 defective enactment, this act amends the previous valid version of section  
23 49-242, Arizona Revised Statutes, to incorporate the amendments made by Laws  
24 2000, chapter 399 and the chapter 399 version and the section with the  
25 incorrect procedure are repealed.

26 28. Section 49-543, Arizona Revised Statutes, was amended by Laws 2000,  
27 seventh special session, chapter 1, section 24. The version of this section  
28 that was amended was not effective until January 1, 2001 and the Laws 2000,  
29 seventh special session, chapter 1 amendment had an effective date of  
30 December 14, 2000. In order to correct a potentially defective enactment,  
31 this act reenacts the Laws 2000, seventh special session, chapter 1  
32 amendments with a January 1, 2001 effective date and repeals the seventh  
33 special session version.

34 29. Laws 2000, chapter 20, section 1 amended Laws 1999, chapter 38,  
35 section 2 to extend a legislative committee. However, an error was made in  
36 the reference to the section number of the previous act. This act amends the  
37 section to correct the reference.

38 30. Laws 2000, chapter 63, section 12 and Laws 2000, chapter 351,  
39 section 1 both amended Laws 1999, chapter 176, section 17. The amendments  
40 were identical. In order to eliminate the double amendment activity, this  
41 act repeals Laws 2000, chapter 63, section 12.

42 31. Laws 2000, chapter 280, section 18 and Laws 2000, chapter 405,  
43 section 37 both amended Laws 1999, first special session, chapter 1,  
44 section 4. The amendments were identical. In order to eliminate the double  
45 amendment activity, this act repeals Laws 2000, chapter 405, section 37.



- 1       16. To apply for a deferred presentment company license, one thousand  
2 dollars.
- 3       17. To apply for a motor vehicle dealer license, three hundred dollars.
- 4       18. To apply for a branch office of an escrow agent, consumer lender,  
5 commercial mortgage banker, mortgage banker, trust company, money  
6 transmitter, collection agency or deferred presentment company, five hundred  
7 dollars.
- 8       19. To apply for a branch office of a mortgage broker, debt management  
9 company or sales finance company, two hundred fifty dollars.
- 10      20. To apply for approval of the articles of incorporation of a  
11 business development corporation, five hundred dollars.
- 12      21. To establish each freestanding automated teller machine, not  
13 otherwise provided by law, five hundred dollars.
- 14      22. To apply for approval for the merger or consolidation of two or  
15 more financial institutions, five thousand dollars per institution.
- 16      23. To apply for approval to convert from a national bank or federal  
17 savings and loan charter to a state chartered institution, five thousand  
18 dollars.
- 19      24. To apply for approval to convert from a federal credit union to a  
20 state chartered credit union, one thousand dollars.
- 21      25. To apply for approval to merge or consolidate two or more credit  
22 unions, five hundred dollars per credit union.
- 23      26. To move an established office of an enterprise to other than an  
24 established office, fifty dollars.
- 25      27. To issue a duplicate or replace a lost enterprise's license, one  
26 hundred dollars.
- 27      28. To change a responsible person on a mortgage broker's, commercial  
28 mortgage banker's or a mortgage banker's license, two hundred fifty dollars.
- 29      29. To change an active manager on a collection agency license or a  
30 manager of a money transmitter branch office license, two hundred fifty  
31 dollars.
- 32      30. To change the licensee name on a financial institution or  
33 enterprise license, two hundred fifty dollars.
- 34      31. To apply for a money transmitter license, one thousand five hundred  
35 dollars plus twenty-five dollars for each branch office and authorized  
36 delegate to a maximum of four thousand five hundred dollars.
- 37      32. To acquire control of any money transmitter or controlling person  
38 pursuant to chapter 12 of this title, two thousand five hundred dollars.
- 39      33. To receive the following publications:  
40        (a) Quarterly bank and savings and loan statement of condition, not  
41 more than ten dollars per copy.  
42        (b) Monthly summary of actions report, not more than five dollars per  
43 copy.

1 (c) A list of licensees, a monthly pending actions report and all  
2 other in-house prepared reports or listings made available to the public, not  
3 more than one dollar per page.

4 B. On issuance of a license or permit for a financial institution or  
5 enterprise, the superintendent shall collect the first year's annual  
6 assessment or renewal fee for the financial institution or enterprise  
7 prorated according to the number of quarters remaining until the date of the  
8 next annual assessment or renewal.

9 C. The following annual renewal fees shall be paid each year:

10 1. For an escrow agent, or trust company, one thousand dollars plus  
11 two hundred fifty dollars for each branch office.

12 2. For a debt management company or sales finance company, five  
13 hundred dollars plus two hundred dollars for each branch office.

14 3. For a collection agency, six hundred dollars plus two hundred  
15 dollars for each branch office.

16 4. For a motor vehicle dealer, one hundred fifty dollars.

17 5. For an inactive mortgage broker, two hundred fifty dollars.

18 6. For a mortgage banker that negotiates or closes in the aggregate  
19 one hundred loans or less in the immediately preceding calendar year, seven  
20 hundred fifty dollars, and for a mortgage banker ~~or a commercial mortgage~~  
21 ~~banker~~ that negotiates or closes in the aggregate over one hundred loans in  
22 the immediately preceding calendar year, one thousand two hundred fifty  
23 dollars. In addition, ~~a commercial mortgage banker or a mortgage banker~~  
24 shall pay two hundred fifty dollars for each branch office.

25 7. FOR A COMMERCIAL MORTGAGE BANKER, ONE THOUSAND TWO HUNDRED FIFTY  
26 DOLLARS. IN ADDITION, A COMMERCIAL MORTGAGE BANKER SHALL PAY TWO HUNDRED  
27 FIFTY DOLLARS FOR EACH BRANCH OFFICE.

28 ~~7.~~ 8. For a mortgage broker that negotiates or closes in the  
29 aggregate fifty loans or less in the immediately preceding calendar year, two  
30 hundred fifty dollars and for a mortgage broker that negotiates or closes in  
31 the aggregate more than fifty loans in the immediately preceding calendar  
32 year, five hundred dollars. In addition, a mortgage broker shall pay two  
33 hundred dollars for each branch office.

34 ~~8.~~ 9. For a consumer lender, one thousand dollars plus two hundred  
35 dollars for each branch office.

36 ~~9.~~ 10. For a money transmitter, five hundred dollars plus twenty-five  
37 dollars for each branch office and each authorized delegate to a maximum of  
38 two thousand five hundred dollars.

39 ~~10.~~ 11. For a deferred presentment company, four hundred dollars. In  
40 addition, a deferred presentment company shall pay two hundred dollars for  
41 each branch office.

42 D. The license, renewal or branch office permit fee for a premium  
43 finance company for each calendar year or part thereof shall not be less than  
44 one hundred dollars or more than three hundred dollars as set by the  
45 superintendent. If the license is issued or the branch office is opened

1 after June 30 in any year the fees shall not be less than fifty dollars or  
2 more than one hundred fifty dollars for that year.

3 Sec. 3. Repeal

4 Section 6-126, Arizona Revised Statutes, as amended by Laws 2000,  
5 chapter 330, section 1, is repealed.

6 Sec. 4. Section 13-4314, Arizona Revised Statutes, as amended by Laws  
7 1999, chapter 15, section 7, is amended to read:

8 13-4314. Disposition by court

9 A. If no petitions for remission or mitigation or claims are timely  
10 filed or if no petitioner files a claim in the court within thirty days after  
11 the mailing of a declaration of forfeiture, the attorney for the state shall  
12 apply to the court for an order of forfeiture and allocation of forfeited  
13 property pursuant to section 13-4315. On the state's written application  
14 showing jurisdiction, notice and facts sufficient to demonstrate probable  
15 cause for forfeiture, and in cases brought pursuant to section 13-3413,  
16 subsection A, paragraph 1 or 3, probable cause to believe that the conduct  
17 giving rise to forfeiture involved an amount of unlawful substance greater  
18 than the statutory threshold amount as defined in section 13-3401 or was  
19 committed for financial gain, the court shall order the property forfeited  
20 to the state.

21 B. After the court's disposition of all claims timely filed under this  
22 chapter, the state has clear title to the forfeited property and the court  
23 shall so order. Title to the forfeited property and its proceeds is deemed  
24 to have vested in the state on the commission of the act or omission giving  
25 rise to the forfeiture under this title.

26 C. If, in his discretion, the attorney for the state has entered into  
27 a stipulation with an interest holder that the interest holder has an  
28 interest that is exempted from forfeiture, the court, on application of the  
29 attorney for the state, may release or convey forfeited personal property to  
30 the interest holder if all of the following are true:

31 1. The interest holder has an interest which was acquired in the  
32 regular course of business as a financial institution within section 13-2301,  
33 subsection D, paragraph 3.

34 2. The amount of the interest holder's encumbrance is readily  
35 determinable and it has been reasonably established by proof made available  
36 by the attorney for the state to the court.

37 3. The encumbrance held by the interest holder seeking possession is  
38 the only interest exempted from forfeiture and the order forfeiting the  
39 property to the state transferred all of the rights of the owner prior to  
40 forfeiture, including rights to redemption, to the state.

41 4. After the court's release or conveyance, the interest holder shall  
42 dispose of the property by a commercially reasonable public sale, and within  
43 ten days of disposition shall tender to the state the amount received at  
44 disposition less the amount of the interest holder's encumbrance and  
45 reasonable expense incurred by the interest holder in connection with the

1 sale or disposal. ~~For the purposes of this chapter "commercially reasonable"~~  
2 ~~shall be a sale or disposal that would be commercially reasonable under~~  
3 ~~section 47-9504.~~

4 D. On order of the court forfeiting the subject property, the attorney  
5 for the state may transfer good and sufficient title to any subsequent  
6 purchaser or transferee, and the title shall be recognized by all courts, by  
7 this state and by all departments and agencies of this state and any  
8 political subdivision.

9 E. On entry of judgment for a claimant or claimants in any proceeding  
10 to forfeit property under this chapter such property or interest in property  
11 shall be returned or conveyed immediately to the claimant or claimants  
12 designated by the court. If it appears that there was reasonable cause for  
13 the seizure for forfeiture or for the filing of the notice of pending  
14 forfeiture, complaint, information or indictment, the court shall cause a  
15 finding to be entered, and the claimant is not, in such case, entitled to  
16 costs or damages, nor is the person or seizing agency that made the seizure,  
17 nor is the attorney for the state liable to suit or judgment on account of  
18 such seizure, suit or prosecution.

19 F. The court shall order any claimant who fails to establish that his  
20 entire interest is exempt from forfeiture under section 13-4304 to pay the  
21 costs of any claimant who establishes that his entire interest is exempt from  
22 forfeiture under section 13-4304, and the state's costs and expenses of the  
23 investigation and prosecution of the matter, including reasonable attorney  
24 fees.

25 Sec. 5. Repeal

26 Section 13-4314, Arizona Revised Statutes, as amended by Laws 1999,  
27 chapter 203, section 8, is repealed.

28 Sec. 6. Section 15-341, Arizona Revised Statutes, as amended by Laws  
29 2000, chapter 90, section 4 and chapter 226, section 3, is amended to read:  
30 15-341. General powers and duties; immunity; delegation

31 A. The governing board shall:

32 1. Prescribe and enforce policies and procedures for the governance  
33 of the schools, not inconsistent with law or rules prescribed by the state  
34 board of education.

35 2. Maintain the schools established by it for the attendance of each  
36 pupil for a period of not less than one hundred seventy-five school days or  
37 two hundred school days, as applicable, or its equivalent as approved by the  
38 superintendent of public instruction for a school district operating on a  
39 year-round operation basis, to offer an educational program on the basis of  
40 a four day school week or to offer an alternative kindergarten program on the  
41 basis of a three day school week, in each school year, and if the funds of  
42 the district are sufficient, for a longer period, and as far as practicable  
43 with equal rights and privileges.

44 3. Exclude from schools all books, publications, papers or  
45 audiovisual materials of a sectarian, partisan or denominational character.

- 1           4. Manage and control the school property within its district.
- 2           5. Acquire school furniture, apparatus, equipment, library books and
- 3 supplies for the use of the schools.
- 4           6. Prescribe the curricula and criteria for the promotion and
- 5 graduation of pupils as provided in sections 15-701 and 15-701.01.
- 6           7. Furnish, repair and insure, at full insurable value, the school
- 7 property of the district.
- 8           8. Construct school buildings on approval by a vote of the district
- 9 electors.
- 10          9. Make in the name of the district conveyances of property belonging
- 11 to the district and sold by the board.
- 12          10. Purchase school sites when authorized by a vote of the district at
- 13 an election conducted as nearly as practicable in the same manner as the
- 14 election provided in section 15-481 and held on a date prescribed in section
- 15 15-491, subsection E, but such authorization shall not necessarily specify
- 16 the site to be purchased and such authorization shall not be necessary to
- 17 exchange unimproved property as provided in section 15-342, paragraph 23.
- 18          11. Construct, improve and furnish buildings used for school purposes
- 19 when such buildings or premises are leased from the national park service.
- 20          12. Purchase school sites or construct, improve and furnish school
- 21 buildings from the proceeds of the sale of school property only on approval
- 22 by a vote of the district electors.
- 23          13. Hold pupils to strict account for disorderly conduct on school
- 24 property.
- 25          14. Discipline students for disorderly conduct on the way to and from
- 26 school.
- 27          15. Except as provided in section 15-1224, deposit all monies received
- 28 by the district as gifts, grants and devises with the county treasurer who
- 29 shall credit the deposits as designated in the uniform system of financial
- 30 records. If not inconsistent with the terms of the gifts, grants and devises
- 31 given, any balance remaining after expenditures for the intended purpose of
- 32 the monies have been made shall be used for reduction of school district
- 33 taxes for the budget year, except that in the case of accommodation schools
- 34 the county treasurer shall carry the balance forward for use by the county
- 35 school superintendent for accommodation schools for the budget year.
- 36          16. Provide that, if a parent or legal guardian chooses not to accept
- 37 a decision of the teacher as provided in section 15-521, paragraph 3, the
- 38 parent or legal guardian may request in writing that the governing board
- 39 review the teacher's decision. Nothing in this paragraph shall be construed
- 40 to release school districts from any liability relating to a child's
- 41 promotion or retention.
- 42          17. Provide for adequate supervision over pupils in instructional and
- 43 noninstructional activities by certificated or noncertificated personnel.

1           18. Use school monies received from the state and county school  
2 apportionment exclusively for payment of salaries of teachers and other  
3 employees and contingent expenses of the district.

4           19. Make an annual report to the county school superintendent on or  
5 before October 1 each year in the manner and form and on the blanks  
6 prescribed by the superintendent of public instruction or county school  
7 superintendent. The board shall also make reports directly to the county  
8 school superintendent or the superintendent of public instruction whenever  
9 required.

10           20. Deposit all monies received by school districts other than student  
11 activities monies or monies from auxiliary operations as provided in sections  
12 15-1125 and 15-1126 with the county treasurer to the credit of the school  
13 district except as provided in paragraph 21 of this subsection and sections  
14 15-1223 and 15-1224, and the board shall expend the monies as provided by law  
15 for other school funds.

16           21. Establish a bank account in which the board may during a month  
17 deposit miscellaneous monies received directly by the district. The board  
18 shall remit monies deposited in the bank account at least monthly to the  
19 county treasurer for deposit as provided in paragraph 20 of this subsection  
20 and in accordance with the uniform system of financial records.

21           22. Employ an attorney admitted to practice in this state whose  
22 principal practice is in the area of commercial real estate, or a real estate  
23 broker who is licensed by this state and who is employed by a reputable  
24 commercial real estate company, to negotiate a lease of five or more years  
25 for the school district if the governing board decides to enter into a lease  
26 of five or more years as lessor of school buildings or grounds as provided  
27 in section 15-342, paragraph 7 or 10. Any lease of five or more years  
28 negotiated pursuant to this paragraph shall provide that the lessee is  
29 responsible for payment of property taxes pursuant to the requirements of  
30 section 42-11104.

31           23. Prescribe and enforce policies and procedures for disciplinary  
32 action against a teacher who engages in conduct which is a violation of the  
33 policies of the governing board but which is not cause for dismissal of the  
34 teacher or for revocation of the certificate of the teacher. Disciplinary  
35 action may include suspension without pay for a period of time not to exceed  
36 ten school days. Disciplinary action shall not include suspension with pay  
37 or suspension without pay for a period of time longer than ten school days.  
38 The procedures shall include notice, hearing and appeal provisions for  
39 violations which are cause for disciplinary action. The governing board may  
40 designate a person or persons to act on behalf of the board on these matters.

41           24. Prescribe and enforce policies and procedures for disciplinary  
42 action against an administrator who engages in conduct which is a violation  
43 of the policies of the governing board regarding duties of administrators but  
44 which is not cause for dismissal of the administrator or for revocation of  
45 the certificate of the administrator. Disciplinary action may include

1 suspension without pay for a period of time not to exceed ten school days.  
2 Disciplinary action shall not include suspension with pay or suspension  
3 without pay for a period of time longer than ten school days. The procedures  
4 shall include notice, hearing and appeal provisions for violations which are  
5 cause for disciplinary action. The governing board may designate a person  
6 or persons to act on behalf of the board on these matters. For violations  
7 which are cause for dismissal, the provisions of notice, hearing and appeal  
8 in chapter 5, article 3 of this title shall apply. The filing of a timely  
9 request for a hearing suspends the imposition of a suspension without pay or  
10 a dismissal pending completion of the hearing.

11 25. NOTWITHSTANDING SECTION 13-3108, prescribe and enforce policies  
12 and procedures that prohibit a person from carrying or possessing a weapon  
13 on school grounds unless the person is a peace officer or has obtained  
14 specific authorization from the school administrator.

15 26. Prescribe and enforce policies and procedures relating to the  
16 health and safety of all pupils participating in district sponsored practice  
17 sessions, games or other interscholastic athletic activities, including the  
18 provision of water. A school district and its employees are immune from  
19 civil liability for the consequences of the good faith adoption and  
20 implementation of policies and procedures pursuant to this paragraph.

21 27. Prescribe and enforce policies and procedures regarding the  
22 smoking of tobacco within school buildings. The policies and procedures  
23 shall be adopted in consultation with school district personnel and members  
24 of the community and shall state whether smoking is prohibited in school  
25 buildings. If smoking in school buildings is not prohibited, the policies  
26 and procedures shall clearly state the conditions and circumstances under  
27 which smoking is permitted, those areas in a school building which may be  
28 designated as smoking areas and those areas in a school building which may  
29 not be designated as smoking areas.

30 28. Establish an assessment, data gathering and reporting system as  
31 prescribed in chapter 7, article 3 of this title.

32 29. Provide special education programs and related services pursuant  
33 to section 15-764, subsection A to all children with disabilities as defined  
34 in section 15-761.

35 30. Administer competency tests prescribed by the state board of  
36 education for the graduation of pupils from high school.

37 31. Secure insurance coverage for all construction projects for  
38 purposes of general liability, property damage and workers' compensation and  
39 secure performance and payment bonds for all construction projects.

40 32. Keep on file the resumes of all current and former employees who  
41 provide instruction to pupils at a school. Resumes shall include an  
42 individual's educational and teaching background and experience in a  
43 particular academic content subject area. A school district shall inform  
44 parents and guardians of the availability of the resume information and shall  
45 make these available for inspection on request of parents and guardians of

1 pupils enrolled at a school. Nothing in this paragraph shall be construed  
2 to require any school to release personally identifiable information in  
3 relation to any teacher or employee including the teacher's or employee's  
4 address, salary, social security number or telephone number.

5 33. Report to local law enforcement any suspected crimes against  
6 persons or property and any incidents that could potentially threaten the  
7 safety or security of pupils, teachers or administrators. A school district  
8 and its employees are immune from liability for any good faith actions taken  
9 in furtherance of this paragraph.

10 34. In conjunction with local law enforcement and local medical  
11 facilities, develop an emergency response plan for each school in the school  
12 district in accordance with minimum standards developed jointly by the  
13 department of education and the division of emergency management within the  
14 department of emergency and military affairs.

15 35. Annually assign at least one school district employee to  
16 participate in a multihazard crisis training program developed or selected  
17 by the governing board.

18 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this  
19 section, the county school superintendent may construct, improve and furnish  
20 school buildings or purchase or sell school sites in the conduct of an  
21 accommodation school.

22 C. If any school district acquires real or personal property, whether  
23 by purchase, exchange, condemnation, gift or otherwise, the governing board  
24 shall pay to the county treasurer any taxes on the property that were unpaid  
25 as of the date of acquisition, including penalties and interest. The lien  
26 for unpaid delinquent taxes, penalties and interest on property acquired by  
27 a school district:

28 1. Is not abated, extinguished, discharged or merged in the title to  
29 the property.

30 2. Is enforceable in the same manner as other delinquent tax liens.

31 D. The governing board may not locate a school on property that is  
32 less than one-fourth mile from agricultural land regulated pursuant to  
33 section 3-365, except that the owner of the agricultural land may agree to  
34 comply with the buffer zone requirements of section 3-365. If the owner  
35 agrees in writing to comply with the buffer zone requirements and records the  
36 agreement in the office of the county recorder as a restrictive covenant  
37 running with the title to the land, the school district may locate a school  
38 within the affected buffer zone. The agreement may include any stipulations  
39 regarding the school, including conditions for future expansion of the school  
40 and changes in the operational status of the school that will result in a  
41 breach of the agreement.

42 E. A school district's governing board members and its school council  
43 members are immune from civil liability for the consequences of adoption and  
44 implementation of policies and procedures pursuant to subsection A of this  
45 section and section 15-342. This waiver does not apply if the school

1 district's governing board members or its school council members are guilty  
2 of gross negligence or intentional misconduct.

3 F. A governing board may delegate in writing to a superintendent,  
4 principal or head teacher the authority to prescribe procedures that are  
5 consistent with the governing board's policies.

6 G. Notwithstanding any other provision of this title, a school  
7 district governing board shall not take any action that would result in an  
8 immediate reduction or a reduction within three years of pupil square footage  
9 that would cause the school district to fall below the minimum adequate gross  
10 square footage requirements prescribed in section 15-2011, subsection C,  
11 unless the governing board notifies the school facilities board established  
12 by section 15-2001 of the proposed action and receives written approval from  
13 the school facilities board to take the action. A reduction includes an  
14 increase in administrative space that results in a reduction of pupil square  
15 footage or sale of school sites or buildings, or both. The sale of equipment  
16 that results in an immediate reduction or a reduction within three years that  
17 falls below the equipment requirements prescribed in section 15-2011,  
18 subsection B is subject to commensurate withholding of school district  
19 capital outlay revenue limit monies pursuant to the direction of the school  
20 facilities board. Except as provided in section 15-342, paragraph 10,  
21 proceeds from the sale of school sites, buildings or other equipment shall  
22 be deposited in the school plant fund as provided in section 15-1102.

23 H. Subsections C through F of this section apply to a county board of  
24 supervisors and a county school superintendent when operating and  
25 administering an accommodation school.

26 Sec. 7. Repeal

27 Section 15-341, Arizona Revised Statutes, as amended by Laws 2000,  
28 chapter 376, section 3, is repealed.

29 Sec. 8. Section 15-905, Arizona Revised Statutes, as amended by Laws  
30 2000, chapter 236, section 20, is amended to read:

31 15-905. School district budgets; notice; adoption; aggregate  
32 budget limit; summary; adjustments; definition

33 A. Not later than July 5 of each year or no later than the publication  
34 of notice of the public hearing and board meeting as required by this  
35 section, the governing board of each school district shall prepare and  
36 furnish to the superintendent of public instruction and the county school  
37 superintendent, unless waived by the county school superintendent, a proposed  
38 budget in electronic format for the budget year, which shall contain the  
39 information and be in the form as provided by the department of education.  
40 The proposed budget shall include the following:

41 1. The total amount of revenues from all sources that was necessary  
42 to meet the school district's budget for the current year.

43 2. The total amount of revenues by source that will be necessary to  
44 meet the proposed budget of the school district, excluding property taxes.  
45 The governing board shall prepare the proposed budget and a summary of the

1 proposed budget. Both documents shall be kept on file at the school district  
2 office and shall be made available to the public upon request. The auditor  
3 general in conjunction with the department of education shall prescribe the  
4 form of the summary of the proposed budget for use by governing boards.  
5 School district governing boards may include in the proposed budget any items  
6 or amounts which are authorized by legislation filed with the secretary of  
7 state and which will become effective during the budget year. If subsequent  
8 events prevent the legislation from becoming effective, school district  
9 governing boards must reduce their budgets by the amounts budgeted pursuant  
10 to the legislation which did not become effective.

11 B. The governing board of each school district shall prepare a notice  
12 fixing a time not later than July 15 and designating a public place within  
13 each school district at which a public hearing and board meeting shall be  
14 held. The governing board shall present the proposed budget for  
15 consideration of the residents and the taxpayers of the school district at  
16 such hearing and meeting.

17 C. The governing board of each school district shall publish or mail,  
18 prior to the hearing and meeting, a copy of the proposed budget or the  
19 summary of the proposed budget and, in addition, a notice of the public  
20 hearing and board meeting no later than ten days prior to the meeting. The  
21 proposed budget and the summary of the proposed budget shall contain the  
22 percentage of increase or decrease in each budget category of the proposed  
23 budget as compared to each category of the budget for the current year.  
24 Notification shall be either by publication in a newspaper of general  
25 circulation within the school district in which the size of the newspaper  
26 print shall be at least eight-point type or by mailing the information to  
27 each household in the school district. The cost of publication or mailing  
28 shall be a charge against the school district. The publisher's affidavit of  
29 publication shall be filed by the governing board with the superintendent of  
30 public instruction within thirty days after publication. If the budget or  
31 proposed budget and notice are mailed, the board shall file an affidavit of  
32 mailing with the superintendent of public instruction within thirty days  
33 after the mailing. If a truth in taxation notice and hearing is required  
34 under section 15-905.01, the governing board may combine the notice and  
35 hearing under this section with the truth in taxation notice and hearing.

36 D. At the time and place fixed in the notice, the governing board  
37 shall hold the public hearing and present the proposed budget to the persons  
38 attending the hearing. Upon request of any person, the governing board shall  
39 explain the budget, and any resident or taxpayer of the school district may  
40 protest the inclusion of any item. A governing board member who has a  
41 substantial interest, as defined in section 38-502, in a specific item in the  
42 school district budget shall refrain from voting on the specific item. A  
43 governing board member may without creating a conflict of interest  
44 participate in adoption of a final budget even though the member may have  
45 substantial interest in specific items included in the budget.

1 E. Immediately following the public hearing the president shall call  
2 to order the governing board meeting for the purpose of adopting the budget.  
3 The governing board shall adopt the budget which shall not exceed the general  
4 budget limit, the unrestricted capital budget limit or the soft capital  
5 allocation limit, making such deductions as it sees fit but making no  
6 additions to the proposed budget total for maintenance and operations or  
7 capital outlay, and shall enter the budget as adopted in its minutes. Not  
8 later than July 18, the budget as finally adopted shall be filed by the  
9 governing board with the county school superintendent who shall immediately  
10 transmit a copy to the board of supervisors ~~and a copy to the superintendent~~  
11 ~~of public instruction.~~ NOT LATER THAN JULY 18, THE BUDGET AS FINALLY ADOPTED  
12 SHALL BE SUBMITTED ELECTRONICALLY TO THE SUPERINTENDENT OF PUBLIC  
13 INSTRUCTION. On or before October 30, the superintendent of public  
14 instruction shall review the budget and notify the governing board if the  
15 budget is in excess of the general budget limit, the unrestricted capital  
16 budget limit or the soft capital allocation limit. If the governing board  
17 receives notification that the budget is in excess of the general budget  
18 limit, the unrestricted capital budget limit or the soft capital allocation  
19 limit by fewer than one thousand dollars, the governing board shall adjust  
20 the budget and expenditures so as not to exceed the general budget limit, the  
21 unrestricted capital budget limit or the soft capital allocation limit for  
22 the current year. If the governing board receives notification that the  
23 budget is in excess of the general budget limit, the unrestricted capital  
24 budget limit or the soft capital allocation limit by one thousand dollars or  
25 more, it shall on or before December 15, after it gives notice and holds a  
26 public meeting in a similar manner as provided in subsections C and D of this  
27 section, adopt a revised budget for the current year which shall not exceed  
28 the general budget limit, the unrestricted capital budget limit or the soft  
29 capital allocation limit. On or before December 18, the governing board  
30 shall file the revised budget which it adopts with the county school  
31 superintendent who shall immediately transmit a copy to the board of  
32 supervisors ~~and a copy to the superintendent of public instruction.~~ NOT  
33 LATER THAN DECEMBER 18, THE BUDGET AS REVISED SHALL BE SUBMITTED  
34 ELECTRONICALLY TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION. School districts  
35 that are subject to section 15-914.01 are not required to send a copy of  
36 revised budgets to the county school superintendent. Procedures for  
37 adjusting expenditures or revising the budget shall be as prescribed in the  
38 uniform system of financial records.

39 F. The governing board of each school district may budget for  
40 expenditures within the school district budget as follows:

41 1. Amounts within the general budget limit, as provided in section  
42 15-947, subsection C, may only be budgeted in the following sections of the  
43 budget:

- 44 (a) The maintenance and operation section.  
45 (b) The capital outlay section.

1           2. Amounts within the unrestricted capital budget limit, as provided  
2 in section 15-947, subsection D, may only be budgeted in the unrestricted  
3 capital outlay subsection of the budget. Monies received pursuant to the  
4 unrestricted capital budget limit shall be placed in the unrestricted capital  
5 outlay fund. The monies in the fund are not subject to reversion.

6           3. The soft capital allocation limit, as provided in section 15-947,  
7 subsection E, may only be budgeted in the soft capital allocation subsection  
8 of the budget.

9           G. The governing board may authorize the expenditure of monies  
10 budgeted within the maintenance and operation section of the budget for any  
11 subsection within the section in excess of amounts specified in the adopted  
12 budget only by action taken at a public meeting of the governing board and  
13 if the expenditures for all subsections of the section do not exceed the  
14 amount budgeted as provided in this section. Until June 30, 1999, the  
15 governing board may authorize the expenditure of monies to exceed the  
16 budgeted expenditures of the capital outlay section of the budget only by  
17 action taken at a public meeting of the governing board and if monies are  
18 available in the reserve.

19           H. The aggregate budget limit is the sum of the following:

20           1. The general budget limit as determined in section 15-947 for the  
21 budget year.

22           2. The unrestricted capital budget limit as determined in section  
23 15-947 for the budget year.

24           3. The soft capital allocation limit for the budget year as determined  
25 in section 15-947.

26           4. Federal assistance, excluding P.L. 81-874 monies.

27           I. School districts which overestimated tuition revenues as provided  
28 in section 15-947, subsection C, paragraph 2 shall adjust the general budget  
29 limit and expenditures based upon tuition revenues for attendance of  
30 nonresident pupils during the current fiscal year. School districts which  
31 underestimated tuition revenues may adjust their budgets prior to May 15  
32 based upon tuition revenues for attendance of nonresident pupils during the  
33 current fiscal year. School districts which overestimated revenues as  
34 provided in section 15-947, subsection C, paragraph 2, subdivision (a), items  
35 (iii), (iv) and (v) and subdivision (d) shall adjust the general budget limit  
36 and expenditures based on actual revenues during the current fiscal year.  
37 School districts which underestimated such revenues may adjust their budgets  
38 before May 15 based on actual revenues during the current fiscal year.  
39 Procedures for completing adjustments shall be as prescribed in the uniform  
40 system of financial records. NOT LATER THAN MAY 18, THE BUDGET AS ADJUSTED  
41 SHALL BE SUBMITTED ELECTRONICALLY TO THE SUPERINTENDENT OF PUBLIC  
42 INSTRUCTION.

43           J. A common school district not within a high school district whose  
44 estimated tuition charge for high school pupils exceeds the actual tuition  
45 charge for high school pupils shall adjust the general budget limit and

1 expenditures based on the actual tuition charge. NOT LATER THAN MAY 18, THE  
2 BUDGET AS ADJUSTED SHALL BE SUBMITTED ELECTRONICALLY TO THE SUPERINTENDENT  
3 OF PUBLIC INSTRUCTION. A common school district not within a high school  
4 district whose estimated tuition charge for high school pupils is less than  
5 the actual tuition charge for high school pupils may adjust its budget before  
6 May 15 based on the actual tuition charge. Procedures for completing  
7 adjustments shall be as prescribed in the uniform system of financial  
8 records. If the adjusted general budget limit requires an adjustment of  
9 state aid and if the adjustment to state aid is not made in the current year,  
10 the superintendent of public instruction shall adjust by August 15 of the  
11 succeeding fiscal year the apportionment of state aid to the school district  
12 to correct any overpayment or underpayment of state aid received during the  
13 current year.

14 K. The governing board may include P.L. 81-874 assistance allocated  
15 for children with disabilities, children with specific learning disabilities  
16 and children residing on Indian lands which is in addition to basic  
17 assistance when determining the general budget limit as prescribed in section  
18 15-947, subsection C. The governing board may adjust before May 15 the  
19 budget for the current year based on any adjustments which result in  
20 increases over the amount estimated by the superintendent of public  
21 instruction for P.L. 81-874 assistance for such pupils for the fiscal year  
22 preceding the current year. The governing board shall adjust before May 15  
23 the budget for the current year based on any adjustments which result in  
24 decreases in the amount estimated by the superintendent of public instruction  
25 for P.L. 81-874 assistance for such pupils for the fiscal year preceding the  
26 current year. NOT LATER THAN MAY 18, THE BUDGET AS ADJUSTED SHALL BE  
27 SUBMITTED ELECTRONICALLY TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.  
28 Procedures for complying with the provisions of this subsection shall be as  
29 prescribed in the uniform system of financial records.

30 L. The state board of education shall hold a hearing if expenditures  
31 by any school district exceed the general budget limit prescribed in section  
32 15-947, subsection C, the unrestricted capital budget limit, the soft capital  
33 allocation limit prescribed in section 15-947, subsection E, the school plant  
34 fund limits prescribed in section 15-1102, subsection B, the maintenance and  
35 operation section of the budget or the capital outlay section of the  
36 budget. If the expenditures of any school district exceed these limits or  
37 sections of the budget without authorization as provided in section 15-907,  
38 the state board of education shall reduce the state aid for equalization  
39 assistance for education for the school district computed as provided in  
40 section 15-971 during the fiscal year subsequent to the fiscal year in which  
41 the excess expenditures were made by an amount equal to the excess  
42 expenditures, except that in case of hardship to the school district, the  
43 superintendent of public instruction may approve reductions partly in the  
44 first subsequent year and partly in the second subsequent year.

1 M. The governing board of a school district shall reduce the general  
2 budget limit, the unrestricted capital budget limit or the soft capital  
3 allocation limit, for the year subsequent to the year in which the  
4 expenditures were in excess of the applicable limit or section of the budget  
5 by the amount determined in subsection L of this section, except that in case  
6 of hardship to the school district, the superintendent of public instruction  
7 may approve reductions partly in the first subsequent year and partly in the  
8 second subsequent year. The reduction in the limit is applicable to each  
9 school district which has exceeded the general budget limit, the  
10 unrestricted capital budget limit, the soft capital allocation limit or a  
11 section of the budget even if the reduction exceeds the state aid for  
12 equalization assistance for education for the school district.

13 N. Except as provided in section 15-916, no expenditure shall be made  
14 by any school district for a purpose not included in the budget or in excess  
15 of the aggregate budget limit prescribed in this section, except that if no  
16 budget has been adopted, from July 1 to July 15 the governing board may make  
17 expenditures if the total of the expenditures does not exceed ten per cent  
18 of the prior year's aggregate budget limit. Any expenditures made from July  
19 1 to July 15 and prior to the adoption of the budget shall be included in the  
20 total expenditures for the current year. No expenditure shall be made and  
21 no debt, obligation or liability shall be incurred or created in any year for  
22 any purpose itemized in the budget in excess of the amount specified for the  
23 item irrespective of whether the school district at any time has received or  
24 has on hand funds in excess of those required to meet the expenditures,  
25 debts, obligations and liabilities provided for under the budget except  
26 expenditures from cash controlled funds as defined by the uniform system of  
27 financial records and except as provided in section 15-907 and subsection G  
28 of this section. This subsection does not prohibit any school district from  
29 prepaying insurance premiums or magazine subscriptions, or from prepaying any  
30 item which is normally prepaid in order to procure the service or to receive  
31 a discounted price for the service, as prescribed by the uniform system of  
32 financial records.

33 O. The governing board of a school district which is classified as a  
34 heavily impacted school district having twenty per cent or more pupils  
35 pursuant to 20 United States Code section 238(d)1(A) may determine its  
36 eligibility to increase the amount that may be included in determining the  
37 general budget limit as provided in subsection K of this section and may  
38 increase the amount as follows:

39 1. For fiscal year 1988-1989:

40 (a) Multiply one thousand ninety-four dollars by the number of  
41 children with disabilities or children with specific learning disabilities,  
42 excluding children who also reside on Indian lands, reported to the division  
43 of impact aid, United States department of education in the district's  
44 application for fiscal year 1987-1988.

1 (b) Multiply five hundred forty-seven dollars by the number of  
2 children residing on Indian lands, excluding children who have disabilities  
3 or also have specific learning disabilities, reported to the division of  
4 impact aid, United States department of education in the district's  
5 application for fiscal year 1987-1988.

6 (c) Multiply one thousand nine hundred fourteen dollars by the number  
7 of children residing on Indian lands who have disabilities or also have  
8 specific learning disabilities reported to the division of impact aid, United  
9 States department of education in the district's application for fiscal year  
10 1987-1988.

11 (d) Add the amounts determined in subdivisions (a) through (c).

12 (e) If the amount of P.L. 81-874 assistance as provided in subsection  
13 K of this section is less than the sum determined in subdivision (d) of this  
14 paragraph, the district is eligible to use the provisions of this subsection.

15 2. For budget years after 1988-1989, use the provisions of paragraph  
16 1 of this subsection, but increase each dollar amount by the growth rate for  
17 that year as prescribed by law, subject to appropriation and use the number  
18 of children reported in the appropriate category for the current fiscal year.

19 3. If the district is eligible to use the provisions of this  
20 subsection, subtract the amount of P.L. 81-874 assistance determined in  
21 subsection K of this section from the sum determined in paragraph 1,  
22 subdivision (d) of this subsection. The difference is the increase in the  
23 amount that may be included in determining the general budget limit as  
24 provided in subsection K of this section, if including this amount does not  
25 increase the district's primary tax rate for the budget year. If the amount  
26 of P.L. 81-874 assistance determined in subsection K of this section is  
27 adjusted for the current year, the increase determined in this paragraph  
28 shall be recomputed using the adjusted amount and the recomputed increase  
29 shall be reported to the department of education by May 15 on a form  
30 prescribed by the department of education.

31 4. If a district uses the provisions of this subsection, the district  
32 is not required to adjust its budget for the current year based on  
33 adjustments in the estimated amount of P.L. 81-874 assistance as provided in  
34 subsection K of this section.

35 P. A school district, except for an accommodation school, which  
36 applies for P.L. 81-874 assistance during the current year may budget an  
37 amount for P.L. 81-874 administrative costs for the budget year. The amount  
38 budgeted for P.L. 81-874 administrative costs is exempt from the revenue  
39 control limit and may not exceed an amount determined for the budgeted year  
40 as follows:

41 1. Determine the minimum cost. The minimum cost for fiscal year  
42 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year  
43 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior  
44 year increased by the growth rate as prescribed by law, subject to  
45 appropriation.

- 1           2. Determine the hourly rate. The hourly rate for fiscal year  
2 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and  
3 thereafter, the hourly rate is the hourly rate for the prior year increased  
4 by the growth rate as prescribed by law, subject to appropriation.
- 5           3. Determine the P.L. 81-874 revenues available by subtracting the  
6 amount of P.L. 81-874 assistance used to increase the general budget limit  
7 as provided in subsections K and O of this section for the current fiscal  
8 year from the total amount of P.L. 81-874 revenues received in the current  
9 fiscal year.
- 10          4. Determine the total number of administrative hours as follows:
- 11           (a) Determine the sum of the following:
- 12           (i) 1.00 hours for each high impact pupil who is not disabled or does  
13 not have specific learning disabilities.
- 14           (ii) 1.25 hours for each high impact pupil who is disabled or has  
15 specific learning disabilities.
- 16           (iii) 0.25 hours for each low impact pupil who is not disabled or does  
17 not have specific learning disabilities.
- 18           (iv) 0.31 hours for each low impact pupil who is disabled or has  
19 specific learning disabilities.
- 20           (b) For the purposes of this paragraph:
- 21           (i) "High impact pupil" means a pupil who resides on Indian lands or  
22 a pupil who resides on federal property or in low rent housing and whose  
23 parent is employed on federal property or low rent housing property or is on  
24 active duty in uniformed service, as provided in P.L. 81-874, section 3(a)  
25 and as reported in the application for P.L. 81-874 assistance in the current  
26 year.
- 27           (ii) "Low impact pupil" means a pupil who resides on nonfederal  
28 property and has a parent who is employed on federal property or low rent  
29 housing property or is on active duty in a uniformed service or a pupil who  
30 resides on federal property or in low rent housing and who does not have a  
31 parent who is employed on federal property or low rent housing property or  
32 is on active duty in uniformed service, as provided in P.L. 81-874, section  
33 3(b) and as reported in the application for P.L. 81-874 assistance in the  
34 current year.
- 35          5. Multiply the total number of administrative hours determined in  
36 paragraph 4 of this subsection by the hourly rate determined in paragraph 2  
37 of this subsection.
- 38          6. Determine the greater of the minimum cost determined in paragraph  
39 1 of this subsection or the product determined in paragraph 5 of this  
40 subsection.
- 41          7. Add to the amount determined in paragraph 6 of this subsection the  
42 amount, if any, to be expended by the school district in the budget year  
43 through an intergovernmental agreement with other school districts or the  
44 department of education to provide P.L. 81-874 technical assistance to  
45 participating districts.

1           8. Determine the lesser of the amount determined in paragraph 7 of  
2 this subsection or the revenues available as determined in paragraph 3 of  
3 this subsection.

4           9. The amount determined in paragraph 8 of this subsection is the  
5 maximum amount which may be budgeted for P.L. 81-874 administrative costs for  
6 the budget year as provided in this subsection.

7           10. If the governing board underestimated the amount that may be  
8 budgeted for P.L. 81-874 administrative costs for the current year, the board  
9 may adjust the general budget limit and the budget before May 15. If the  
10 governing board overestimated the amount that may be budgeted for P.L. 81-874  
11 administrative costs for the current year, the board shall adjust the general  
12 budget limit and the budget before May 15.

13           Q. If a school district governing board has adopted a budget for a  
14 fiscal year based on forms and instructions provided by the auditor general  
15 and the department of education for that fiscal year and if, as a result of  
16 the enactment or nonenactment of proposed legislation after May 1 of the  
17 previous fiscal year, the budget is based on incorrect limits, does not  
18 include items authorized by law or does not otherwise conform with law, the  
19 governing board may revise its budget at a public hearing on or before  
20 September 15 to conform with the law. NOT LATER THAN SEPTEMBER 18, THE  
21 BUDGET AS ADJUSTED SHALL BE SUBMITTED ELECTRONICALLY TO THE SUPERINTENDENT  
22 OF PUBLIC INSTRUCTION. If the governing board does not revise the budget on  
23 or before September 15 and if the budget includes any items not authorized  
24 by law or if the budget exceeds any limits, the governing board shall adjust  
25 or revise the budget as provided in subsection E of this section.

26           R. For the purposes of this section, "P.L. 81-874 assistance" means,  
27 for the current year, an amount equal to the final determination of P.L.  
28 81-874 assistance for the fiscal year preceding the current year as confirmed  
29 by the division of impact aid, United States department of education or, if  
30 a final determination has not been made, the amount estimated by the  
31 superintendent of public instruction as confirmed by the division of impact  
32 aid, United States department of education and, for the budget year, an  
33 amount equal to the determination of P.L. 81-874 assistance for the fiscal  
34 year preceding the budget year as estimated by the superintendent of public  
35 instruction.

36           Sec. 9. Repeal

37           Section 15-905, Arizona Revised Statutes, as amended by Laws 2000,  
38 chapter 342, section 8, is repealed.

39           Sec. 10. Repeal

40           Section 17-273, Arizona Revised Statutes, as amended by Laws 2000,  
41 chapter 375, section 1, is repealed.

42           Sec. 11. Section 20-448, Arizona Revised Statutes, as amended by Laws  
43 2000, chapter 370, section 2, is amended to read:

1           20-448. Unfair discrimination; definitions

2           A. A person shall not make or permit any unfair discrimination between  
3 individuals of the same class and equal expectation of life in the rates  
4 charged for any contract of life insurance or of life annuity or in the  
5 dividends or other benefits payable or in any other of the terms and  
6 conditions of the contract.

7           B. A person shall not make or permit any unfair discrimination  
8 respecting hemophiliacs or between individuals of the same class and of  
9 essentially the same hazard in the amount of premium, policy fees or rates  
10 charged for any policy or contract of disability insurance or in the benefits  
11 payable or in any of the terms or conditions of the contract, or in any other  
12 manner whatever. The provisions of this subsection regarding hemophiliacs  
13 do not apply to any policy or subscription contract which provides only  
14 benefits for specific diseases or for accidental injuries or which provides  
15 only indemnity for blood transfusion services or replacement of whole blood  
16 products, fractions or derivatives.

17          C. As to kinds of insurance other than life and disability, a person  
18 shall not make or permit any unfair discrimination in favor of particular  
19 persons or between insureds or subjects of insurance having substantially  
20 like insuring, risk and exposure factors, or expense elements, in the terms  
21 or conditions of any insurance contract, or in the rate or amount of premium  
22 charged.

23          D. An insurer shall not refuse to consider an application for life or  
24 disability insurance on the basis of a genetic condition, developmental delay  
25 or developmental disability.

26          E. The rejection of an application or the determining of rates, terms  
27 or conditions of a life or disability insurance contract on the basis of a  
28 genetic condition, developmental delay or developmental disability  
29 constitutes unfair discrimination, unless the applicant's medical condition  
30 and history and either claims experience or actuarial projections establish  
31 that substantial differences in claims are likely to result from the genetic  
32 condition, developmental delay or developmental disability.

33          F. In addition to the provisions in subsection E of this section, the  
34 rejection of an application or the determination of rates, terms or  
35 conditions of a disability insurance contract on the basis of a genetic  
36 condition constitutes unfair discrimination in the absence of a diagnosis of  
37 the condition related to information obtained as a result of a genetic test.

38          G. An insurer that offers life, disability, property or liability  
39 insurance contracts shall not deny a claim incurred or deny, refuse, refuse  
40 to renew, restrict, cancel, exclude or limit coverage or charge a different  
41 rate for the same coverage solely on the basis that the insured or proposed  
42 insured is or has been a victim of domestic violence or is an entity or  
43 individual that provides counseling, shelter, protection or other services  
44 to victims of domestic violence. If an insurer that offers life, disability,  
45 property or liability insurance contracts denies a claim incurred or denies,

1 refuses, refuses to renew, restricts, cancels, excludes or limits coverage  
2 or charges a different rate for the same coverage on the basis of a mental  
3 or physical condition and the insured or the proposed insured is or has been  
4 a victim of domestic violence, the insurer shall submit a written explanation  
5 to the insured or proposed insured of the reasons for the insurer's actions,  
6 in accordance with section 20-2110. The fact that an insured or proposed  
7 insured is or has been the victim of domestic violence is not a mental or  
8 physical condition. Nothing contained in this subsection is intended to  
9 provide any private right or cause of action to or on behalf of any applicant  
10 or insured. It is the specific intent of this subsection to provide solely  
11 an administrative remedy to the director for any violation of this section.  
12 Nothing in this subsection prevents an insurer from refusing to issue a life  
13 insurance policy insuring a person who has been the victim of domestic  
14 violence if either of the following is true:

15 1. The family or household member who commits the act of domestic  
16 violence is the applicant for or prospective owner of the policy or would be  
17 the beneficiary of the policy and any of the following is true:

18 (a) The applicant or prospective beneficiary of the policy is known,  
19 on the basis of police or court records, to have committed an act of domestic  
20 violence.

21 (b) The insurer has knowledge of an arrest or conviction for a  
22 domestic violence related offense by the family or household member.

23 (c) The insurance company has other reasonable grounds to believe, and  
24 those grounds are corroborated, that the applicant or proposed beneficiary  
25 of a policy is a family or household member committing acts of domestic  
26 violence.

27 2. The applicant or prospective owner of the policy lacks an insurable  
28 interest in the insured.

29 H. Nothing in subsection G of this section prevents an insurer that:

30 1. Offers life or disability insurance contracts from underwriting  
31 coverage on the basis of an insured's or proposed insured's mental or  
32 physical condition if the underwriting:

33 (a) Does not consider whether or not the mental or physical condition  
34 was caused by an act of domestic violence.

35 (b) Is the same for an insured or proposed insured who is not the  
36 victim of domestic violence as it is for an insured or proposed insured who  
37 is the victim of domestic violence.

38 (c) Does not violate any other rule or law.

39 2. Offers property or liability insurance contracts from underwriting  
40 coverage on the basis of the insured's claims history or characteristics of  
41 the insured's property and using rating criteria consistent with section  
42 20-384.

43 I. Any determination made pursuant to section 20-2537 by the external  
44 independent ~~reviewer or reviewers~~ REVIEW ORGANIZATION shall not be considered

1 in connection with the evaluation of whether any person subject to this  
2 article has complied with this section.

3 J. A property or liability insurer may exclude coverage for losses  
4 caused by an insured's intentional or fraudulent act. The exclusion shall  
5 not deny an insured's otherwise covered property loss if the property loss  
6 is caused by an act of domestic violence by another insured under the policy  
7 and the insured who claims the property loss cooperates in any investigation  
8 relating to the loss and did not cooperate in or contribute to the creation  
9 of the property loss. The insurer may apply reasonable standards of proof  
10 for claims filed under this subsection. The insurer may limit the payment  
11 to the insured's insurable interest in the property minus any payment made  
12 to any mortgagee or other party with a secured interest in the  
13 property. This subsection does not require an insurer to pay any amount that  
14 is more than the amount of the loss or property coverage limits. An insurer  
15 who pays a claim under this subsection has the right of subrogation against  
16 any person except the victim of the domestic violence.

17 K. All insurers shall adopt and adhere to written policies that are  
18 consistent with title 20, chapter 11 and that specify the procedures to be  
19 followed by employees, contractors, producers, agents and brokers to ensure  
20 the privacy of and to help protect the safety of a victim of domestic  
21 violence when taking an application, investigating a claim, pursuing  
22 subrogation or taking any other action relating to a policy or claim  
23 involving a victim of domestic violence. Insurers shall distribute the  
24 written policies to employees, contractors, producers, agents and brokers who  
25 have access to personal or privileged information regarding domestic  
26 violence.

27 L. For the purposes of this section:

28 1. "Developmental delay" means a delay of at least one and one-half  
29 standard deviations from the norm.

30 2. "Developmental disability" has the same meaning prescribed in  
31 section 36-551.

32 3. "Domestic violence" means any act that is a dangerous crime against  
33 children as defined in section 13-604.01 or an offense defined in section  
34 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through 13-1504 or  
35 13-1602, section 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3  
36 or 6, section 13-2916 or section 13-2921, 13-2921.01, 13-2923 or 13-3623, if  
37 any of the following applies:

38 (a) The relationship between the victim and the defendant is one of  
39 marriage or former marriage or of persons residing or having resided in the  
40 same household.

41 (b) The victim and the defendant have a child in common.

42 (c) The victim or the defendant is pregnant by the other party.

43 (d) The victim is related to the defendant or the defendant's spouse  
44 by blood or court order as a parent, grandparent, child, grandchild, brother  
45 or sister, or by marriage as a parent-in-law, grandparent-in-law, stepparent,

1 step-grandparent, stepchild, step-grandchild, brother-in-law or  
2 sister-in-law.

3 (e) The victim is a child who resides or has resided in the same  
4 household as the defendant and is related by blood to a former spouse of the  
5 defendant or to a person who resides or has resided in the same household as  
6 the defendant.

7 4. "Gene products" means gene fragments, nucleic acids or proteins  
8 derived from deoxyribonucleic acids that would be a reflection of or indicate  
9 DNA sequence information.

10 5. "Genetic condition" means a specific chromosomal or single-gene  
11 genetic condition.

12 6. "Genetic test" means an analysis of an individual's DNA, gene  
13 products or chromosomes that indicates a propensity for or susceptibility to  
14 illness, disease, impairment or other disorders, whether physical or mental,  
15 or that demonstrates genetic or chromosomal damage due to environmental  
16 factors, or carrier status for a disease or disorder.

17 Sec. 12. Repeal

18 Section 20-448, Arizona Revised Statutes, as amended by Laws 2000,  
19 chapter 355, section 1, is repealed.

20 Sec. 13. Transfer

21 Title 20, chapter 3, article 13, Arizona Revised Statutes, is  
22 transferred for placement in title 20, Arizona Revised Statutes, as chapter  
23 2, article 13.

24 Sec. 14. Section 20-1009, Arizona Revised Statutes, as amended by Laws  
25 2000, chapter 279, section 11, is amended to read:

26 20-1009. Annual report to director

27 A. Every prepaid dental plan organization annually on or before the  
28 first day of March shall file with the director a report covering its  
29 activities for the preceding calendar year, verified by at least two  
30 principal officers of the corporation. ~~A copy of the report shall be sent~~  
31 ~~by the prepaid dental plan organization to the director of the department of~~  
32 ~~health services.~~

33 B. The reports shall be on forms prescribed by the director and shall  
34 include:

35 1. A financial statement of the organization, including its balance  
36 sheet and receipts and disbursements for the preceding year certified by an  
37 independent public accountant.

38 2. Any material changes in the information.

39 3. The number of persons who become members during the year, the  
40 number of members as of the end of the year and the number of memberships  
41 terminated during the year.

42 4. The costs of all care provided and the number of units of care  
43 provided.

1           5. Any other information relating to the performance of the prepaid  
2 dental plan organization as is necessary to enable the director to carry out  
3 the duties prescribed by this article.

4           C. The prepaid dental plan organization shall also submit any reports  
5 required by chapter 2, article 12 of this title.

6           Sec. 15. Repeal

7           Section 20-1009, Arizona Revised Statutes, as amended by Laws 2000,  
8 chapter 339, section 4, is repealed.

9           Sec. 16. Section 20-1015, Arizona Revised Statutes, as amended by Laws  
10 2000, chapter 113, section 52, is amended to read:

11           20-1015. Suspension or revocation of certificate of authority

12           A. The director may suspend or revoke any certificate of authority  
13 issued to a prepaid dental plan organization pursuant to this article if the  
14 director finds that any of the following conditions exists:

15           1. The prepaid dental plan organization is operating contrary to its  
16 basic organizational documents or in a manner contrary to that described in,  
17 and reasonably inferred from, any other information submitted pursuant to  
18 section 20-1003.

19           2. The prepaid dental plan organization issued membership coverage  
20 which THAT does not comply with the requirements of section 20-1007.

21           3. The prepaid dental plan does not provide or arrange for basic  
22 dental services appropriate to such plan as determined by the director of the  
23 department of health services.

24           4. The prepaid dental plan organization can no longer be expected to  
25 meet its obligations to members or prospective members.

26           5. The prepaid dental plan organization, or any authorized person on  
27 its behalf, has advertised or merchandised its services in an untrue,  
28 misleading, deceptive or unfair manner.

29           6. The prepaid dental plan organization has failed to substantially  
30 comply with this article or any rules adopted under this article.

31           B. When the certificate of authority of a prepaid dental plan  
32 organization is suspended the organization shall not accept, during the  
33 period of such THE suspension, any additional members except newborn children  
34 or other newly acquired dependents of existing members and shall not engage  
35 in any advertising or solicitation.

36           C. When the certificate of authority of a prepaid dental plan  
37 organization is revoked, the organization shall proceed, immediately  
38 following the effective date of the order of revocation, to conclude its  
39 affairs and shall conduct no further business except as may be essential to  
40 the orderly conclusion of solicitation. The director, by written order, may  
41 permit such further operation of the organization as the director finds to  
42 be in the best interest of members to the end that members shall be afforded  
43 the greatest practical opportunity to obtain continuing prepaid dental plan  
44 coverage.

1 D. Notwithstanding subsections B and C of this section, a prepaid  
2 dental plan organization which THAT has had its certificate of authority  
3 denied, suspended or revoked, or has suffered an adverse decision by the  
4 director, is entitled to a hearing pursuant to title 41, chapter 6, article  
5 10 and, except as provided in section 41-1092.08, subsection H, is entitled  
6 to judicial review pursuant to title 12, chapter 7, article 6.

7 Sec. 17. Repeal

8 Section 20-1015, Arizona Revised Statutes, as amended by Laws 2000,  
9 chapter 339, section 6, is repealed.

10 Sec. 18. Section 20-1057, Arizona Revised Statutes, as amended by Laws  
11 2000, chapter 37, section 15 and chapter 282, section 3, is amended to read:

12 20-1057. Evidence of coverage by health care services  
13 organizations; renewability; definitions

14 A. Every enrollee in a health care plan shall be issued an evidence  
15 of coverage by the responsible health care services organization.

16 B. Any contract, except accidental death and dismemberment, applied  
17 for that provides family coverage shall, as to such coverage of family  
18 members, also provide that the benefits applicable for children shall be  
19 payable with respect to a newly born child of the enrollee from the instant  
20 of such child's birth, to a child adopted by the enrollee, regardless of the  
21 age at which the child was adopted, and to a child who has been placed for  
22 adoption with the enrollee and for whom the application and approval  
23 procedures for adoption pursuant to section 8-105 or 8-108 have been  
24 completed to the same extent that such coverage applies to other members of  
25 the family. The coverage for newly born or adopted children or children  
26 placed for adoption shall include coverage of injury or sickness including  
27 necessary care and treatment of medically diagnosed congenital defects and  
28 birth abnormalities. If payment of a specific premium is required to provide  
29 coverage for a child, the contract may require that notification of birth,  
30 adoption or adoption placement of the child and payment of the required  
31 premium must be furnished to the insurer within thirty-one days after the  
32 date of birth, adoption or adoption placement in order to have the coverage  
33 continue beyond the thirty-one day period.

34 C. Any contract, except accidental death and dismemberment, that  
35 provides coverage for psychiatric, drug abuse or alcoholism services shall  
36 require the health care services organization to provide reimbursement for  
37 such services in accordance with the terms of the contract without regard to  
38 whether the covered services are rendered in a psychiatric special hospital  
39 or general hospital.

40 D. No evidence of coverage or amendment to the coverage shall be  
41 issued or delivered to any person in this state until a copy of the form of  
42 the evidence of coverage or amendment to the coverage has been filed with and  
43 approved by the director.

1           E. An evidence of coverage shall contain a clear and complete  
2 statement if a contract, or a reasonably complete summary if a certificate  
3 of contract, of:

4           1. The health care services and the insurance or other benefits, if  
5 any, to which the enrollee is entitled under the health care plan.

6           2. Any limitations of the services, kind of services, benefits or kind  
7 of benefits to be provided, including any deductible or copayment feature.

8           3. Where and in what manner information is available as to how  
9 services may be obtained.

10          4. The enrollee's obligation, if any, respecting charges for the  
11 health care plan.

12          F. An evidence of coverage shall contain no provisions or statements  
13 which are unjust, unfair, inequitable, misleading or deceptive, which  
14 encourage misrepresentation or which are untrue.

15          G. The director shall approve any form of evidence of coverage if the  
16 requirements of subsections E and F of this section are met. It is unlawful  
17 to issue such form until approved. If the director does not disapprove any  
18 such form within forty-five days after the filing of the form, it is deemed  
19 approved. If the director disapproves a form of evidence of coverage, the  
20 director shall notify the health care services organization. In the notice,  
21 the director shall specify the reasons for the director's disapproval. The  
22 director shall grant a hearing on such disapproval within fifteen days after  
23 a request for a hearing in writing is received from the health care services  
24 organization.

25          H. A health care services organization shall not cancel or refuse to  
26 renew an enrollee's evidence of coverage that was issued on a group basis  
27 without giving notice of the cancellation or nonrenewal to the enrollee and,  
28 on request of the director, to the department of insurance. A notice by the  
29 organization to the enrollee of cancellation or nonrenewal of the enrollee's  
30 evidence of coverage shall be mailed to the enrollee at least sixty days  
31 prior to the effective date of such cancellation or nonrenewal. The notice  
32 shall include or be accompanied by a statement in writing of the reasons as  
33 stated in the contract for such action by the organization. Failure of the  
34 organization to comply with this subsection shall invalidate any cancellation  
35 or nonrenewal except a cancellation or nonrenewal for nonpayment of premium,  
36 for fraud or misrepresentation in the application or other enrollment  
37 documents or for loss of eligibility as defined in the evidence of coverage.  
38 A health care services organization shall not cancel an enrollee's evidence  
39 of coverage issued on a group basis because of the enrollee's or dependent's  
40 age, except for loss of eligibility as defined in the evidence of coverage,  
41 sex, health status-related factor, national origin or frequency of  
42 utilization of basic health care services of the enrollee. An evidence of  
43 coverage issued on a group basis shall clearly delineate all terms under  
44 which the health care services organization may cancel or refuse to renew an  
45 evidence of coverage for an enrollee or dependent. Nothing in this

1 subsection prohibits the cancellation or nonrenewal of a health benefits plan  
2 contract issued on a group basis for any of the reasons allowed in section  
3 20-2309. A health care services organization may cancel or nonrenew an  
4 evidence of coverage issued to an individual on a nongroup basis only for the  
5 reasons allowed by subsection N of this section.

6 I. A health care plan that provides coverage for surgical services for  
7 a mastectomy shall also provide coverage incidental to the patient's covered  
8 mastectomy for surgical services for reconstruction of the breast on which  
9 the mastectomy was performed, surgery and reconstruction of the other breast  
10 to produce a symmetrical appearance, prostheses, treatment of physical  
11 complications for all stages of the mastectomy, including lymphedemas, and  
12 at least two external postoperative prostheses subject to all of the terms  
13 and conditions of the policy.

14 J. A contract that provides coverage for surgical services for a  
15 mastectomy shall also provide coverage for mammography screening performed  
16 on dedicated equipment for diagnostic purposes on referral by a patient's  
17 physician, subject to all of the terms and conditions of the policy and  
18 according to the following guidelines:

19 1. A baseline mammogram for a woman from age thirty-five to  
20 thirty-nine.

21 2. A mammogram for a woman from age forty to forty-nine every two  
22 years or more frequently based on the recommendation of the woman's  
23 physician.

24 3. A mammogram every year for a woman fifty years of age and over.

25 K. Any contract that is issued to the enrollee and that provides  
26 coverage for maternity benefits shall also provide that the maternity  
27 benefits apply to the costs of the birth of any child legally adopted by the  
28 enrollee if all the following are true:

29 1. The child is adopted within one year of birth.

30 2. The enrollee is legally obligated to pay the costs of birth.

31 3. All preexisting conditions and other limitations have been met and  
32 all deductibles and copayments have been paid by the enrollee.

33 4. The enrollee has notified the insurer of the enrollee's  
34 acceptability to adopt children pursuant to section 8-105 within sixty days  
35 after such approval or within sixty days after a change in insurance  
36 policies, plans or companies.

37 L. The coverage prescribed by subsection K of this section is excess  
38 to any other coverage the natural mother may have for maternity benefits  
39 except coverage made available to persons pursuant to title 36, chapter 29  
40 but not including coverage made available to persons defined as eligible  
41 under section 36-2901, paragraph 4, subdivisions (d), (e), (f) and (g). If  
42 such other coverage exists the agency, attorney or individual arranging the  
43 adoption shall make arrangements for the insurance to pay those costs that  
44 may be covered under that policy and shall advise the adopting parent in  
45 writing of the existence and extent of the coverage without disclosing any

1 confidential information such as the identity of the natural parent. The  
2 enrollee adopting parents shall notify their health care services  
3 organization of the existence and extent of the other coverage. A health  
4 care services organization is not required to pay any costs in excess of the  
5 amounts it would have been obligated to pay to its hospitals and providers  
6 if the natural mother and child had received the maternity and newborn care  
7 directly from or through that health care services organization.

8 M. Each health care services organization shall offer membership to  
9 the following in a conversion plan which THAT provides the basic health care  
10 benefits required by the ~~department of health services~~ DIRECTOR:

11 1. Each enrollee including the enrollee's enrolled dependents leaving  
12 a group.

13 2. Each enrollee and the enrollee's dependents who would otherwise  
14 cease to be eligible for membership because of the age of the enrollee or the  
15 enrollee's dependents or the death or the dissolution of marriage of an  
16 enrollee.

17 N. A health care services organization shall not cancel or nonrenew  
18 an evidence of coverage issued to an individual on a nongroup basis,  
19 including a conversion plan, except for any of the following reasons and in  
20 compliance with the notice and disclosure requirements contained in  
21 subsection H of this section:

22 1. The individual has failed to pay premiums or contributions in  
23 accordance with the terms of the evidence of coverage or the health care  
24 services organization has not received premium payments in a timely manner.

25 2. The individual has performed an act or practice that constitutes  
26 fraud or the individual made an intentional misrepresentation of material  
27 fact under the terms of the evidence of coverage.

28 3. The health care services organization has ceased to offer coverage  
29 to individuals that is consistent with the requirements of sections 20-1379  
30 and 20-1380.

31 4. If the health care services organization offers a health care plan  
32 in this state through a network plan, the individual no longer resides, lives  
33 or works in the service area served by the network plan or in an area for  
34 which the health care services organization is authorized to transact  
35 business but only if the coverage is terminated uniformly without regard to  
36 any health status-related factor of the covered individual.

37 5. If the health care services organization offers health coverage in  
38 this state in the individual market only through one or more bona fide  
39 associations, the membership of the individual in the association has ceased  
40 but only if that coverage is terminated uniformly without regard to any  
41 health status-related factor of any covered individual.

1           O. A conversion plan may be modified if the modification complies with  
2 the notice and disclosure provisions for cancellation and nonrenewal under  
3 subsection H of this section. A modification of a conversion plan which has  
4 already been issued shall not result in the effective elimination of any  
5 benefit originally included in the conversion plan.

6           P. Any person who is a United States armed forces reservist, who is  
7 ordered to active military duty on or after August 22, 1990 and who was  
8 enrolled in a health care plan shall have the right to reinstate such  
9 coverage upon release from active military duty subject to the following  
10 conditions:

11           1. The reservist shall make written application to the health plan  
12 within ninety days of discharge from active military duty or within one year  
13 of hospitalization continuing after discharge. Coverage shall be effective  
14 upon receipt of the application by the health plan.

15           2. The health plan may exclude from such coverage any health or  
16 physical condition arising during and occurring as a direct result of active  
17 military duty.

18           Q. The director shall adopt emergency rules applicable to persons who  
19 are leaving active service in the armed forces of the United States and  
20 returning to civilian status consistent with the provisions of subsection P  
21 of this section including:

22           1. Conditions of eligibility.

23           2. Coverage of dependents.

24           3. Preexisting conditions.

25           4. Termination of insurance.

26           5. Probationary periods.

27           6. Limitations.

28           7. Exceptions.

29           8. Reductions.

30           9. Elimination periods.

31           10. Requirements for replacement.

32           11. Any other conditions of evidences of coverage.

33           R. Any contract that provides maternity benefits shall not restrict  
34 benefits for any hospital length of stay in connection with childbirth for  
35 the mother or the newborn child to less than forty-eight hours following a  
36 normal vaginal delivery or ninety-six hours following a cesarean  
37 section. The contract shall not require the provider to obtain authorization  
38 from the health care services organization for prescribing the minimum length  
39 of stay required by this subsection. The contract may provide that an  
40 attending provider in consultation with the mother may discharge the mother  
41 or the newborn child before the expiration of the minimum length of stay  
42 required by this subsection. The health care services organization shall  
43 not:

1           1. Deny the mother or the newborn child eligibility or continued  
2 eligibility to enroll or to renew coverage under the terms of the contract  
3 solely for the purpose of avoiding the requirements of this subsection.

4           2. Provide monetary payments or rebates to mothers to encourage those  
5 mothers to accept less than the minimum protections available pursuant to  
6 this subsection.

7           3. Penalize or otherwise reduce or limit the reimbursement of an  
8 attending provider because that provider provided care to any insured under  
9 the contract in accordance with this subsection.

10          4. Provide monetary or other incentives to an attending provider to  
11 induce that provider to provide care to an insured under the contract in a  
12 manner that is inconsistent with this subsection.

13          5. Except as described in subsection S of this section, restrict  
14 benefits for any portion of a period within the minimum length of stay in a  
15 manner that is less favorable than the benefits provided for any preceding  
16 portion of that stay.

17          S. Nothing in subsection R of this section:

18           1. Requires a mother to give birth in a hospital or to stay in the  
19 hospital for a fixed period of time following the birth of the child.

20           2. Prevents a health care services organization from imposing  
21 deductibles, coinsurance or other cost sharing in relation to benefits for  
22 hospital lengths of stay in connection with childbirth for a mother or a  
23 newborn child under the contract, except that any coinsurance or other cost  
24 sharing for any portion of a period within a hospital length of stay required  
25 pursuant to subsection R of this section shall not be greater than the  
26 coinsurance or cost sharing for any preceding portion of that stay.

27           3. Prevents a health care services organization from negotiating the  
28 level and type of reimbursement with a provider for care provided in  
29 accordance with subsection R of this section.

30          T. Any contract or evidence of coverage that provides coverage for  
31 diabetes shall also provide coverage for equipment and supplies that are  
32 medically necessary and that are prescribed by a health care provider  
33 including:

34           1. Blood glucose monitors.

35           2. Blood glucose monitors for the legally blind.

36           3. Test strips for glucose monitors and visual reading and urine  
37 testing strips.

38           4. Insulin preparations and glucagon.

39           5. Insulin cartridges.

40           6. Drawing up devices and monitors for the visually impaired.

41           7. Injection aids.

42           8. Insulin cartridges for the legally blind.

43           9. Syringes and lancets including automatic lancing devices.

44           10. Prescribed oral agents for controlling blood sugar that are  
45 included on the plan formulary.

1           11. To the extent coverage is required under medicare, podiatric  
2 appliances for prevention of complications associated with diabetes.

3           12. Any other device, medication, equipment or supply for which  
4 coverage is required under medicare from and after January 1, 1999. The  
5 coverage required in this paragraph is effective six months after the  
6 coverage is required under medicare.

7           U. Nothing in subsection T of this section:

8           1. Entitles a member or enrollee of a health care services  
9 organization to equipment or supplies for the treatment of diabetes that are  
10 not medically necessary as determined by the health care services  
11 organization medical director or the medical director's designee.

12           2. Provides coverage for diabetic supplies obtained by a member or  
13 enrollee of a health care services organization without a prescription unless  
14 otherwise permitted pursuant to the terms of the health care plan.

15           3. Prohibits a health care services organization from imposing  
16 deductibles, coinsurance or other cost sharing in relation to benefits for  
17 equipment or supplies for the treatment of diabetes.

18           V. Any contract or evidence of coverage that provides coverage for  
19 prescription drugs shall not limit or exclude coverage for any prescription  
20 drug prescribed for the treatment of cancer on the basis that the  
21 prescription drug has not been approved by the United States food and drug  
22 administration for the treatment of the specific type of cancer for which the  
23 prescription drug has been prescribed, if the prescription drug has been  
24 recognized as safe and effective for treatment of that specific type of  
25 cancer in one or more of the standard medical reference compendia prescribed  
26 in subsection W of this section or medical literature that meets the criteria  
27 prescribed in subsection W of this section. The coverage required under this  
28 subsection includes covered medically necessary services associated with the  
29 administration of the prescription drug. This subsection does not:

30           1. Require coverage of any prescription drug used in the treatment of  
31 a type of cancer if the United States food and drug administration has  
32 determined that the prescription drug is contraindicated for that type of  
33 cancer.

34           2. Require coverage for any experimental prescription drug that is not  
35 approved for any indication by the United States food and drug  
36 administration.

37           3. Alter any law with regard to provisions that limit the coverage of  
38 prescription drugs that have not been approved by the United States food and  
39 drug administration.

40           4. Notwithstanding section 20-1057.02, require reimbursement or  
41 coverage for any prescription drug that is not included in the drug formulary  
42 or list of covered prescription drugs specified in the contract or evidence  
43 of coverage.

1           5. Notwithstanding section 20-1057.02, prohibit a contract from  
2 limiting or excluding coverage of a prescription drug, if the decision to  
3 limit or exclude coverage of the prescription drug is not based primarily on  
4 the coverage of prescription drugs required by this section.

5           6. Prohibit the use of deductibles, coinsurance, copayments or other  
6 cost sharing in relation to drug benefits and related medical benefits  
7 offered.

8           W. For the purposes of subsection V of this section:

9           1. The acceptable standard medical reference compendia are the  
10 following:

11           (a) The American medical association drug evaluations, a publication  
12 of the American medical association.

13           (b) The American hospital formulary service drug information, a  
14 publication of the American society of health system pharmacists.

15           (c) Drug information for the health care provider, a publication of  
16 the United States pharmacopoeia convention.

17           2. Medical literature may be accepted if all of the following apply:

18           (a) At least two articles from major peer reviewed professional  
19 medical journals have recognized, based on scientific or medical criteria,  
20 the drug's safety and effectiveness for treatment of the indication for which  
21 the drug has been prescribed.

22           (b) No article from a major peer reviewed professional medical journal  
23 has concluded, based on scientific or medical criteria, that the drug is  
24 unsafe or ineffective or that the drug's safety and effectiveness cannot be  
25 determined for the treatment of the indication for which the drug has been  
26 prescribed.

27           (c) The literature meets the uniform requirements for manuscripts  
28 submitted to biomedical journals established by the international committee  
29 of medical journal editors or is published in a journal specified by the  
30 United States department of health and human services as acceptable peer  
31 reviewed medical literature pursuant to section 186(t)(2)(B) of the social  
32 security act (42 United States Code section 1395x(t)(2)(B)).

33           X. A health care services organization shall not issue or deliver any  
34 advertising matter or sales material to any person in this state until the  
35 health care services organization files the advertising matter or sales  
36 material with the director. This subsection does not require a health care  
37 services organization to have the prior approval of the director to issue or  
38 deliver the advertising matter or sales material. If the director finds that  
39 the advertising matter or sales material, in whole or in part, is false,  
40 deceptive or misleading, the director may issue an order disapproving the  
41 advertising matter or sales material, directing the health care services  
42 organization to cease and desist from issuing, circulating, displaying or  
43 using the advertising matter or sales material within a period of time  
44 specified by the director but not less than ten days and imposing any  
45 penalties prescribed in this title. At least five days before issuing an

1 order pursuant to this subsection, the director shall provide the health care  
2 services organization with a written notice of the basis of the order to  
3 provide the health care services organization with an opportunity to cure the  
4 alleged deficiency in the advertising matter or sales material within a  
5 single five day period for the particular advertising matter or sales  
6 material at issue. The health care services organization may appeal the  
7 director's order pursuant to title 41, chapter 6, article 10. Except as  
8 otherwise provided in this subsection, a health care services organization  
9 may obtain a stay of the effectiveness of the order as prescribed in section  
10 20-162. If the director certifies in the order and provides a detailed  
11 explanation of the reasons in support of the certification that continued use  
12 of the advertising matter or sales material poses a threat to the health,  
13 safety or welfare of the public, the order may be entered immediately without  
14 opportunity for cure and the effectiveness of the order is not stayed pending  
15 the hearing on the notice of appeal but the hearing shall be promptly  
16 instituted and determined.

17 Y. Any contract or evidence of coverage offered by a health care  
18 services organization that contains a prescription drug benefit shall provide  
19 coverage of medical foods to treat inherited metabolic disorders as provided  
20 by this section.

21 Z. The metabolic disorders triggering medical foods coverage under  
22 this section shall:

23 1. Be part of the newborn screening program prescribed in section  
24 36-694.

25 2. Involve amino acid, carbohydrate or fat metabolism.

26 3. Have medically standard methods of diagnosis, treatment and  
27 monitoring including quantification of metabolites in blood, urine or spinal  
28 fluid or enzyme or DNA confirmation in tissues.

29 4. Require specially processed or treated medical foods that are  
30 generally available only under the supervision and direction of a physician  
31 who is licensed pursuant to title 32, chapter 13 or 17, that must be consumed  
32 throughout life and without which the person may suffer serious mental or  
33 physical impairment.

34 AA. Medical foods eligible for coverage under this section shall be  
35 prescribed or ordered under the supervision of a physician licensed pursuant  
36 to title 32, chapter 13 or 17 as medically necessary for the therapeutic  
37 treatment of an inherited metabolic disease.

38 BB. A health care services organization shall cover at least fifty per  
39 cent of the cost of medical foods prescribed to treat inherited metabolic  
40 disorders and covered pursuant to this section. A corporation may limit the  
41 maximum annual benefit for medical foods under this section to five thousand  
42 dollars which applies to the cost of all prescribed modified low protein  
43 foods and metabolic formula.

1 CC. Unless preempted under federal law or unless federal law imposes  
2 greater requirements than this section, this section applies to a provider  
3 sponsored health care services organization.

4 DD. For the purposes of:

5 1. This section:

6 (a) "Inherited metabolic disorder" means a disease caused by an  
7 inherited abnormality of body chemistry and includes a disease tested under  
8 the newborn screening program prescribed in section 36-694.

9 (b) "Medical foods" means modified low protein foods and metabolic  
10 formula.

11 (c) "Metabolic formula" means foods that are all of the following:

12 (i) Formulated to be consumed or administered enterally under the  
13 supervision of a physician who is licensed pursuant to title 32, chapter 13  
14 or 17.

15 (ii) Processed or formulated to be deficient in one or more of the  
16 nutrients present in typical foodstuffs.

17 (iii) Administered for the medical and nutritional management of a  
18 person who has limited capacity to metabolize foodstuffs or certain nutrients  
19 contained in the foodstuffs or who has other specific nutrient requirements  
20 as established by medical evaluation.

21 (iv) Essential to a person's optimal growth, health and metabolic  
22 homeostasis.

23 (d) "Modified low protein foods" means foods that are all of the  
24 following:

25 (i) Formulated to be consumed or administered enterally under the  
26 supervision of a physician who is licensed pursuant to title 32, chapter 13  
27 or 17.

28 (ii) Processed or formulated to contain less than one gram of protein  
29 per unit of serving, but does not include a natural food that is naturally  
30 low in protein.

31 (iii) Administered for the medical and nutritional management of a  
32 person who has limited capacity to metabolize foodstuffs or certain nutrients  
33 contained in the foodstuffs or who has other specific nutrient requirements  
34 as established by medical evaluation.

35 (iv) Essential to a person's optimal growth, health and metabolic  
36 homeostasis.

37 2. Subsection B of this section, "child", for purposes of initial  
38 coverage of an adopted child or a child placed for adoption but not for  
39 purposes of termination of coverage of such child, means a person under the  
40 age of eighteen years.

41 Sec. 19. Repeal

42 Section 20-1057, Arizona Revised Statutes, as amended by Laws 2000,  
43 chapter 355, section 5, is repealed.

44 Sec. 20. Section 28-2051, Arizona Revised Statutes, as amended by Laws  
45 2000, chapter 343, section 10, is amended to read:

1           28-2051. Application for certificate of title; vision screening  
2                           test

3           A. A person shall apply TO THE DEPARTMENT on a form furnished by the  
4 department for a certificate of title to a motor vehicle, trailer or  
5 semitrailer to the department. The person shall make the application within  
6 thirty FIFTEEN days of the purchase or transfer of the vehicle, trailer or  
7 semitrailer. The transferee shall sign the application.

8           B. The application shall contain:

9           1. The transferee's full name and either the driver license number of  
10 the transferee or a number assigned by the department.

11           2. The transferee's complete residence address.

12           3. A brief description of the vehicle to be titled.

13           4. The name of the manufacturer of the vehicle.

14           5. The serial number of the vehicle.

15           6. The last license plate number if applicable and if known and the  
16 state in which the license plate number was issued.

17           7. If the application is for a certificate of title to a new vehicle,  
18 the date of sale by the manufacturer or dealer to the person first operating  
19 the vehicle.

20           8. If the application is in the name of a lessor:

21           (a) The lessor shown on the application as the owner or transferee.

22           (b) At the option of the lessor, the lessee shown on the application  
23 as the registrant.

24           (c) The address of either the lessor or lessee.

25           (d) The signature of the lessor.

26           9. If the application is for a certificate of title to a specially  
27 constructed, reconstructed or foreign vehicle, a statement of that fact. For  
28 the purposes of this paragraph, "specially constructed vehicle" means a  
29 vehicle not originally constructed under a distinctive name, make, model or  
30 type by a generally recognized manufacturer of vehicles.

31           10. If an applicant rents or intends to rent the vehicle without a  
32 driver, a statement of that fact.

33           11. Other information required by the department.

34           C. Unless subsection B, paragraph 8 of this section applies, on  
35 request of an applicant, the department shall allow the applicant to provide  
36 on the title of a motor vehicle, trailer or semitrailer a post office box  
37 address that is regularly used by the applicant.

38           D. A person shall submit the following information with an application  
39 for a certificate of title:

40           1. To a vehicle previously registered:

41           (a) The odometer mileage disclosure statement prescribed by section  
42 28-2058.

43           (b) If the applicant is applying for title pursuant to section  
44 28-2060, the applicant's statement of the odometer reading as of the date of  
45 application.

1           2. To a new vehicle:

2           (a) A certificate from the manufacturer showing the date of sale to  
3 the dealer or person first receiving the vehicle from the manufacturer.  
4 Before the department issues a certificate of title to a new vehicle, a  
5 certificate from the manufacturer shall be surrendered to the department.

6           (b) The name of the dealer or person.

7           (c) A description sufficient to identify the vehicle.

8           (d) A statement certifying that the vehicle was new when sold.

9           (e) If sold through a dealer, a statement by the dealer certifying  
10 that the vehicle was new when sold to the applicant.

11           E. The department may request an applicant who appears in person for  
12 a certificate of title of a motor vehicle, trailer or semitrailer to complete  
13 satisfactorily the vision screening test prescribed by the department.

14           Sec. 21. Delayed repeal

15           Section 28-2051, Arizona Revised Statutes, as amended by Laws 2000,  
16 chapter 198, section 1, is repealed from and after December 31, 2001.

17           Sec. 22. Transfer

18           Section 28-6956, Arizona Revised Statutes, is transferred for placement  
19 in title 28, chapter 20, article 3, Arizona Revised Statutes.

20           Sec. 23. Section 32-128, Arizona Revised Statutes, as amended by Laws  
21 2000, chapter 86, section 10, chapter 113, section 76 and chapter 124,  
22 section 5, is amended to read:

23           32-128. Disciplinary action; letter of concern; judicial review

24           A. The board may take the following disciplinary actions, in  
25 combination or alternatively:

26           1. Revocation of a certification or registration.

27           2. Suspension of a certification or registration for a period of not  
28 more than three years.

29           3. Imposition of an administrative penalty of not more than two  
30 thousand dollars for each violation of this chapter or rules adopted pursuant  
31 to this chapter.

32           4. Imposition of restrictions on the scope of the registrant's  
33 professional practice or the home inspector's practice.

34           5. Imposition of peer review and professional education requirements.

35           6. Imposition of probation requirements that are best adapted to  
36 protect the public safety, health and welfare and that may include a  
37 requirement for restitution payments to professional services clients or to  
38 other persons suffering economic loss resulting from violations of this  
39 chapter or rules adopted pursuant to this chapter.

40           7. Issuance of a letter of reprimand informing a person regulated  
41 under this chapter of a violation of this chapter or rules adopted by the  
42 board.

43           B. The board may issue a letter of concern if the board believes there  
44 is insufficient evidence to support disciplinary action against the

1 registrant but sufficient evidence for the board to notify the registrant of  
2 its concern. A letter of concern is a public document.

3 C. The board may take disciplinary action against the holder of a  
4 certificate of registration or the home inspector under this chapter who is  
5 charged with the commission of any of the following acts:

6 1. Fraud or misrepresentation in obtaining a certificate of  
7 qualification, whether in the application or qualification examination.

8 2. Gross negligence, incompetence, bribery or other misconduct in the  
9 practice of home inspection or the registrant's profession.

10 3. Aiding or abetting an unregistered or uncertified person to evade  
11 this chapter or knowingly combining or conspiring with an unregistered or  
12 uncertified person, or allowing one's registration or certification to be  
13 used by an unregistered or uncertified person or acting as agent, partner,  
14 associate or otherwise of an unregistered or uncertified person, with intent  
15 to evade this chapter.

16 4. Violation of this chapter or board rules.

17 5. After receiving payment from a client, failure by a registrant to  
18 pay a collaborating registered professional. For purposes of this paragraph  
19 "collaborating registered professional" means a registered professional with  
20 whom the prime professional has a contract to perform professional services.

21 D. The board may make investigations, employ investigators and expert  
22 witnesses, appoint members of advisory committees and conduct hearings to  
23 determine whether a disciplinary action should be taken against the holder  
24 of a certificate of registration or the home inspector under this chapter.

25 E. An investigation may be initiated on receipt of an oral or written  
26 complaint. The board, on its own motion, may direct the executive director  
27 to file a verified complaint charging a person with a violation of this  
28 chapter or board rules and shall give notice of the hearing pursuant to title  
29 41, chapter 6, article 10. The secretary or executive director shall then  
30 serve upon the accused, by either personal service or certified mail, a copy  
31 of the complaint together with notice setting forth the charge or charges to  
32 be heard and the time and place of the hearing, which shall not be less than  
33 thirty days after the service or mailing of notice.

34 F. A person who has been notified of charges pending against the  
35 person shall file with the board an answer in writing to the charges not more  
36 than thirty days after service of the complaint and notice of hearing. If  
37 a person fails to answer in writing, it is deemed an admission by the person  
38 of the act or acts charged in the complaint and notice of hearing. The board  
39 may then take disciplinary action pursuant to this chapter without a hearing.

40 G. A disciplinary action may be informally settled by the board and  
41 the accused either before or after initiation of hearing proceedings.

42 H. On its determination that a registrant or a home inspector has  
43 violated this chapter or a rule adopted pursuant to this chapter, the board  
44 may assess the registrant or the home inspector with its reasonable costs and  
45 expenses incurred in conducting the investigation and administrative hearing.

1 All monies collected pursuant to this subsection shall be transmitted to the  
2 state treasurer for deposit DEPOSITED, PURSUANT TO SECTIONS 35-146 AND  
3 35-147, in the technical registration fund established by section 32-109 and  
4 shall only be used by the board to defray its expenses in connection with  
5 disciplinary investigations and hearings. Notwithstanding section 35-143.01,  
6 these monies may be spent without legislative appropriation.

7 I. The board shall immediately notify the secretary of state and clerk  
8 of the board of supervisors of each county in the state of the suspension or  
9 revocation of a certificate or of the reissuance of a suspended or revoked  
10 certificate.

11 J. Except as provided in section 41-1092.08, subsection H, final  
12 decisions of the board are subject to judicial review pursuant to title 12,  
13 chapter 7, article 6.

14 Sec. 24. Repeal

15 Section 32-128, Arizona Revised Statutes, as amended by Laws 2000,  
16 chapter 193, section 269, is repealed.

17 Sec. 25. Section 32-852.01, Arizona Revised Statutes, as amended by  
18 Laws 2000, chapter 12, section 3, is amended to read:

19 32-852.01. Investigations; duty to report; unprofessional  
20 conduct hearing; decision of board; appeal

21 A. The board on its own motion may investigate any evidence which  
22 appears to show that a podiatrist is or may be guilty of a violation of  
23 section 32-852. Any podiatrist or the Arizona podiatry association shall,  
24 or any other person may, report to the board any information the podiatrist,  
25 association or person may have which appears to show that a podiatrist is or  
26 may be guilty of unprofessional conduct or is or may be guilty of practice  
27 without regard for the safety and welfare of the public. Any podiatrist,  
28 association, health care institution or other person that reports or provides  
29 information to the board in good faith is not subject to civil liability and  
30 the name of the reporter shall not be disclosed unless the information is  
31 essential to the investigative proceedings conducted pursuant to this  
32 section. It is an act of unprofessional conduct for any podiatrist to fail  
33 to report as required by this subsection.

34 B. Based on information received pursuant to subsection A of this  
35 section, the board may order a summary suspension of a license pending formal  
36 proceedings for license revocation or other disciplinary action if the board  
37 finds that the protection of the public health or safety requires emergency  
38 action. The board shall serve the licensee with a written notice that states  
39 the charges and that the licensee is entitled to a formal hearing before the  
40 board or an administrative law judge within sixty days.

41 C. If the board finds after completing its investigation that the  
42 information provided pursuant to subsection A of this section is not of  
43 sufficient seriousness to merit direct action against the license of the  
44 podiatrist, it may take either of the following actions:

1           1. Dismiss if, in the opinion of the board, the information is without  
2 merit.

3           2. File a letter of concern.

4           D. If the board finds after completing its investigation that the  
5 information is or may be true, the board may request an informal interview  
6 with the licensee. If the licensee refuses the invitation or accepts the  
7 invitation and the results of the interview indicate suspension or revocation  
8 of the license might be in order, the board shall issue a complaint and  
9 conduct a formal hearing pursuant to ~~this section~~ TITLE 41, CHAPTER 6,  
10 ARTICLE 10. If the board finds at the informal interview that the  
11 information provided under subsection A of this section is true but is not  
12 of sufficient seriousness to merit suspension or revocation of the license,  
13 it may take one or more of the following actions:

14           1. File a letter of concern.

15           2. Issue a decree of censure.

16           3. Fix a period and terms of probation best adapted to protect the  
17 public health and safety and rehabilitate the licensee. If a licensee fails  
18 to comply with the terms of probation the board may file a complaint and hold  
19 a formal hearing pursuant to this section.

20           4. Impose a civil penalty of not more than two thousand dollars for  
21 each violation. The board shall transmit DEPOSIT, PURSUANT TO SECTIONS  
22 35-146 AND 35-147, all monies collected pursuant to this paragraph to ~~the~~  
23 ~~state treasurer for deposit~~ in the state general fund.

24           E. If the board believes that the charge is or may be true, the board  
25 shall serve on the licensee a summons and complaint that fully states the  
26 conduct or inability concerned and the time and place of the hearing. The  
27 board shall schedule the hearing not less than thirty days after the date of  
28 the summons and complaint.

29           F. The board may require that the licensee under investigation undergo  
30 any mental and physical examination and may conduct any investigation,  
31 including the taking of depositions, necessary to fully inform itself with  
32 respect to the complaint.

33           G. If the licensee wishes to be present at the hearing in person or  
34 by representation, or both, the licensee shall file with the board a written  
35 and verified answer to the charges within twenty days after service of the  
36 summons and complaint. A licensee who complies with this subsection may be  
37 present at the hearing with any witnesses of the licensee's choice.

38           H. The board may issue subpoenas for any witnesses, documents and  
39 other evidence it may need and for any witnesses, documents and other  
40 evidence the licensee may request. The superior court may hold a person who  
41 refuses to obey a subpoena in contempt of court.

42           I. Service of the summons and complaint shall be as provided for  
43 service of the summons and complaint in civil cases.

44           J. Service of subpoenas for witnesses shall be as provided by law for  
45 the service of subpoenas generally.

1 K. The board may administer the oath to all witnesses, shall keep a  
2 written transcript of all oral testimony submitted at the hearing and shall  
3 keep the original or a copy of all other evidence submitted. The board shall  
4 make copies of the transcript available to the licensee at that person's  
5 expense and without charge to the court in which the appeal may be taken. At  
6 all hearings the board may waive the technical rules of evidence.

7 L. A licensee who, after a hearing held pursuant to this section, is  
8 found to be guilty of a violation of section 32-852 or this section is  
9 subject to censure, probation as provided in this section, suspension of a  
10 license or revocation of a license, or any combination of these, for a period  
11 of time or permanently and under any conditions the board deems appropriate  
12 for the protection of the public health and safety and just in the  
13 circumstances. The board may file a letter of concern if it finds that the  
14 violation is not of sufficient seriousness to merit censure, probation or  
15 suspension or revocation of a license.

16 M. Patient records, including clinical records, medical reports,  
17 laboratory statements and reports, any file, film, other report or oral  
18 statement relating to diagnostic findings or treatment of patients, any  
19 information from which a patient or the patient's family might be identified  
20 or information received and records kept by the board as a result of the  
21 investigation procedure outlined in this chapter are not available to the  
22 public.

23 N. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, FINAL  
24 decisions of the board are subject to judicial review pursuant to title 12,  
25 chapter 7, article 6.

26 O. This section and any other law relating to a privileged  
27 communication do not apply to investigations or proceedings conducted  
28 pursuant to this chapter. The board and its employees, agents and  
29 representatives shall keep in confidence the names of any patients whose  
30 records are reviewed during the course of investigations and proceedings  
31 pursuant to this chapter.

32 P. If the board acts to modify any podiatrist's prescription writing  
33 privileges, it shall immediately notify the state board of pharmacy of the  
34 modification.

35 Q. A letter of concern is a public document and may be used in future  
36 disciplinary actions against a podiatrist.

37 Sec. 26. Repeal

38 Section 32-852.01, Arizona Revised Statutes, as amended by Laws 2000,  
39 chapter 113, section 82 and Laws 2000, chapter 193, section 275, is repealed.

40 Sec. 27. Section 32-2623, Arizona Revised Statutes, as amended by Laws  
41 1991, chapter 152, section 7, is amended to read:

42 32-2623. Application for security guard or armed security guard  
43 registration certificate

44 A. Every application for an original or renewal security guard OR  
45 ARMED SECURITY GUARD registration certificate must set forth verified

1 information to assist the director in determining the applicant's ability to  
2 meet the requirements set forth in this article and contain the following:

3 1. The full name and address of the applicant.  
4 2. Such other information, evidence, statements or documents as may  
5 reasonably be required by the director.

6 3. ONE CLASSIFIABLE SET OF FINGERPRINTS FOR THE PURPOSE OF OBTAINING  
7 A STATE AND NATIONAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND  
8 PUBLIC LAW 92-544. THE DEPARTMENT MAY EXCHANGE FINGERPRINT DATA WITH THE  
9 FEDERAL BUREAU OF INVESTIGATION.

10 B. An application for an original or renewal security guard OR ARMED  
11 SECURITY GUARD registration certification CERTIFICATE shall be accompanied  
12 by:

13 1. The fees prescribed by section 32-2631.  
14 2. A STATEMENT FROM THE APPLICANT'S EMPLOYER REQUESTING AND  
15 AUTHORIZING ARMED SECURITY GUARD REGISTRATION STATUS FOR THE APPLICANT.

16 Sec. 28. Repeal

17 Section 32-2623, Arizona Revised Statutes, as amended by Laws 2000,  
18 chapter 220, section 10, is repealed.

19 Sec. 29. Repeal

20 Laws 2000, chapter 340, section 2 is repealed.

21 Sec. 30. Delayed repeal; applicability

22 A. Sections 38-844.02 through 38-844.09, Arizona Revised Statutes, are  
23 repealed from and after June 30, 2006.

24 B. Notwithstanding the repeal prescribed in subsection A of this  
25 section, a member who is participating in a deferred retirement option plan  
26 before July 1, 2006 may continue to participate until the member's elected  
27 deferred retirement option plan termination date.

28 Sec. 31. Section 41-2533, Arizona Revised Statutes, as amended by Laws  
29 2000, chapter 135, section 12, is amended to read:

30 41-2533. Competitive sealed bidding

31 A. Contracts shall be awarded by competitive sealed bidding except as  
32 otherwise provided in section 41-2532.

33 B. An invitation for bids shall be issued and shall include a purchase  
34 description and all contractual terms and conditions applicable to the  
35 procurement.

36 C. Adequate public notice of the invitation for bids shall be given  
37 a reasonable time before the date set forth in the invitation for the opening  
38 of bids, in accordance with rules adopted by the director. The notice may  
39 include publication one or more times in a newspaper of general circulation  
40 a reasonable time before bid opening. If the invitation for bids is for the  
41 procurement of services other than those described in sections 41-2513 and  
42 41-2578, the notice shall include publication in a single newspaper or in  
43 multiple newspapers within this state with an accumulated general circulation  
44 of at least fifty thousand subscribers for two publications which are not  
45 less than six nor more than ten days apart. The second publication shall be

1 not less than two weeks before bid opening. ~~At least one of the newspapers~~  
2 ~~must~~ AND SHALL be circulated within the affected governmental jurisdiction.  
3 THE NOTICE MAY ALSO BE POSTED AT A DESIGNATED SITE ON A WORLDWIDE PUBLIC  
4 NETWORK OF INTERCONNECTED COMPUTERS.

5 D. Bids shall be opened publicly at the time and place designated in  
6 the invitation for bids. The amount of each bid, and such other relevant  
7 information as may be specified by rule, together with the name of each  
8 bidder shall be recorded. This record shall be open to public inspection at  
9 the bid opening in a manner prescribed by rule. The bids shall not be open  
10 for public inspection until after a contract is awarded. To the extent the  
11 bidder designates and the state concurs, trade secrets or other proprietary  
12 data contained in the bid documents shall remain confidential in accordance  
13 with rules adopted by the director.

14 E. Bids shall be unconditionally accepted without alteration or  
15 correction, except as authorized in this chapter. Bids shall be evaluated  
16 based on the requirements set forth in the invitation for bids, INCLUDING  
17 CRITERIA TO DETERMINE ACCEPTABILITY SUCH AS INSPECTION, TESTING, QUALITY,  
18 WORKMANSHIP, DELIVERY AND SUITABILITY FOR A PARTICULAR PURPOSE, as prescribed  
19 in rules adopted by the director. The invitation for bids shall set forth  
20 the evaluation criteria to be used, INCLUDING THE WEIGHTING OF IDENTIFIED  
21 CRITERIA. EVALUATION CRITERIA SHALL NOT BE USED FOR CONSTRUCTION AND no  
22 criteria may be used in bid evaluation that are not set forth in the  
23 invitation for bids.

24 F. The correction or withdrawal of erroneous bids before or after bid  
25 opening, based on bid mistakes, may be permitted in accordance with rules  
26 adopted by the director. After bid opening, no corrections in bid prices or  
27 other provisions of bids prejudicial to the interest of this state or fair  
28 competition shall be permitted. Except as otherwise provided by rule, all  
29 decisions to permit the correction or withdrawal of bids, or to cancel awards  
30 or contracts based on bid mistakes, shall be supported by a written  
31 determination made by the director.

32 G. The contract shall be awarded to the lowest responsible and  
33 responsive bidder whose bid conforms in all material respects to the  
34 requirements and criteria set forth in the invitation for bids. The amount  
35 of any applicable transaction privilege or use tax of a political subdivision  
36 of this state is not a factor in determining the lowest bidder ~~if a competing~~  
37 ~~bidder located outside of this state is not subject to a transaction~~  
38 ~~privilege or use tax of a political subdivision of this state.~~ If all bids  
39 for a construction project exceed available monies as certified by the  
40 appropriate fiscal officer, and the low responsive and responsible bid does  
41 not exceed such monies by more than five per cent, the director may in  
42 situations in which time or economic considerations preclude resolicitation  
43 of work of a reduced scope negotiate an adjustment of the bid price,  
44 including changes in the bid requirements, with the low responsive and  
45 responsible bidder, to bring the bid within the amount of available monies.

1 H. The multistep sealed bidding method may be used if the director  
2 determines in writing that it is not practical to initially prepare a  
3 definitive purchase description which is suitable to permit an award based  
4 on competitive sealed bidding. An invitation for bids may be issued  
5 requesting the submission of technical offers to be followed by an invitation  
6 for bids limited to those bidders whose offers are determined to be  
7 technically acceptable under the criteria set forth in the first  
8 solicitation, except that the multistep sealed bidding method may not be used  
9 for construction contracts.

10 I. If the price of a recycled paper product which conforms to  
11 specifications is within five per cent of a low bid product which is not  
12 recycled and the recycled product bidder is otherwise the lowest responsible  
13 and responsive bidder, the award shall be made to the bidder offering the  
14 recycled product. The director may adopt rules requiring a five per cent  
15 preference for other products made from recycled materials.

16 Sec. 32. Repeal

17 Section 41-2533, Arizona Revised Statutes, as amended by Laws 2000,  
18 chapter 316, section 6, is repealed.

19 Sec. 33. Section 41-2534, Arizona Revised Statutes, as amended by Laws  
20 2000, chapter 135, section 13, is amended to read:

21 41-2534. Competitive sealed proposals

22 A. If, under rules adopted pursuant to this chapter, the director  
23 determines in writing that the use of competitive sealed bidding is either  
24 not practicable or not advantageous to this state, a contract for materials  
25 or services may be entered into by competitive sealed proposals. This  
26 section does not apply to procurement of construction or construction  
27 services. Construction services shall be procured pursuant to section  
28 41-2537 or 41-2578. The director may provide by rule that it is either not  
29 practicable or not advantageous to this state to procure specified types of  
30 materials or services by competitive sealed bidding.

31 B. Proposals shall be solicited through a request for proposals.

32 C. Adequate public notice of the request for proposals shall be given  
33 in the same manner as provided in section 41-2533.

34 D. Proposals shall be opened publicly at the time and place designated  
35 in the request for proposals. The name of each offeror and such other  
36 relevant information as is specified by rule shall be publicly read and  
37 recorded in accordance with ~~regulations promulgated~~ RULES ADOPTED by the  
38 director. All other information contained in the proposals shall be  
39 confidential so as to avoid disclosure of contents prejudicial to competing  
40 offerors during the process of negotiation. The proposals shall be open for  
41 public inspection after contract award. To the extent the bidder OFFEROR  
42 designates and the state concurs, trade secrets or other proprietary data  
43 contained in the bid documents shall remain confidential in accordance with  
44 rules adopted by the director.

1 E. The request for proposals shall state the relative importance of  
2 price and other evaluation factors. Specific numerical weighting is not  
3 required.

4 F. As provided in the request for proposals, and under rules adopted  
5 by the director, discussions may be conducted with responsible offerors who  
6 submit proposals determined to be reasonably susceptible to being selected  
7 for award for the purpose of clarification to assure full understanding of,  
8 and responsiveness to, the solicitation requirements. Offerors shall be  
9 accorded fair treatment with respect to any opportunity for discussion and  
10 revision of proposals, and such revisions may be permitted after submissions  
11 and before award for the purpose of obtaining best and final offers. In  
12 conducting discussions, there shall be no disclosure of any information  
13 derived from proposals submitted by competing offerors.

14 G. The award shall be made to the responsive and responsible offeror  
15 whose proposal is determined in writing to be the most advantageous to this  
16 state taking into consideration the evaluation factors set forth in the  
17 request for proposals. No other factors or criteria may be used in the  
18 evaluation. The amount of any applicable transaction privilege or use tax  
19 of a political subdivision of this state is not a factor in determining the  
20 most advantageous proposal ~~if a competing offeror located outside this state~~  
21 ~~is not subject to a transaction privilege or use tax of a political~~  
22 ~~subdivision of this state.~~ The contract file shall contain the basis on  
23 which the award is made.

24 Sec. 34. Repeal

25 Section 41-2534, Arizona Revised Statutes, as amended by Laws 2000,  
26 chapter 316, section 7, is repealed.

27 Sec. 35. Repeal

28 The following are repealed:

29 1. Section 41-2537, Arizona Revised Statutes, as amended by Laws 2000,  
30 chapter 316, section 9.

31 2. Section 41-2546, Arizona Revised Statutes, as amended by Laws 2000,  
32 chapter 316, section 13.

33 Sec. 36. Section 41-2577, Arizona Revised Statutes, as amended by Laws  
34 2000, chapter 135, section 19, is amended to read:

35 41-2577. Progress payments

36 A. Progress payments may be made by this state to the contractor on  
37 the basis of a duly certified and approved estimate of the work performed  
38 during a preceding period of time as set by rule, except that a percentage  
39 of all estimates shall be retained as provided in section 41-2576. The  
40 progress payments shall be paid on or before fourteen days after the estimate  
41 of the work is certified and approved. The estimate of the work shall be  
42 deemed received by the owner on submission to any person designated by the  
43 owner for the submission, review or approval of the estimate of the work. An  
44 estimate of the work submitted under this section shall be deemed approved  
45 and certified after seven days from the date of submission unless before that

1 time the owner or owner's agent prepares and issues a specific written  
2 finding detailing those items in the estimate of the work that are not  
3 approved and certified under the contract. The owner may withhold an amount  
4 from the progress payment sufficient to pay the expenses the owner reasonably  
5 expects to incur in correcting the deficiency set forth in the written  
6 finding. On completion and acceptance of separate divisions of the contract  
7 on which the price is stated separately in the contract, payment may be made  
8 in full including retained percentages, less deductions, unless a substitute  
9 security has been provided pursuant to section 41-2576. No contract for  
10 construction may materially alter the rights of any contractor, subcontractor  
11 or material supplier to receive prompt and timely payment as provided under  
12 this section.

13 B. The contractor shall pay to the contractor's subcontractors or  
14 material suppliers and each subcontractor shall pay to the subcontractor's  
15 subcontractor or material supplier, within seven days of receipt of each  
16 progress payment, unless otherwise agreed in writing by the parties, the  
17 respective amounts allowed the contractor or subcontractor on account of the  
18 work performed by the contractor's or subcontractor's subcontractors, to the  
19 extent of each such subcontractor's interest therein, except that no contract  
20 for construction may materially alter the rights of any contractor,  
21 subcontractor or material supplier to receive prompt and timely payment as  
22 provided under this section. These payments to subcontractors or material  
23 suppliers shall be based on payments received pursuant to this section. Any  
24 diversion by the contractor or subcontractor of payments received for work  
25 performed on a contract, or failure to reasonably account for the application  
26 or use of such payments, constitutes grounds for disciplinary action by the  
27 registrar of contractors. The subcontractor or material supplier shall  
28 notify the registrar of contractors and the purchasing agency in writing of  
29 any payment less than the amount or percentage approved for the class or item  
30 of work as set forth in this section.

31 C. A subcontractor may notify the purchasing agency in writing  
32 requesting that the subcontractor be notified by the purchasing agency in  
33 writing within five days from payment of each progress payment made to the  
34 contractor. The subcontractor's request remains in effect for the duration  
35 of the subcontractor's work on the project.

36 D. Nothing in this chapter prevents the contractor or subcontractor,  
37 at the time of application and certification to the owner or contractor, from  
38 withholding such application and certification to the owner or contractor for  
39 payment to the subcontractor or material supplier for unsatisfactory job  
40 progress, defective construction work or materials not remedied, disputed  
41 work or materials, third party claims filed or reasonable evidence that a  
42 claim will be filed, failure of a subcontractor to make timely payments for  
43 labor, equipment and materials, damage to the contractor or another  
44 subcontractor, reasonable evidence that the subcontract cannot be completed

1 for the unpaid balance of the subcontract sum or a reasonable amount for  
2 retention that does not exceed the actual percentage retained by the owner.

3 E. If any payment to a contractor is delayed after the date due  
4 interest shall be paid at the rate of one per cent per month or a fraction  
5 of the month on such unpaid balance as may be due.

6 F. If any periodic or final payment to a subcontractor is delayed by  
7 more than seven days after receipt of periodic or final payment by the  
8 contractor or subcontractor, the contractor or subcontractor shall pay the  
9 contractor's or subcontractor's subcontractor or material supplier interest,  
10 beginning on the eighth day, at the rate of one per cent per CALENDAR month  
11 or a fraction of a CALENDAR month on such unpaid balance as may be due.

12 G. Notwithstanding anything to the contrary in this section, this  
13 section applies only to amounts payable in a construction services contract  
14 for construction and does not apply to amounts payable in a construction  
15 services contract for design services, preconstruction services, finance  
16 services, maintenance services, operations services or any other related  
17 services included in the contract.

18 Sec. 37. Repeal

19 Section 41-2577, Arizona Revised Statutes, as amended by Laws 2000,  
20 chapter 316, section 18, is repealed.

21 Sec. 38. Section 42-1253, Arizona Revised Statutes, as amended by Laws  
22 1999, chapter 250, section 10, is amended to read:

23 42-1253. Appeal to state board of tax appeals; definition

24 A. Except as provided in section 42-1254, subsection C, a person  
25 aggrieved by a final decision or order of the department under section  
26 42-1251, article 3 of this chapter or ~~sections~~ SECTION 42-2065, 42-2068,  
27 42-2069, 42-2074, 42-2201 and OR 42-2202 may appeal to the state board of tax  
28 appeals by filing a notice of appeal in writing within thirty days after the  
29 receipt of the decision or order from which the appeal is taken HAS BECOME  
30 FINAL.

31 B. The board shall take testimony and examine documentary evidence as  
32 necessary to determine the appeal, all pursuant to administrative rules to  
33 govern such appeals.

34 C. On determining the appeal the board shall issue a decision  
35 consistent with its determination. The board's decision is final on the  
36 expiration of thirty days from the date when notice of its action is received  
37 by the taxpayer, unless either the department or the taxpayer brings an  
38 action in tax court as provided in section 42-1254.

39 D. If the amount in any single dispute before the board is less than  
40 twenty-five thousand dollars, a taxpayer may be represented in that dispute  
41 before the board by:

42 1. A certified public accountant.

43 2. A person who is enrolled to practice before the United States  
44 internal revenue service and is recognized as an enrolled agent.

1           3. Any other person who is authorized by the taxpayer under a properly  
2 executed power of attorney and who was previously or is currently retained  
3 by the taxpayer for purposes other than representation in a hearing before  
4 the board.

5           E. If a practitioner who represents a taxpayer before the board  
6 pursuant to subsection D of this section fails to comply with an order or  
7 rule of the board, the board may impose sanctions including one or both of  
8 the following:

9           1. Order that the stipulation of the facts proposed by the department  
10 of revenue be accepted.

11           2. Suspend the practitioner from further practice before the board  
12 either for a specific period of time or until the board removes the  
13 suspension.

14           F. For the purposes of this section, "practitioner" means a person,  
15 other than a party, who files documents with or appears before the board in  
16 connection with a matter before the board.

17           Sec. 39. Repeal

18           Section 42-1253, Arizona Revised Statutes, as amended by Laws 2000,  
19 chapter 63, section 2, is repealed.

20           Sec. 40. Section 42-5074, Arizona Revised Statutes, as amended by Laws  
21 2000, chapter 63, section 6, is amended to read:

22           42-5074. Restaurant classification

23           A. The restaurant classification is comprised of the business of  
24 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,  
25 soda fountains, catering services or similar establishments where articles  
26 of food or drink are sold for consumption on or off the premises.

27           B. The tax base for the restaurant classification is the gross  
28 proceeds of sales or gross income derived from the business. The gross  
29 proceeds of sales or gross income derived from the following shall be  
30 deducted from the tax base:

31           1. Sales to a person engaged in business classified under the  
32 restaurant classification if the items sold are to be resold in the regular  
33 course of the business.

34           2. Sales by a congressionally chartered veterans organization of food  
35 or drink prepared for consumption on the premises leased, owned or maintained  
36 by the organization.

37           3. Sales by churches, fraternal benefit societies and other nonprofit  
38 organizations, as these organizations are defined in the federal internal  
39 revenue code (26 United States Code section 501), which do not regularly  
40 engage or continue in the restaurant business for the purpose of  
41 fund-raising.

42           4. Sales by a nonprofit organization that is exempt from taxation  
43 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code  
44 if the organization is associated with a major league baseball team or a  
45 national touring professional golfing association and no part of the

1 organization's net earnings inures to the benefit of any private shareholder  
2 or individual.

3 5. Sales at a rodeo featuring primarily farm and ranch animals in this  
4 state by a nonprofit organization that is exempt from taxation under section  
5 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal  
6 revenue code and no part of the organization's net earnings inures to the  
7 benefit of any private shareholder or individual.

8 6. Sales by any nonprofit organization organized and operated  
9 exclusively for charitable purposes and recognized by the United States  
10 internal revenue service under section 501(c)(3) of the internal revenue  
11 code.

12 7. Sales to qualifying hospitals as defined in section 42-5001.

13 8. Sales to a qualifying health care organization as defined in  
14 section 42-5001 if the tangible personal property is used by the organization  
15 solely to provide health and medical related educational and charitable  
16 services.

17 9. Sales of food, drink and condiment for consumption within the  
18 premises of any prison, jail or other institution under the jurisdiction of  
19 the state department of corrections, the department of public safety, the  
20 department of juvenile corrections or a county sheriff.

21 C. The tax imposed on the restaurant classification pursuant to this  
22 section does not apply to the gross proceeds of sales or gross income from  
23 tangible personal property sold to a commercial airline consisting of food,  
24 beverages and condiments and accessories used for serving the food and  
25 beverages, if those items are to be provided without additional charge to  
26 passengers for consumption in flight. For purposes of this subsection,  
27 "commercial airline" means a person holding a federal certificate of public  
28 convenience and necessity or foreign air carrier permit for air  
29 transportation to transport persons, property or United States mail in  
30 intrastate, interstate or foreign commerce.

31 D. THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED  
32 UNDER THE RESTAURANT CLASSIFICATION FOR PURPOSES OF SECTION 42-5029,  
33 SUBSECTION D, PARAGRAPH 4, SUBDIVISION (f).

34 E. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY  
35 ACCOUNT FOR REVENUES COLLECTED UNDER THE RESTAURANT CLASSIFICATION FROM  
36 BUSINESSES OPERATING RESTAURANTS, DINING ROOMS, LUNCHROOMS, LUNCH STANDS,  
37 SODA FOUNTAINS, CATERING SERVICES OR SIMILAR ESTABLISHMENTS:

38 1. ON THE PREMISES OF A MULTIPURPOSE FACILITY THAT IS OWNED OR  
39 OPERATED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8  
40 FOR CONSUMPTION ON OR OFF THE PREMISES.

41 2. AT PROFESSIONAL FOOTBALL CONTESTS THAT ARE HELD IN A STADIUM  
42 LOCATED ON THE CAMPUS OF AN INSTITUTION UNDER THE JURISDICTION OF THE ARIZONA  
43 BOARD OF REGENTS.



1 years after the start of initial construction. To qualify for this  
2 deduction, before beginning work under the contract the prime contractor must  
3 obtain a letter of qualification from the department of revenue. This  
4 paragraph shall apply for ten full consecutive calendar or fiscal years after  
5 the start of initial construction.

6 6. The gross proceeds of sales or gross income from a contract to  
7 provide for one or more of the following actions, or a contract for site  
8 preparation, constructing, furnishing or installing machinery, equipment or  
9 other tangible personal property, including structures necessary to protect  
10 exempt incorporated materials or installed machinery or equipment, and  
11 tangible personal property incorporated into the project, to perform one or  
12 more of the following actions in response to a release or suspected release  
13 of a hazardous substance, pollutant or contaminant from a facility to the  
14 environment, unless the release was authorized by a permit issued by a  
15 governmental authority:

16 (a) Actions to monitor, assess and evaluate such a release or a  
17 suspected release.

18 (b) Excavation, removal and transportation of contaminated soil and  
19 its treatment or disposal.

20 (c) Treatment of contaminated soil by vapor extraction, chemical or  
21 physical stabilization, soil washing or biological treatment to reduce the  
22 concentration, toxicity or mobility of a contaminant.

23 (d) Pumping and treatment or in situ treatment of contaminated  
24 groundwater or surface water to reduce the concentration or toxicity of a  
25 contaminant.

26 (e) The installation of structures, such as cutoff walls or caps, to  
27 contain contaminants present in groundwater or soil and prevent them from  
28 reaching a location where they could threaten human health or welfare or the  
29 environment.

30 This paragraph does not include asbestos removal or the construction or use  
31 of ancillary structures such as maintenance sheds, offices or storage  
32 facilities for unattached equipment, pollution control equipment, facilities  
33 or other control items required or to be used by a person to prevent or  
34 control contamination before it reaches the environment.

35 7. The gross proceeds of sales or gross income that is derived from  
36 a contract entered into for the installation, assembly, repair or maintenance  
37 of machinery, equipment or other tangible personal property that is deducted  
38 from the tax base of the retail classification pursuant to section 42-5061,  
39 subsection B, or that is exempt from use tax pursuant to section 42-5159,  
40 subsection B, and that does not become a permanent attachment to a building,  
41 highway, road, railroad, excavation or manufactured building or other  
42 structure, project, development or improvement. If the ownership of the  
43 realty is separate from the ownership of the machinery, equipment or tangible  
44 personal property, the determination as to permanent attachment shall be made  
45 as if the ownership were the same. The deduction provided in this paragraph

1 does not include gross proceeds of sales or gross income from that portion  
2 of any contracting activity which consists of the development of, or  
3 modification to, real property in order to facilitate the installation,  
4 assembly, repair, maintenance or removal of machinery, equipment or other  
5 tangible personal property that is deducted from the tax base of the retail  
6 classification pursuant to section 42-5061, subsection B or that is exempt  
7 from use tax pursuant to section 42-5159, subsection B. For purposes of this  
8 paragraph, "permanent attachment" means at least one of the following:

9 (a) To be incorporated into real property.

10 (b) To become so affixed to real property that it becomes a part of  
11 the real property.

12 (c) To be so attached to real property that removal would cause  
13 substantial damage to the real property from which it is removed.

14 8. The gross proceeds of sales or gross income received from a  
15 contract for constructing any lake facility development in a commercial  
16 enhancement reuse district that is designated pursuant to section 9-499.08  
17 if the prime contractor maintains the following records in a form  
18 satisfactory to the department and to the city or town in which the property  
19 is located:

20 (a) The certificate of qualification of the lake facility development  
21 issued by the city or town pursuant to section 9-499.08, subsection D.

22 (b) All state and local transaction privilege tax returns for the  
23 period of time during which the prime contractor received gross proceeds of  
24 sales or gross income from a contract to construct a lake facility  
25 development in a designated commercial enhancement reuse district, showing  
26 the amount exempted from state and local taxation.

27 (c) Any other information that the department considers to be  
28 necessary.

29 9. The gross proceeds of sales or gross income attributable to the  
30 purchase of machinery, equipment or other tangible personal property that is  
31 exempt from or deductible from transaction privilege and use tax under:

32 (a) Section 42-5061, subsection A, paragraph 25 or 29.

33 (b) Section 42-5061, subsection B.

34 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
35 (c), (d), (e), (f), (i) or (j).

36 (d) Section 42-5159, subsection B.

37 10. The gross proceeds of sales or gross income received from a  
38 contract for the construction of an environmentally controlled facility for  
39 the raising of poultry for the production of eggs and the sorting, cooling  
40 and packaging of eggs.

41 11. The gross proceeds of sales or gross income that is derived from  
42 a contract entered into with a person who is engaged in the commercial  
43 production of livestock, livestock products or agricultural, horticultural,  
44 viticultural or floricultural crops or products in this state for the  
45 construction, alteration, repair, improvement, movement, wrecking or

1 demolition or addition to or subtraction from any building, highway, road,  
2 excavation, manufactured building or other structure, project, development  
3 or improvement used directly and primarily to prevent, monitor, control or  
4 reduce air, water or land pollution.

5 12. The gross proceeds of sales or gross income that is derived from  
6 the installation, assembly, repair or maintenance of clean rooms that are  
7 deducted from the tax base of the retail classification pursuant to section  
8 42-5061, subsection B, paragraph 17.

9 13. For taxable periods beginning from and after June 30, 2001, the  
10 gross proceeds of sales or gross income derived from a contract entered into  
11 for the construction of a residential apartment housing facility that  
12 qualifies for a federal housing subsidy for low income persons over sixty-two  
13 years of age and that is owned by a nonprofit charitable organization that  
14 has qualified under section 501(c)(3) of the internal revenue code.

15 14. For taxable periods beginning from and after December 31, 1996 and  
16 ending before January 1, 2011, the contractor's retail cost of solar energy  
17 devices that the contractor supplies and installs pursuant to contracts. The  
18 deduction shall not exceed five thousand dollars for each solar energy  
19 device. Before deducting any amount under this paragraph, the contractor  
20 shall register with the department as a solar energy contractor. By  
21 registering, the contractor acknowledges that it will make its books and  
22 records relating to sales of solar energy devices available to the department  
23 for examination.

24 15. The gross proceeds of sales or gross income derived from a contract  
25 entered into for the construction of a launch site, as defined in 14 Code of  
26 Federal Regulations part 401.5.

27 16. The gross proceeds of sales or gross income derived from a contract  
28 entered into for the construction of a domestic violence shelter that is  
29 owned and operated by a nonprofit charitable organization that has qualified  
30 under section 501(c)(3) of the internal revenue code.

31 C. Entitlement to the deduction pursuant to subsection B, paragraph  
32 7 of this section is subject to the following provisions:

33 1. A prime contractor may establish entitlement to the deduction by  
34 both:

35 (a) Marking the invoice for the transaction to indicate that the gross  
36 proceeds of sales or gross income derived from the transaction was deducted  
37 from the base.

38 (b) Obtaining a certificate executed by the purchaser indicating the  
39 name and address of the purchaser, the precise nature of the business of the  
40 purchaser, the purpose for which the purchase was made, the necessary facts  
41 to establish the deductibility of the property under section 42-5061,  
42 subsection B, and a certification that the person executing the certificate  
43 is authorized to do so on behalf of the purchaser. The certificate may be  
44 disregarded if the prime contractor has reason to believe that the  
45 information contained in the certificate is not accurate or complete.

1           2. A person who does not comply with paragraph 1 of this subsection  
2 may establish entitlement to the deduction by presenting facts necessary to  
3 support the entitlement, but the burden of proof is on that person.

4           3. The department may prescribe a form for the certificate described  
5 in paragraph 1, subdivision (b) of this subsection. The department may also  
6 adopt rules that describe the transactions with respect to which a person is  
7 not entitled to rely solely on the information contained in the certificate  
8 provided in paragraph 1, subdivision (b) of this subsection but must instead  
9 obtain such additional information as required in order to be entitled to the  
10 deduction.

11          4. If a prime contractor is entitled to a deduction by complying with  
12 paragraph 1 of this subsection, the department may require the purchaser who  
13 caused the execution of the certificate to establish the accuracy and  
14 completeness of the information required to be contained in the certificate  
15 which would entitle the prime contractor to the deduction. If the purchaser  
16 cannot establish the accuracy and completeness of the information, the  
17 purchaser is liable in an amount equal to any tax, penalty and interest which  
18 the prime contractor would have been required to pay under article 1 of this  
19 chapter if the prime contractor had not complied with paragraph 1 of this  
20 subsection. Payment of the amount under this paragraph exempts the purchaser  
21 from liability for any tax imposed under article 4 of this chapter. The  
22 amount shall be treated as a transaction privilege tax to the purchaser and  
23 as tax revenues collected from the prime contractor in order to designate the  
24 distribution base for purposes of section 42-5029.

25          D. Subcontractors or others who perform services in respect to any  
26 improvement, building, highway, road, railroad, excavation, manufactured  
27 building or other structure, project, development or improvement are not  
28 subject to tax if they can demonstrate that the job was within the control  
29 of a prime contractor or contractors or a dealership of manufactured  
30 buildings and that the prime contractor or dealership is liable for the tax  
31 on the gross income, gross proceeds of sales or gross receipts attributable  
32 to the job and from which the subcontractors or others were paid.

33          E. Amounts received by a contractor for a project are excluded from  
34 the contractor's gross proceeds of sales or gross income derived from the  
35 business if the person who hired the contractor executes and provides a  
36 certificate to the contractor stating that the person providing the  
37 certificate is a prime contractor and is liable for the tax under article 1  
38 of this chapter. The department shall prescribe the form of the certificate.  
39 If the contractor has reason to believe that the information contained on the  
40 certificate is erroneous or incomplete, the department may disregard the  
41 certificate. If the person who provides the certificate is not liable for  
42 the tax as a prime contractor, that person is nevertheless deemed to be the  
43 prime contractor in lieu of the contractor and is subject to the tax under  
44 this section on the gross receipts or gross proceeds received by the  
45 contractor.

1 F. Every person engaging or continuing in this state in the business  
2 of prime contracting or dealership of manufactured buildings shall present  
3 to the purchaser of such prime contracting or manufactured building a written  
4 receipt of the gross income or gross proceeds of sales from such activity and  
5 shall separately state the taxes to be paid pursuant to this section.

6 G. FOR PURPOSES OF SECTION 42-5032.01, THE DEPARTMENT SHALL SEPARATELY  
7 ACCOUNT FOR REVENUES COLLECTED UNDER THE PRIME CONTRACTING CLASSIFICATION  
8 FROM ANY PRIME CONTRACTOR ENGAGED IN THE PREPARATION OR CONSTRUCTION OF A  
9 MULTIPURPOSE FACILITY, AND RELATED INFRASTRUCTURE, THAT IS OWNED, OPERATED  
10 OR LEASED BY THE TOURISM AND SPORTS AUTHORITY PURSUANT TO TITLE 5, CHAPTER 8.

11 H. For purposes of this section:

12 1. "Contracting" means engaging in business as a contractor.

13 2. "Contractor" is synonymous with the term "builder" and means any  
14 person, firm, partnership, corporation, association or other organization,  
15 or a combination of any of them, that undertakes to or offers to undertake  
16 to, or purports to have the capacity to undertake to, or submits a bid to,  
17 or does personally or by or through others, construct, alter, repair, add to,  
18 subtract from, improve, move, wreck or demolish any building, highway, road,  
19 railroad, excavation, manufactured building or other structure, project,  
20 development or improvement, or to do any part of such a project, including  
21 the erection of scaffolding or other structure or works in connection with  
22 such a project, and includes subcontractors and specialty contractors. For  
23 all purposes of taxation or deduction, this definition shall govern without  
24 regard to whether or not such contractor is acting in fulfillment of a  
25 contract.

26 3. "Dealership of manufactured buildings" means a dealer who either:

27 (a) Is licensed pursuant to title 41, chapter 16 and who sells at  
28 retail manufactured buildings.

29 (b) Supervises, performs or coordinates the excavation and completion  
30 of site improvements, setup or moving of a manufactured building including  
31 the contracting, if any, with any subcontractor or specialty contractor for  
32 the completion of the contract.

33 4. "Manufactured building" means a manufactured home, mobile home or  
34 factory-built building, as defined in section 41-2142.

35 5. "Prime contracting" means engaging in business as a prime  
36 contractor.

37 6. "Prime contractor" means a contractor who supervises, performs or  
38 coordinates the construction, alteration, repair, addition, subtraction,  
39 improvement, movement, wreckage or demolition of any building, highway, road,  
40 railroad, excavation, manufactured building or other structure, project,  
41 development or improvement including the contracting, if any, with any  
42 subcontractors or specialty contractors and who is responsible for the  
43 completion of the contract.

44 7. "Sale of a used manufactured building" does not include a lease of  
45 a used manufactured building.

1           Sec. 43. Repeal

2           Section 42-5075, Arizona Revised Statutes, as amended by Laws 2000,  
3 chapter 372, section 11, is repealed.

4           Sec. 44. Section 42-6003, Arizona Revised Statutes, as amended by Laws  
5 1997, chapter 274, section 62, is amended to read:

6           42-6003. Multi-municipal taxes; determination of municipality  
7                           entitled to levy and collect taxes; appeal;  
8                           definitions

9           A. Except as otherwise provided in this section, a taxpayer who has  
10 paid transaction privilege taxes on a transaction to an appropriate city or  
11 town, or qualified for an exemption from transaction privilege taxes under  
12 the ordinance of an appropriate city or town, is not required to pay  
13 transaction privilege taxes on the same transaction to any other city or  
14 town.

15           B. If a city or town asserts, in whole or in part, the right to a tax  
16 which was paid to an appropriate city or town, the cities and towns claiming  
17 the tax shall attempt to resolve allocation of the tax among themselves.  
18 Except as otherwise provided in this section, the taxpayer shall not be a  
19 party to the dispute but may be compelled to give evidence or produce books  
20 and records.

21           C. If a city or town asserts the right to tax a transaction which is  
22 exempt from transaction privilege taxes under the ordinance of an appropriate  
23 city or town, the city or town asserting the right to tax and the city or  
24 town which the taxpayer asserts is an appropriate city or town shall attempt  
25 to resolve which city or town has the superior jurisdictional claim. Except  
26 as otherwise provided in this section, the taxpayer shall not be a party to  
27 the dispute but may be compelled to give evidence or produce books and  
28 records.

29           D. If the cities or towns involved cannot resolve the dispute arising  
30 under subsection B or C, any city or town which is a party to the dispute may  
31 submit the issue to the ~~state board of tax appeals~~ MUNICIPAL TAX CODE  
32 COMMISSION for resolution. The taxpayer may intervene in any proceeding  
33 before the ~~state board~~ COMMISSION to assist in resolving the dispute. The  
34 ~~state board~~ COMMISSION shall determine which city or town has the superior  
35 jurisdictional claim, based upon its respective ordinances and common law  
36 principles related to transaction privilege taxation, and, if the taxpayer  
37 paid tax on the transaction, shall award the entire tax to the prevailing  
38 city or town.

39           E. If it is determined that the taxpayer should have paid taxes to a  
40 city or town with a higher tax rate than the city or town to which the tax  
41 was actually paid, the taxpayer is liable for the tax at the higher rate only  
42 on transactions occurring after the taxable month of the written notification  
43 requirement provided in subsection H.

44           F. If a city or town with a higher tax rate asserts a claim to  
45 transaction privilege taxes paid to an appropriate city or town with a lower

1 tax rate, the taxpayer may submit the issue to the ~~state board of tax appeals~~  
2 MUNICIPAL TAX CODE COMMISSION for resolution and may intervene as a party in  
3 a proceeding before the ~~state board~~ COMMISSION to resolve the dispute.

4 G. Any party aggrieved by an order or decision of the MUNICIPAL TAX  
5 CODE COMMISSION MAY APPEAL TO THE state board of tax appeals WITHIN THIRTY  
6 DAYS AFTER NOTICE OF THE ORDER OR DECISION OF THE COMMISSION HAS BEEN  
7 RECEIVED BY THE PARTY. ANY PARTY AGGRIEVED BY AN ORDER OR DECISION OF THE  
8 STATE BOARD OF TAX APPEALS under this section may appeal the order or  
9 decision to tax court but must commence such action within thirty days after  
10 notice of the order or decision of the state board has been received by the  
11 party.

12 H. Following an agreement among the cities or towns involved as to  
13 which city or town has jurisdiction over transaction privilege taxation on  
14 a transaction or following a final determination by THE MUNICIPAL TAX CODE  
15 COMMISSION, the state board of tax appeals or the tax court that a city or  
16 town is entitled to collect such taxes, and following written notification  
17 to the taxpayer, the taxpayer shall thereafter pay transaction privilege  
18 taxes on similar transactions to that city or town.

19 I. In this section:

20 1. "Appropriate city or town" means a city or town in this state  
21 either:

22 (a) In which the business sales office which generated the taxable  
23 transaction is located.

24 (b) In which the purchaser resides, is located or is situated at the  
25 time of the transaction.

26 (c) Which imposes or claims the right to impose a transaction  
27 privilege tax on the transaction in question under its ordinance.

28 2. "Transaction privilege tax" means a municipal transaction privilege  
29 license tax, use tax or similar tax and includes for purposes of this section  
30 any penalty assessed by a city or town for nonpayment, delinquent payment or  
31 failure to timely report or file a return, and any interest assessed because  
32 of late payment of taxes.

33 Sec. 45. Repeal

34 Section 42-6003, Arizona Revised Statutes, as amended by Laws 2000,  
35 chapter 297, section 4, is repealed.

36 Sec. 46. Section 42-19116, Arizona Revised Statutes, as amended by  
37 Laws 1999, chapter 344, section 55, is amended to read:

38 42-19116. Exemption from seizure for dwellings on possessory  
39 rights that are taxed as personal property;  
40 definition

41 A. Notwithstanding any provision of this article, a dwelling on  
42 possessory rights that is taxed as unsecured personal property is not subject  
43 to seizure or sale for delinquent taxes as personal property but is subject  
44 to procedures for delinquent taxes as real property pursuant to chapter 18,  
45 article 3 of this title.

1 B. For purposes of this section, "dwelling on possessory rights" means  
2 a permanent improvement to real property that is listed as class three  
3 property pursuant to section 42-12003, other than a mobile home as defined  
4 in section 42-19151, if the owner of the improvement is not the owner of the  
5 real property.

6 Sec. 47. Repeal

7 Section 42-19116, Arizona Revised Statutes, as amended by Laws 1999,  
8 chapter 253, section 28, is repealed.

9 Sec. 48. Transfer

10 Section 46-300.04, Arizona Revised Statutes, is transferred for  
11 placement in title 46, chapter 2, article 5, Arizona Revised Statutes.

12 Sec. 49. Section 49-242, Arizona Revised Statutes, as amended by Laws  
13 1999, chapter 26, section 10, is amended to read:

14 49-242. Procedural requirements for individual permits; annual  
15 registration of permittees; fee

16 A. The director shall prescribe, ~~by rule,~~ requirements for issuing,  
17 denying, suspending or modifying individual permits, including requirements  
18 for submitting notices, permit applications and any additional information  
19 necessary to determine whether an individual permit should be issued, and  
20 shall prescribe conditions and requirements for individual permits.

21 B. Each owner of an injection well, a land treatment facility, a dry  
22 well, an on-site wastewater treatment facility with a capacity of more than  
23 three thousand gallons per day or a facility which discharges to navigable  
24 waters to whom an individual permit is issued shall register the permit with  
25 the director each year and pay an annual registration fee based on the daily  
26 discharge of pollutants pursuant to subsection ~~D~~ E of this section.

27 C. Each owner of a surface impoundment, a facility which adds a  
28 pollutant to a salt dome formation, salt bed formation, underground cave or  
29 mine, a mine tailings pile or pond, a mine leaching operation, a sewage or  
30 sludge pond or a wastewater treatment facility to whom an individual permit  
31 is issued shall register the permit with the director each year and pay an  
32 annual registration fee based on the daily influent of pollutants pursuant  
33 to subsection ~~D~~ E of this section.

34 D. PENDING THE ISSUANCE OF INDIVIDUAL AQUIFER PROTECTION PERMITS, EACH  
35 OWNER OF A FACILITY THAT IS PRESCRIBED IN SUBSECTION B OR C OF THIS SECTION  
36 THAT IS OPERATING ON SEPTEMBER 27, 1990 PURSUANT TO THE FILING OF A NOTICE  
37 OF DISPOSAL OR A GROUNDWATER QUALITY PROTECTION PERMIT ISSUED UNDER TITLE 36  
38 SHALL REGISTER THE NOTICE OF DISPOSAL OR THE PERMIT WITH THE DIRECTOR EACH  
39 YEAR AND SHALL PAY AN ANNUAL REGISTRATION FEE BASED ON THE DAILY INFLUENT OR  
40 DISCHARGE OF POLLUTANTS AS PRESCRIBED BY SUBSECTION E OF THIS SECTION.

41 ~~D~~ E. The annual registration fee shall be determined as follows:

1	Discharge or Influent Per Day Under the Permit	
2	OR NOTICE OF DISPOSAL	
3	(In gallons)	<u>Annual Fee</u>
4	3,000 to 9,999	\$ 25
5	10,000 to 99,999	100
6	100,000 to 999,999	1,000
7	1,000,000 to 9,999,999	3,000
8	10,000,000 or more	5,000

9 E. F. The director shall prescribe the procedures to register the  
10 NOTICE OF DISPOSAL OR permit and collect the fee under this section. The  
11 director shall deposit all monies collected under this section in the water  
12 quality fee fund established by section 49-210 and may authorize expenditures  
13 from the fund to pay the reasonable and necessary costs of administering the  
14 registration program.

15 Sec. 50. Repeal

16 Section 49-242, Arizona Revised Statutes, as amended by Laws 2000,  
17 chapter 399, section 3, is repealed.

18 Sec. 51. Repeal

19 Laws 2000, chapter 399, section 5 is repealed.

20 Sec. 52. Section 49-543, Arizona Revised Statutes, as amended by Laws  
21 2000, chapter 193, section 579 and chapter 405, section 35, is amended to  
22 read:

23 49-543. Emissions inspection costs; disposition; fleet  
24 inspection; certificates

25 A. The director shall fix, regulate and alter in accordance with this  
26 section the fees required to be paid for the full costs of the vehicle  
27 emissions inspection program pursuant to this article including  
28 administration, implementation and enforcement.

29 B. EXCEPT AS PROVIDED IN SECTION 49-542.05, for all the emissions  
30 inspections prior to the sixth registration year after purchase or lease of  
31 a new vehicle, the owner of the vehicle shall do one of the following:

32 1. Have the vehicle inspected pursuant to this article.

33 2. Pay a twenty-five dollar fee in area A and a nine dollar fee in  
34 area B. The owner shall pay this fee together with the registration fee for  
35 the vehicle to the registering officer. The registering officer shall  
36 deposit, pursuant to sections 35-146 and 35-147, these fees in the Arizona  
37 clean air fund established by section 41-1516. The registering officer may  
38 enter into an intergovernmental agreement with another department of this  
39 state to collect and deposit the fee. An owner who chooses to have an  
40 emissions inspection pursuant to this article is not required to pay the fee  
41 prescribed in this paragraph for that emissions test cycle.

42 C. EXCEPT AS PROVIDED IN SECTION 49-542.05, the registration renewal  
43 notice required for the second through fifth registration year of a new  
44 vehicle shall include a notice to the vehicle owner that even though an  
45 emissions inspection test is not required pursuant to subsection B of this

1 section the owner may choose to have an emissions inspection because of  
2 vehicle emissions performance warranty limitations on emissions components  
3 of the vehicle.

4 D. The fees charged for official emissions inspection shall be uniform  
5 as applied to each class of vehicle which shall be defined by the director.  
6 Except for fees collected by the director pursuant to section 49-546, the  
7 inspection fees required to be paid pursuant to this article may be collected  
8 with the registration fee by the registering officer at the time and place  
9 of motor vehicle registration pursuant to title 28, chapter 7, article 5 and  
10 deposited, pursuant to sections 35-146 and 35-147, in the emissions  
11 inspection fund in accordance with the rules adopted by the director or may  
12 be collected by the independent contractor at the time of inspection by means  
13 of an approved check or cash.

14 E. Any person, except a person who has been issued a certificate of  
15 waiver pursuant to section 49-542, subsection L, whose vehicle has been  
16 inspected at an official emissions inspection station shall, if the vehicle  
17 was not found to comply with the minimum standards, have the vehicle  
18 repaired, including recommended repair or replacement of emissions control  
19 devices as a result of tampering, and have the right within sixty consecutive  
20 calendar days but not thereafter to return the vehicle for one reinspection  
21 without charge. The department may provide for additional reinspections  
22 without charge. A vehicle shall not be deemed to pass a reinspection unless  
23 the tampering discovered during the tampering inspection is repaired with new  
24 or reconditioned emissions control devices.

25 F. The department shall issue certificates of inspection to owners of  
26 fleet emissions inspection stations. Each certificate shall be validated by  
27 the fleet emissions inspection stations in a manner required by the director  
28 at the time that each owner's fleet vehicle has been inspected or has passed  
29 inspection. The validated certificate of inspection shall indicate at the  
30 time of registration that the owner's fleet vehicle has been inspected and  
31 that the vehicle has passed inspection.

32 G. The director shall fix an emissions inspection fee before  
33 inspection certificates may be issued to the owner of any fleet emissions  
34 inspection station. Such fee shall be uniform for each inspection  
35 certificate issued and shall be based upon the director's estimated costs to  
36 the state of administering and enforcing the provisions of this article as  
37 they apply to fleet emissions inspection stations and the vehicles inspected  
38 in fleet emissions inspection stations. The director shall deposit, pursuant  
39 to sections 35-146 and 35-147, all such monies collected by the director  
40 pursuant to this article in the emissions inspection fund.

41 Sec. 53. Repeal

42 Section 49-543, Arizona Revised Statutes, as amended by Laws 2000,  
43 seventh special session, chapter 1, section 24, is repealed.

44 Sec. 54. Laws 1999, chapter 38, section 2, as amended by Laws 2000,  
45 chapter 20, section 1, is amended to read:

- 1           Sec. 2. Delayed repeal  
2           Laws 1999, chapter 38, section 2- 1, relating to the joint legislative  
3 committee on homelessness, is repealed from and after December 31, 2002.
- 4           Sec. 55. Repeal  
5           Laws 2000, chapter 63, section 12 is repealed.
- 6           Sec. 56. Repeal  
7           Laws 2000, chapter 405, section 37 is repealed.
- 8           Sec. 57. Repeal  
9           Laws 2000, chapter 3, section 20 is repealed.
- 10          Sec. 58. Laws 2000, chapter 390, section 27 is amended to read:  
11          Sec. 27. Delayed repeal  
12          Section 42-16203, Arizona Revised Statutes, as amended by Laws 1999,  
13 chapter 240, section 11 and section 18 19 of this act, is repealed from and  
14 after December 31, 2000.
- 15          Sec. 59. Laws 2000, chapter 390, section 28 is amended to read:  
16          Sec. 28. Effective date  
17          Section 42-16203, Arizona Revised Statutes, as amended by Laws 1999,  
18 chapter 253, section 8 and section 19 20 of this act, and section 42-17052,  
19 Arizona Revised Statutes, as amended by Laws 1999, chapter 253, section 13  
20 and section 22 21 of this act, are effective from and after December 31,  
21 2000.
- 22          Sec. 60. Retroactive application  
23          A. Sections 2, 3, 6 through 9, 13, 22 through 28, 31 through 34, 36,  
24 37, 44, 45 and 48 of this act apply retroactively to July 18, 2000.
- 25          B. Sections 38, 39, 46, 47, 49 through 53, 58 and 59 of this act apply  
26 retroactively to from and after December 31, 2000.
- 27          C. Sections 11 and 12 of this act apply retroactively to from and  
28 after February 28, 2001.
- 29          D. Sections 4, 5 and 14 through 19 of this act apply retroactively to  
30 from and after June 30, 2001.
- 31          Sec. 61. Effective date  
32          Section 20 of this act is effective from and after December 31, 2001.

APPROVED BY THE GOVERNOR MAY 4, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2001.

Passed the House January 29, 2001,

Passed the Senate April 27, 2001,

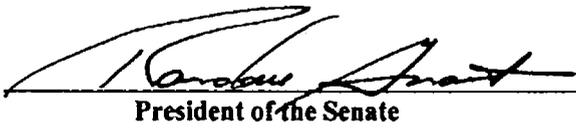
by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

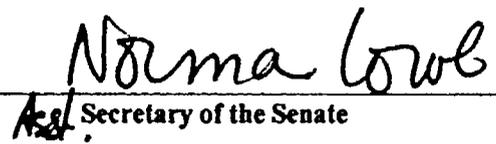
0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

  
Speaker of the House

  
President of the Senate

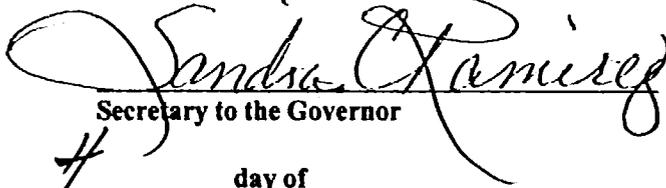
  
Chief Clerk of the House

  
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
30 day of April, 2001,

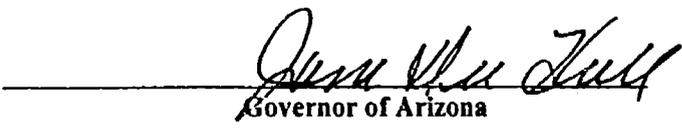
at 11:09 o'clock A M.

  
Secretary to the Governor

Approved this 4 day of

May, 2001,

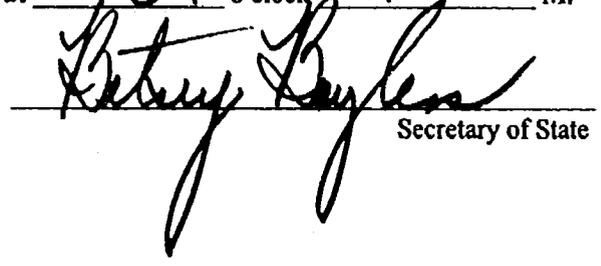
at 10:19 o'clock 4 M.

  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 4 day of May, 2001,

at 4:34 o'clock P M.

  
Secretary of State

H.B. 2038