Senate Engrossed House Bill

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KEN BENNETT
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CHAPTER 83

HOUSE BILL 2016

AN ACT

AMENDING SECTIONS 5-507, 5-509, 5-557, 5-559, 12-284.03, 13-2314.01 AND 13-2314.03, ARIZONA REVISED STATUTES; AMENDING SECTION 15-393, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 285, SECTION 1 AND CHAPTER 306, SECTION 3; REPEALING SECTION 15-393, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 318, SECTION 5; AMENDING SECTIONS 15-1821.01, 15-1853, 15-2041, 21-222, 23-773, 27-935, 27-1234, 28-2404, 28-7009, 31-239, 31-285, 31-467, 35-142, 35-193, 36-2903.03, 36-2912, 37-106.01, 37-623.02, 38-658, 41-129, 41-178, 41-191.05, 41-545, 41-621, 41-712, 41-763.02, 41-792.01, 41-821, 41-986, 41-1509, 41-2401, 41-2402, 41-2826, 41-3542, 46-803 AND 49-545, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO REPORTING REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 5-507, Arizona Revised Statutes, is amended to read:

5-507. Monthly reports; annual reports

A. The director shall make a monthly report to the commission, the governor, the speaker of the house of representatives and the president of the senate. The monthly report shall include the total lottery revenue, prize disbursements and other expenses for the preceding month.

~~B. The director shall make a report on or before August 15 of each year to the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting containing:~~

~~1. A summary of the criteria used to evaluate employee performance and distribution of any appropriation for the preceding fiscal year as performance pay.~~

~~2. An accounting of total distributions of that appropriation.~~

~~3. The percentages of that distribution that were based on individual employee performance and on lottery sales goals.~~

~~C.~~ B. The commission shall make an annual report to the governor, the speaker of the house of representatives and the president of the senate. The annual report shall include a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding years, and recommendations for amendments to this chapter as the commission deems necessary or desirable.

Sec. 2. Section 5-509, Arizona Revised Statutes, is amended to read:

5-509. Contracts; limitation; restrictions

A. Notwithstanding any other statute, the director may:

1. Directly solicit bids and contract for the design and operation of the lottery or the purchase of lottery equipment, tickets and related materials.

2. Contract to effectuate the purposes of this chapter and the rules promulgated pursuant to this chapter.

3. ~~Subject to joint legislative budget committee approval~~ Acquire administrative office facilities and related facilities and equipment for the use of the commission by lease, purchase or lease-purchase.

B. Procurement pursuant to this section shall be performed as prescribed in section 41-2501, subsection F. Bids received under this section may be deemed confidential in whole or in part by the director if required on account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

C. Any award made by the director pursuant to this section becomes effective and binding on the commission unless it is rejected by the commission at a meeting held within fourteen calendar days after the award is communicated to the members of the commission.

D. A contract awarded or entered into by the director pursuant to this section shall not be assigned by the holder except by specific approval of the director. In all awards of contracts pursuant to this section, the director shall take particular account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

Sec. 3. Section 5-557, Arizona Revised Statutes, is amended to read:

5-557. Monthly reports; annual reports

A. The director shall make a monthly report to the commission, the governor, the speaker of the house of representatives and the president of the senate. The monthly report shall include the total lottery revenue, prize disbursements and other expenses for the preceding month.

~~B. The director shall make a report on or before August 15 of each year to the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting containing:~~

~~1. A summary of the criteria used to evaluate employee performance and distribution of any appropriation for the preceding fiscal year as performance pay.~~

~~2. An accounting of total distributions of that appropriation.~~

~~3. The percentages of that distribution that were based on individual employee performance and on lottery sales goals.~~

~~C.~~ B. The commission shall make an annual report to the governor, the speaker of the house of representatives and the president of the senate. The annual report shall include a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding years, and recommendations for amendments to this chapter as the commission deems necessary or desirable.

Sec. 4. Section 5-559, Arizona Revised Statutes, is amended to read:

5-559. Contracts; limitation; restrictions

A. Notwithstanding any other statute, the director may:

1. Directly solicit bids and contract for the design and operation of the lottery or the purchase of lottery equipment, tickets and related materials.

2. Contract to effectuate the purposes of this chapter and the rules promulgated pursuant to this chapter.

3. ~~Subject to joint legislative budget committee approval~~ Acquire administrative office facilities and related facilities and equipment for the use of the commission by lease, purchase or lease-purchase.

B. Procurement pursuant to this section shall be performed as prescribed in section 41-2501, subsection F. Bids received under this section may be deemed confidential in whole or in part by the director if required on account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

C. Any award made by the director pursuant to this section becomes effective and binding on the commission unless it is rejected by the commission at a meeting held within fourteen calendar days after the award is communicated to the members of the commission.

D. A contract awarded or entered into by the director pursuant to this section shall not be assigned by the holder except by specific approval of the director. In all awards of contracts pursuant to this section, the director shall take particular account of the sensitive and responsible nature of the commission's functions and the paramount considerations of security and integrity.

Sec. 5. Section 12-284.03, Arizona Revised Statutes, is amended to read:

12-284.03. Distribution of fees

A. Excluding the monies that are kept by the court pursuant to subsection B of this section, the county treasurer shall transmit, distribute or deposit all monies received from the clerk of the superior court pursuant to section 12-284, subsection K as follows:

1. 1.31 per cent to the state treasurer for deposit in the drug and gang enforcement account established by section 41-2402 for the purposes of section 41-2402, subsection ~~H~~ G.

2. 8.87 per cent to the state treasurer for deposit in the domestic violence shelter fund established by section 36-3002.

3. 1.93 per cent to the state treasurer for deposit in the child abuse prevention fund established by section 8-550.01.

4. In the county law library fund established by section 12-305, either:

(a) 7.62 per cent if the county treasurer is serving in a county with a population of more than five hundred thousand persons according to the most recent United States decennial census.

(b) 15.30 per cent if the county treasurer is serving in a county with a population of five hundred thousand persons or less according to the most recent United States decennial census.

5. 0.35 per cent to the state treasurer for deposit in the alternative dispute resolution fund established by section 12-135.

6. To the elected officials' retirement plan fund established by section 38-802, either of the following percentages, which shall be distributed to the fund pursuant to section 38-810:

(a) 23.79 per cent if the county treasurer is serving in a county with a population of more than five hundred thousand persons according to the most recent United States decennial census.

(b) 15.30 per cent if the county treasurer is serving in a county with a population of five hundred thousand persons or less according to the most recent United States decennial census.

7. 17.07 per cent to the state treasurer for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 per cent to the state treasurer for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. In the county general fund, the following percentages:

(a) 31.29 per cent if the county treasurer is serving in a county with a population of more than five hundred thousand persons according to the most recent United States decennial census.

(b) 32.10 per cent if the county treasurer is serving in a county with a population of five hundred thousand persons or less according to the most recent United States decennial census.

B. 7.51 per cent of the monies transmitted, distributed or deposited pursuant to subsection A of this section shall be kept and used by the court collecting the fees in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

Sec. 6. Section 13-2314.01, Arizona Revised Statutes, is amended to read:

13-2314.01. <u>Anti-racketeering revolving fund; use of fund; reports</u>

A. The anti-racketeering revolving fund is established. The attorney general shall administer the fund under the conditions and for the purposes provided by this section. Monies in the fund are exempt from the lapsing provisions of section 35-190.

B. Any prosecution and investigation costs, including attorney fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or, if the recipient is a political subdivision of this state, may be deposited in the fund established by section 13-2314.03.

D. Any monies obtained as a result of a forfeiture by any department or agency of this state under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section the monies and interest shall be distributed within thirty days of application to the agency or agencies responsible for the seizure or

forfeiture. Monies in the fund used by the attorney general for capital projects in excess of one million dollars are subject to review by the joint committee on capital review.

E. Monies in the fund may be used for the following:

1. The funding of gang prevention programs, substance abuse prevention programs, substance abuse education programs and witness protection pursuant to section 41-196 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency.

2. The investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

3. The payment of the relocation expenses of any law enforcement officer and the officer's immediate family if the law enforcement officer is the victim of a bona fide threat that occurred because of the law enforcement officer's duties.

F. On or before January 15, April 15, July 15 and October 15 of each year, each department or agency of this state receiving monies pursuant to this section or section 13-2314.03 or 13-4315 or from any department or agency of the United States or another state as a result of participation in any investigation or prosecution shall file with the attorney general a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a department or agency of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the department or agency until the report is filed. The attorney general is responsible for collecting all reports from departments and agencies of this state and transmitting the reports to the Arizona criminal justice commission at the time that the report required pursuant to subsection G of this section is submitted.

G. On or before January 25, April 25, July 25 and October 25 of each year, the attorney general shall file with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the attorney general fails to file a report within sixty days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the attorney general until the report is filed. If a political subdivision of this state fails to file a

report with the county attorney pursuant to section 13-2314.03 within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the attorney general shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed.

H. On or before ~~January 30, April 30, July 30 and October 30~~ SEPTEMBER 30 of each year, the Arizona criminal justice commission shall compile the attorney general report and the reports of all departments and agencies of this state into a single comprehensive report and shall submit a copy of the report to the governor, with copies to the director of the department of administration, the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee.

Sec. 7. Section 13-2314.03, Arizona Revised Statutes, is amended to read:

13-2314.03. County anti-racketeering revolving fund; use of fund; reports

A. The board of supervisors of a county shall establish a county anti-racketeering revolving fund administered by the county attorney under the conditions and for the purposes provided by this section.

B. Any prosecution and investigation costs, including attorney fees, recovered for the county as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by the board of supervisors.

C. Any monies received by any department or agency of this state or any political subdivision of this state from any department or agency of the United States or another state as a result of participation in any investigation or prosecution, whether by final judgment, settlement or otherwise, shall be deposited in the fund established by this section or in the fund established by section 13-2314.01.

D. Any monies obtained as a result of a forfeiture by the county attorney under this title or under federal law shall be deposited in the fund established by this section. Any monies or other property obtained as a result of a forfeiture by any political subdivision of this state or the federal government may be deposited in the fund established by this section or in the fund established by section 13-2314.01. Monies deposited in the fund pursuant to this section or section 13-4315 shall accrue interest and shall be held for the benefit of the agency or agencies responsible for the seizure or forfeiture to the extent of their contribution. Except as provided in subsections F and G of this section the monies and interest shall be distributed to the agency or agencies responsible for the seizure or forfeiture within thirty days of application.

E. Monies in the fund may be used for the funding of gang prevention programs, substance abuse prevention programs, substance abuse education

programs, and witness protection pursuant to section 11-536 or for any purpose permitted by federal law relating to the disposition of any property that is transferred to a law enforcement agency. ~~Monies in the fund may be transmitted by the county attorney on behalf of any political subdivision of this state to the Arizona drug and gang policy council for the funding of gang prevention programs, substance abuse prevention programs and substance abuse education programs.~~ Monies in the fund may be used for the investigation and prosecution of any offense included in the definition of racketeering in section 13-2301, subsection D, paragraph 4 or section 13-2312, including civil enforcement.

F. On or before January 25, April 25, July 25 and October 25 of each year, the county attorney shall cause to be filed with the Arizona criminal justice commission a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If the county attorney fails to file a report within sixty days after it is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the county attorney until the report is filed.

G. On or before January 15, April 15, July 15 and October 15 of each year, each political subdivision of this state receiving monies pursuant to this section or section 13-2314.01 or 13-4315 or from any department or agency of the United States or another state as a result of participating in any investigation or prosecution shall cause to be filed with the county attorney of the county in which the political subdivision is located a report for the previous calendar quarter. The report shall be in a form that is prescribed by the Arizona criminal justice commission and approved by the director of the joint legislative budget committee. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations. If a political subdivision of this state fails to file a report within forty-five days after the report is due and there is no good cause as determined by the Arizona criminal justice commission, the county attorney shall make no expenditures from the fund for the benefit of the political subdivision until the report is filed. The county attorney shall be responsible for collecting all reports from political subdivisions within that county and transmitting the reports to the Arizona criminal justice commission at the time that the county report required pursuant to subsection F of this section is submitted.

H. On or before ~~January 30, April 30, July 30 and October 30~~ SEPTEMBER 30 of each year, the Arizona criminal justice commission shall compile all county attorney reports into a single comprehensive report and all political subdivision reports into a single comprehensive report and submit a copy of

each comprehensive report to the governor, the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee.

Sec. 8. Section 15-393, Arizona Revised Statutes, as amended by Laws 2010, chapter 285, section 1 and chapter 306, section 3, is amended to read:

15-393. Joint technical education district governing board; report; definition

A. The management and control of the joint district are vested in the joint technical education district governing board, including the content and quality of the courses offered by the district, the quality of teachers who provide instruction on behalf of the district, the salaries of teachers who provide instruction on behalf of the district and the reimbursement of other entities for the facilities used by the district. Unless the governing boards of the school districts participating in the formation of the joint district vote to implement an alternative election system as provided in subsection B of this section, the joint board shall consist of five members elected from five single member districts formed within the joint district. The single member district election system shall be submitted as part of the plan for the joint district pursuant to section 15-392 and shall be established in the plan as follows:

1. The governing boards of the school districts participating in the formation of the joint district shall define the boundaries of the single member districts so that the single member districts are as nearly equal in population as is practicable, except that if the joint district lies in part in each of two or more counties, at least one single member district may be entirely within each of the counties comprising the joint district if this district design is consistent with the obligation to equalize the population among single member districts.

2. The boundaries of each single member district shall follow election precinct boundary lines, as far as practicable, in order to avoid further segmentation of the precincts.

3. A person who is a registered voter of this state and who is a resident of the single member district is eligible for election to the office of joint board member from the single member district. The terms of office of the members of the joint board shall be as prescribed in section 15-427, subsection B. An employee of a joint technical education district or the spouse of an employee shall not hold membership on a governing board of a joint technical education district by which the employee is employed. A member of one school district governing board or joint technical education district governing board is ineligible to be a candidate for nomination or election to or serve simultaneously as a member of any other governing board, except that a member of a governing board may be a candidate for nomination or election for any other governing board if the member is serving in the last year of a term of office. A member of a governing board shall resign the member's seat on the governing board before becoming a candidate for

nomination or election to the governing board of any other school district or joint technical education district, unless the member of the governing board is serving in the last year of a term of office.

4. Nominating petitions shall be signed by the number of qualified electors of the single member district as provided in section 16-322.

B. The governing boards of the school districts participating in the formation of the joint district may vote to implement any other alternative election system for the election of joint district board members. If an alternative election system is selected, it shall be submitted as part of the plan for the joint district pursuant to section 15-392, and the implementation of the system shall be as approved by the United States justice department.

C. The joint technical education district shall be subject to the following provisions of this title:

1. Chapter 1, articles 1 through 6.
2. Sections 15-208, 15-210, 15-213 and 15-234.
3. Articles 2, 3 and 5 of this chapter.
4. Section 15-361.
5. Chapter 4, articles 1, 2 and 5.
6. Chapter 5, articles 1, 2 and 3.
7. Sections 15-701.01, 15-722, 15-723, 15-724, 15-727, 15-728, 15-729 and 15-730.
8. Chapter 7, article 5.
9. Chapter 8, articles 1, 3 and 4.
10. Sections 15-828 and 15-829.
11. Chapter 9, article 1, article 6, except for section 15-995, and article 7.
12. Sections 15-941, 15-943.01, 15-948, 15-952, 15-953 and 15-973.
13. Sections 15-1101 and 15-1104.
14. Chapter 10, articles 2, 3, 4 and 8.

D. Notwithstanding subsection C of this section, the following apply to a joint technical education district:

1. A joint district may issue bonds for the purposes specified in section 15-1021 and in chapter 4, article 5 of this title to an amount in the aggregate, including the existing indebtedness, not exceeding one per cent of the taxable property used for secondary tax purposes, as determined pursuant to title 42, chapter 15, article 1, within the joint technical education district as ascertained by the last property tax assessment previous to issuing the bonds.

2. The number of governing board members for a joint district shall be as prescribed in subsection A of this section.

3. If a career and technical education and vocational education course or program provided pursuant to this article is provided in a facility owned or operated by a school district in which a pupil is enrolled, including satellite courses, the sum of the daily attendance, as provided in section

15-901, subsection A, paragraph ~~6~~ 5, for that pupil in both the school district and joint technical education district shall not exceed 1.25 and the sum of the fractional student enrollment, as provided in section 15-901, subsection A, paragraph ~~2~~ 1, subdivision (a), shall not exceed 1.25 for the courses taken in the school district and the facility, including satellite courses. The school district and the joint district shall determine the apportionment of the daily attendance and fractional student enrollment for that pupil between the school district and the joint district. Pupils in an approved joint technical education district satellite program may generate an average daily attendance for attendance hours during any hour of the day, during any day of the week and at any time beginning July 1 through June 30 of each fiscal year.

4. The student count for the first year of operation of a joint technical education district as provided in this article shall be determined as follows:

(a) Determine the estimated student count for joint district classes that will operate in the first year of operation. This estimate shall be based on actual registration of pupils as of March 30 scheduled to attend classes that will be operated by the joint district. The student count for the district of residence of the pupils registered at the joint district shall be adjusted. The adjustment shall cause the district of residence to reduce the student count for the pupil to reflect the courses to be taken at the joint district. The district of residence shall review and approve the adjustment of its own student count as provided in this subdivision before the pupils from the school district can be added to the student count of the joint district.

(b) The student count for the new joint district shall be the student count as determined in subdivision (a) of this paragraph.

(c) After the first one hundred days or two hundred days in session, as applicable, for the first year of operation, the joint district shall revise the student count to the actual student count for students attending classes in the joint district. A joint district shall revise its student count, the base support level as provided in section 15-943.02, the revenue control limit as provided in section 15-944.01, the capital outlay revenue limit and the soft capital allocation as provided in section 15-962.01 prior to May 15. A joint district that overestimated its student count shall revise its budget prior to May 15. A joint district that underestimated its student count may revise its budget prior to May 15.

(d) After the first one hundred days or two hundred days in session, as applicable, for the first year of operation, the district of residence shall adjust its student count by reducing it to reflect the courses actually taken at the joint district. The district of residence shall revise its student count, the base support level as provided in section 15-943, the revenue control limit as provided in section 15-944, the capital outlay revenue limit as provided in section 15-961 and the soft capital allocation

as provided in section 15-962 prior to May 15. A district that underestimated the student count for students attending the joint district shall revise its budget prior to May 15. A district that overestimated the student count for students attending the joint district may revise its budget prior to May 15.

(e) A joint district for the first year of operation shall not be eligible for adjustment pursuant to section 15-948.

(f) The procedures for implementing this paragraph shall be as prescribed in the uniform system of financial records.

(g) Pupils in an approved joint technical education district centralized program may generate an average daily attendance of 1.0 for attendance hours during any hour of the day, during any day of the week and at any time between July 1 and June 30 of each fiscal year.

For the purposes of this paragraph, "district of residence" means the district that included the pupil in its average daily membership for the year before the first year of operation of the joint district and that would have included the pupil in its student count for the purposes of computing its base support level for the fiscal year of the first year of operation of the joint district if the pupil had not enrolled in the joint district.

5. A student includes any person enrolled in the joint district without regard to the person's age or high school graduation status, except that:

(a) A student in a kindergarten program or in grades one through eight who enrolls in courses offered by the joint technical education district shall not be included in the joint district's ~~average daily attendance or~~ average daily membership.

(b) A student in a kindergarten program or in grades one through eight who is enrolled in vocational education courses shall not be funded in whole or in part with monies provided by a joint technical education district.

(c) A student who is over twenty-two years of age shall not be included in the student count of the joint district for the purposes of chapter 9, articles 3, 4 and 5 of this title.

(d) A student in grade nine who enrolls in a career exploration course shall not be included in the joint district's ~~average daily attendance or~~ average daily membership.

6. A joint district may operate for more than one hundred seventy-five days per year, with expanded hours of service.

7. A joint district may use the excess utility costs provisions of section 15-910 in the same manner as a school district for fiscal years 1999-2000 and 2000-2001, except that the base year shall be the first full fiscal year of operations.

8. A joint district may use the carryforward provisions of section 15-943.01 retroactively to July 1, 1993.

9. A school district that is part of a joint district shall use any monies received pursuant to this article to supplement and not supplant base

year career and technical education and vocational education courses, and directly related equipment and facilities, except that a school district that is part of a joint technical education district and that has used monies received pursuant to this article to supplant career and ~~technological~~ TECHNICAL education and vocational education courses that were offered before the first year that the school district participated in the joint district or the first year that the school district used monies received pursuant to this article or that used the monies for purposes other than for career and ~~technological~~ TECHNICAL education and vocational education courses shall use one hundred per cent of the monies received pursuant to this article to supplement and not supplant base year career and technical education and vocational education courses.

10. A joint technical education district shall use any monies received pursuant to this article to enhance and not supplant career and technical education and vocational education courses and directly related equipment and facilities.

11. A joint technical education district or a school district that is part of a joint district shall only include pupils in grades nine through twelve in the calculation of average daily membership ~~or average daily attendance~~ if the pupils are enrolled in courses that are approved jointly by the governing board of the joint technical education district and each participating school district for satellite courses taught within the participating school district, or approved solely by the joint technical education district for centrally located courses. Average daily membership ~~and average daily attendance~~ from courses that are not part of an approved program for career and technical education shall not be included in average daily membership ~~and average daily attendance~~ of a joint technical education district. A student in grade nine who enrolls in a career exploration course shall not be included in the joint district's ~~average daily attendance or~~ average daily membership.

E. The joint board shall appoint a superintendent as the executive officer of the joint district.

F. Taxes may be levied for the support of the joint district as prescribed in chapter 9, article 6 of this title, except that a joint technical education district shall not levy a property tax pursuant to law that exceeds five cents per one hundred dollars assessed valuation except for bond monies pursuant to subsection D, paragraph 1 of this section. Except for the taxes levied pursuant to section 15-994, such taxes shall be obtained from a levy of taxes on the taxable property used for secondary tax purposes.

G. The schools in the joint district are available to all persons who reside in the joint district subject to the rules for admission prescribed by the joint board.

H. The joint board may collect tuition for adult students and the attendance of pupils who are residents of school districts that are not

participating in the joint district pursuant to arrangements made between the governing board of the district and the joint board.

I. The joint board may accept gifts, grants, federal monies, tuition and other allocations of monies to erect, repair and equip buildings and for the cost of operation of the schools of the joint district.

J. One member of the joint board shall be selected chairman. The chairman shall be selected annually on a rotation basis from among the participating school districts. The chairman of the joint board shall be a voting member.

K. A joint board and a community college district may enter into agreements for the provision of administrative, operational and educational services and facilities.

L. Any agreement between the governing board of a joint technical education district and another joint technical education district, a school district, a charter school or a community college district shall be in the form of an intergovernmental agreement or other written contract. The auditor general shall modify the uniform system of financial records and budget forms in accordance with this subsection. The intergovernmental agreement or other written contract shall completely and accurately specify each of the following:

1. The financial provisions of the intergovernmental agreement or other written contract and the format for the billing of all services.

2. The accountability provisions of the intergovernmental agreement or other written contract.

3. The responsibilities of each joint technical education district, each school district, each charter school and each community college district that is a party to the intergovernmental agreement or other written contract.

4. The type of instruction that will be provided under the intergovernmental agreement or other written contract, including individualized education programs pursuant to section 15-763.

5. The quality of the instruction that will be provided under the intergovernmental agreement or other written contract.

6. The transportation services that will be provided under the intergovernmental agreement or other written contract and the manner in which transportation costs will be paid.

7. The amount that the joint technical education district will contribute to a course and the amount of support required by the school district or the community college.

8. That the services provided by the joint technical education district, the school district, the charter school or the community college district be proportionally calculated in the cost of delivering the service.

9. That the payment for services shall not exceed the cost of the services provided.

~~10. That any initial intergovernmental agreement or other written contract and any addendums between the governing board of a joint technical~~

~~education district and another joint technical education district, a school district, a charter school or a community college district be submitted by the joint technical education district to the joint legislative budget committee for review.~~

M. On or before December 31 of each year, each joint technical education district shall submit a detailed report to the career and technical education division of the department of education. The career and technical education division of the department of education shall collect, summarize and analyze the data submitted by the joint districts, shall submit an annual report that summarizes the data submitted by the joint districts to the governor, the speaker of the house of representatives, the president of the senate and the state board of education and shall submit a copy of this report to the secretary of state. The data submitted by each joint technical education district shall include the following:

1. The average daily membership of the joint district.

2. The program listings and program descriptions of programs offered by the joint district, including the course sequences for each program.

3. The costs associated with each program offered by the joint district.

4. The completion rate for each program offered by the joint district. For the purposes of this paragraph, "completion rate" means the completion rate for students who are designated as concentrators in that program by the department of education under the career and technology approved plan.

5. The graduation rate from the school district of residence of students who have completed a program in the joint district.

6. A detailed description of the career opportunities available to students after completion of the program offered by the joint district.

7. A detailed description of the career placement of students who have completed the program offered by the joint district.

8. Any other data deemed necessary by the department of education to carry out its duties under this subsection.

N. If the career and technical education division of the department of education determines that a course does not meet the criteria for approval as a joint technical education course, the governing board of the joint technical education district may appeal this decision to the state board of education acting as the state board of vocational education.

O. Notwithstanding any other law, the average daily membership of a pupil who is enrolled in a course that meets for at least one hundred fifty minutes per class period at a centralized campus owned and operated by a joint technical education district shall be 0.75. The sum of daily attendance, as provided in section 15-901, subsection A, paragraph 6 and the sum of the fractional student enrollment, as provided in section 15-901, subsection A, paragraph 2, subdivision (a), for that pupil in both the member school district and joint technical education district courses provided at a community college pursuant to subsection K of this section or at a facility

owned and operated by a joint technical education district that is not located on a site of a member district shall not exceed 1.75. The member school district and the joint district shall determine the apportionment of the daily attendance and student enrollment for that pupil between the member school district and the joint district, except the amount apportioned shall not exceed 1.0 for either entity.

P. For the purposes of this section, "base year" means the complete school year in which voters of a school district elected to join a joint technical education district.

Sec. 9. Repeal

Section 15-393, Arizona Revised Statutes, as amended by Laws 2010, chapter 318, section 5, is repealed.

Sec. 10. Section 15-1821.01, Arizona Revised Statutes, is amended to read:

15-1821.01. Dual enrollment information

On a determination by a community college district governing board that it is in the best interest of the citizens of a district, the district governing board may authorize district community colleges to offer college courses that may be counted toward both high school and college graduation requirements at the high school during the school day subject to the following:

1. The community college district governing board and the governing board of the school district or organization of which the high school is a part shall enter into an agreement or contract. These intergovernmental agreements or contracts shall be based on a uniform format that has been cooperatively developed by the community college districts in this state. ~~On or before August 1 of each year, the joint legislative budget committee shall notify each community college district to report on or before October 1 of each year a specified percentage of its initial intergovernmental agreements or contracts executed with school district governing boards or charter schools.~~ Each of these agreements or contracts shall clearly specify the following:

(a) The financial provisions of the agreement or contract and the format for the billing of all services under the agreement or contract, including the amount that the community college received in full-time student equivalent funding pursuant to section 15-1466.01, the portion of the funding that is distributed to the school district governing board or charter school and any amount that is subsequently returned to the community college district by the school district governing board or charter school.

(b) Student tuition and financial aid policies, including if scholarships or grants are awarded to students in dual enrollment courses from the community college.

(c) The accountability provisions for each party to the agreement or contract.

(d) The responsibilities and services required of each party to the agreement or contract.

(e) The type of instruction that will be provided under the agreement or contract, including the titles of the courses to be offered.

(f) The quality of the instruction that will be provided under the agreement or contract.

2. Students shall be admitted to the community college under the policies adopted by each district, subject to the following:

(a) All students enrolled for college credit shall be high school juniors or seniors. All students in the course, including those not electing to enroll for college credit, shall satisfy the prerequisites for the course as published in the college catalog and shall comply with college policies regarding student placement in courses.

(b) A community college may waive the class status requirements specified in subdivision (a) of this paragraph for up to twenty-five per cent of the students enrolled by a college in courses provided that the community college has an established written criteria for waiving the requirements for each course. These criteria shall include a demonstration, by an examination of the specific purposes and requirements of the course, that freshman and sophomore students who meet course prerequisites are prepared to benefit from the college level course. All exceptions and the justification for the exceptions shall be reported annually to the joint legislative budget committee on or before October 1.

3. The courses shall be previously evaluated and approved through the curriculum approval process of the district, shall be at a higher level than taught by the high school and shall be transferable to a university under the jurisdiction of the Arizona board of regents or be applicable to an established community college occupational degree or certificate program. Physical education courses shall not be available for dual enrollment purposes.

4. College approved textbooks, syllabuses, course outlines and grading standards that are applicable to the courses if taught at the community college shall apply to these courses and to all students in the courses offered pursuant to this section. The chief executive officer of each community college shall establish an advisory committee of full-time faculty who teach in the disciplines offered at the community college to assist in course selection and implementation in the high schools and to review and report at least annually to the chief executive officer whether the course goals and standards are understood, the course guidelines are followed and the same standards of expectation and assessment are applied to these courses as though they were being offered at the community college. The advisory committee of full-time faculty shall meet at least three times each academic year.

5. Each faculty member shall meet the requirements established by the governing board pursuant to section 15-1444. The chief executive officer of

each community college district shall establish an advisory committee of full-time faculty who teach in the disciplines offered at the community college district to assist in the selection, orientation, ongoing professional development and evaluation of faculty teaching college courses in conjunction with the high schools. The advisory committee of full-time faculty shall meet at least two times each academic year.

6. Each community college district shall conduct tracking studies of subsequent academic or occupational achievement of students enrolled in courses offered pursuant to this section. The reports of the results of the tracking studies shall be submitted to the joint legislative budget committee on or before October 1 of each odd-numbered year, subject to the following:

(a) The tracking studies prescribed in this paragraph may involve statistically valid sampling techniques and shall include, at a minimum, the high school graduation rate, the number of students continuing their studies after graduation at a community college in this state or a university under the jurisdiction of the Arizona board of regents, the performance of the students in subsequent college courses in the same discipline or occupational field and the student's grade point average after one year at an Arizona community college or university as compared to the student's college grade point average for courses completed while still in high school.

(b) On receipt of the report of the tracking studies prescribed in this paragraph, the joint legislative budget committee may convene an ad hoc committee that includes community college academic officers, faculty and other experts in the field to review the manner in which these courses are provided. This committee may make recommendations to the joint legislative budget committee regarding desirable changes in this section or in the manner in which this section is being implemented. A copy of this report shall be provided to each district governing board.

7. A school district shall ensure that a pupil is a full-time student as defined in section 15-901 and is enrolled in and attending a full-time instructional program at a school in the school district before that pupil is allowed to enroll in a college course pursuant to this section, except that high school seniors who satisfy high school graduation requirements with less than a full-time instructional program shall be exempt from this paragraph.

Sec. 11. Section 15-1853, Arizona Revised Statutes, is amended to read:

15-1853. <u>Funding; federal monies; postsecondary education fund</u>

A. The postsecondary education fund is established consisting of:

1. Monies appropriated by the legislature.

2. Monies received from state agencies and political subdivisions of this state.

3. Monies received from the United States government, including monies received from the United States department of education pursuant to subsection B of this section.

4. Gifts, grants and donations received from any private source to carry out the duties and responsibilities of the commission.

B. The commission may receive monies distributed by the United States department of education for the reimbursement of the costs of performing review requirements. The costs may include expenses for the supplementation of existing review functions, work performed by subcontractors or consultants in connection with the review functions of the commission and any other administrative expenses necessary for compliance with title IV, part H, subpart one of the higher education amendments of 1992. No more than thirteen per cent of amounts received by the commission from the United States department of education may be utilized for administrative purposes by the commission.

C. The commission shall administer the fund in compliance with the requirements of this article. The commission shall separately account for monies received from each source listed in subsection A of this section and may establish accounts and subaccounts of the fund as necessary to carry out the requirements of this subsection.

D. Monies obtained pursuant to subsection A, paragraphs 1 through 3 of this section are subject to legislative appropriation. The commission shall not use these monies for purposes other than those designated by special line items for which the monies are received.

E. Monies obtained pursuant to subsection A, paragraph 4 of this section are continuously appropriated. These monies shall be used in accordance with the requests of the donor. If no request is specified, the monies may be used for additional responsibilities of the commission prescribed in section 15-1851, subsection B and section 15-1852, subsection B, paragraphs 8 and 9.

~~F. The commission shall report quarterly to the joint legislative budget committee on fund deposits and expenditures.~~

Sec. 12. Section 15-2041, Arizona Revised Statutes, is amended to read:

15-2041. New school facilities fund; capital plan; report

A. A new school facilities fund is established consisting of monies appropriated by the legislature and monies credited to the fund pursuant to section 37-221. The school facilities board shall administer the fund and distribute monies, as a continuing appropriation, to school districts for the purpose of constructing new school facilities and for contracted expenses pursuant to section 15-2002, subsection B, paragraphs 2, 3 and 4. On June 30 of each fiscal year, any unobligated contract monies in the new school facilities fund shall be transferred to the capital reserve fund established by section 15-2003.

B. The school facilities board shall prescribe a uniform format for use by the school district governing board in developing and annually updating a capital plan that consists of each of the following:

1. Enrollment projections for the next five years for elementary schools and eight years for middle and high schools, including a description of the methods used to make the projections.

2. A description of new schools or additions to existing schools needed to meet the building adequacy standards prescribed in section 15-2011. The description shall include:

(a) The grade levels and the total number of pupils that the school or addition is intended to serve.

(b) The year in which it is necessary for the school or addition to begin operations.

(c) A timeline that shows the planning and construction process for the school or addition.

3. Long-term projections of the need for land for new schools.

4. Any other necessary information required by the school facilities board to evaluate a school district's capital plan.

5. If a school district pays tuition for all or a portion of the school district's high school pupils to another school district, the capital plan shall indicate the number of pupils for which the district pays tuition to another district. If a school district accepts pupils from another school district pursuant to section 15-824, subsection A, the school district shall indicate the projections for this population separately. This paragraph does not apply to a small isolated school district as defined in section 15-901.

C. If the capital plan indicates a need for a new school or an addition to an existing school within the next four years or a need for land within the next ten years, the school district shall submit its plan to the school facilities board by September 1 and shall request monies from the new school facilities fund for the new construction or land. The school facilities board may require a school district to sell land that was previously purchased entirely with monies provided by the school facilities board if the school facilities board determines that the property is no longer needed within the ten year period specified in this subsection for a new school or no longer needed within that ten year period for an addition to an existing school. Monies provided for land shall be in addition to any monies provided pursuant to subsection D of this section.

D. The school facilities board shall distribute monies from the new school facilities fund as follows:

1. The school facilities board shall review and evaluate the enrollment projections and either approve the projections as submitted or revise the projections. In determining new construction requirements, the school facilities board shall determine the net new growth of pupils that will require additional square footage that exceeds the building adequacy standards prescribed in section 15-2011. If the projected growth and the existing number of pupils exceed three hundred fifty pupils who are served in a school district other than the pupil's resident school district, the school facilities board, the receiving school district and the resident school

district shall develop a capital facilities plan on how to best serve those pupils. A small isolated school district as defined in section 15-901 is not required to develop a capital facilities plan pursuant to this paragraph.

2. If the approved projections indicate that additional space will not be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the request shall be held for consideration by the school facilities board for possible future funding and the school district shall annually submit an updated plan until the additional space is needed.

3. If the approved projections indicate that additional space will be needed within the next two years for elementary schools or three years for middle or high schools in order to meet the building adequacy standards prescribed in section 15-2011, the school facilities board shall provide an amount as follows:

(a) Determine the number of pupils requiring additional square footage to meet building adequacy standards. This amount for elementary schools shall not be less than the number of new pupils for whom space will be needed in the next year and shall not exceed the number of new pupils for whom space will be needed in the next five years. This amount for middle and high schools shall not be less than the number of new pupils for whom space will be needed in the next four years and shall not exceed the number of new pupils for whom space will be needed in the next eight years.

(b) Multiply the number of pupils determined in subdivision (a) of this paragraph by the square footage per pupil. The square footage per pupil is ninety square feet per pupil for preschool children with disabilities, kindergarten programs and grades one through six, one hundred square feet for grades seven and eight, one hundred thirty-four square feet for a school district that provides instruction in grades nine through twelve for fewer than one thousand eight hundred pupils and one hundred twenty-five square feet for a school district that provides instruction in grades nine through twelve for at least one thousand eight hundred pupils. The total number of pupils in grades nine through twelve in the district shall determine the square footage factor to use for net new pupils. The school facilities board may modify the square footage requirements prescribed in this subdivision for particular schools based on any of the following factors:

(i) The number of pupils served or projected to be served by the school district.

(ii) Geographic factors.

(iii) Grade configurations other than those prescribed in this subdivision.

(iv) Compliance with minimum school facility adequacy requirements established pursuant to section 15-2011.

(c) Multiply the product obtained in subdivision (b) of this paragraph by the cost per square foot. The cost per square foot is ninety dollars for

preschool children with disabilities, kindergarten programs and grades one through six, ninety-five dollars for grades seven and eight and one hundred ten dollars for grades nine through twelve. The cost per square foot shall be adjusted annually for construction market considerations based on an index identified or developed by the joint legislative budget committee as necessary but not less than once each year. The school facilities board shall multiply the cost per square foot by 1.05 for any school district located in a rural area. The school facilities board may only modify the base cost per square foot prescribed in this subdivision for particular schools based on geographic conditions or site conditions. For the purposes of this subdivision, "rural area" means an area outside a thirty-five mile radius of a boundary of a municipality with a population of more than fifty thousand persons.

(d) Once the school district governing board obtains approval from the school facilities board for new facility construction funds, additional portable or modular square footage created for the express purpose of providing temporary space for pupils until the completion of the new facility shall not be included by the school facilities board for the purpose of new construction funding calculations. On completion of the new facility construction project, if the portable or modular facilities continue in use, the portable or modular facilities shall be included as prescribed by this chapter, unless the school facilities board approves their continued use for the purpose of providing temporary space for pupils until the completion of the next new facility that has been approved for funding from the new school facilities fund.

4. For projects approved after December 31, 2001, and notwithstanding paragraph 3 of this subsection, a unified school district that does not have a high school is not eligible to receive high school space as prescribed by section 15-2011 and this section unless the unified district qualifies for geographic factors prescribed by paragraph 3, subdivision (b), item (ii) of this subsection.

5. If a joint technical education district leases a building from a school district, that building shall be included in the school district's square footage calculation for the purposes of new construction pursuant to this section.

E. Monies for architectural and engineering fees, project management services and preconstruction services shall be distributed on the completion of the analysis by the school facilities board of the school district's request. After receiving monies pursuant to this subsection, the school district shall submit a design development plan for the school or addition to the school facilities board before any monies for construction are distributed. If the school district's request meets the building adequacy standards, the school facilities board may review and comment on the district's plan with respect to the efficiency and effectiveness of the plan in meeting state square footage and facility standards before distributing

the remainder of the monies. If the school facilities board modifies the cost per square foot as prescribed in subsection D, paragraph 3, subdivision (c) of this section, the school facilities board may deduct the cost of project management services and preconstruction services from the required cost per square foot. The school facilities board may decline to fund the project if the square footage is no longer required due to revised enrollment projections.

F. The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school. If necessary, the school facilities board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. A school district shall not use land purchased or partially purchased with monies provided by the school facilities board for a purpose other than a site for a school facility without obtaining prior written approval from the school facilities board. A school district shall not lease, sell or take any action that would diminish the value of land purchased or partially purchased with monies provided by the school facilities board without obtaining prior written approval from the school facilities board. The proceeds derived through the sale of any land purchased or partially purchased with monies provided by the school facilities board shall be returned to the state fund from which it was appropriated and to any other participating entity on a proportional basis. Except as provided in section 15-342, paragraph 33, if a school district acquires real property by donation at an appropriate school site approved by the school facilities board, the school facilities board shall distribute an amount equal to twenty per cent of the fair market value of the donated real property that can be used for academic purposes. The school district shall place the monies in the unrestricted capital outlay fund and increase the unrestricted capital budget limit by the amount of monies placed in the fund. Monies distributed under this subsection shall be distributed from the new school facilities fund. A school district that receives monies from the new school facilities fund for a donation of land pursuant to section 15-342, paragraph 33 shall not receive monies from the school facilities board for the donation of real property pursuant to this subsection. A school district shall not pay a consultant a percentage of the value of any of the following:

1. Donations of real property, services or cash from any of the following:

(a) Entities that have offered to provide construction services to the school district.

(b) Entities that have been contracted to provide construction services to the school district.

(c) Entities that build residential units in that school district.

(d) Entities that develop land for residential use in that school district.

2. Monies received from the school facilities board on behalf of the school district.

3. Monies paid by the school facilities board on behalf of the school district.

G. In addition to distributions to school districts based on pupil growth projections, a school district may submit an application to the school facilities board for monies from the new school facilities fund if one or more school buildings have outlived their useful life. If the school facilities board determines that the school district needs to build a new school building for these reasons, the school facilities board shall remove the square footage computations that represent the building from the computation of the school district's total square footage for purposes of this section. If the square footage recomputation reflects that the school district no longer meets building adequacy standards, the school district qualifies for a distribution of monies from the new school construction formula in an amount determined pursuant to subsection D of this section. Buildings removed from a school district's total square footage pursuant to this subsection shall not be included in the computation of monies from the building renewal fund established by section 15-2031. The school facilities board may only modify the base cost per square foot prescribed in this subsection under extraordinary circumstances for geographic factors or site conditions.

H. School districts that receive monies from the new school facilities fund shall establish a district new school facilities fund and shall use the monies in the district new school facilities fund only for the purposes prescribed in this section. By October 15 of each year, each school district shall report to the school facilities board the projects funded at each school in the previous fiscal year with monies from the district new school facilities fund and shall provide an accounting of the monies remaining in the new school facilities fund at the end of the previous fiscal year.

I. If a school district has surplus monies received from the new school facilities fund, the school district may use the surplus monies only for capital purposes for the project for up to one year after completion of the project. If the school district possesses surplus monies from the new school construction project that have not been expended within one year of the completion of the project, the school district shall return the surplus monies to the school facilities board for deposit in the new school facilities fund.

J. The board's consideration of any application filed after December 31 of the year in which the property becomes territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461 for monies to fund the construction of new school facilities proposed to be located in territory in the vicinity of a military airport or ancillary

military facility shall include, if after notice is transmitted to the military airport pursuant to section 15-2002 and before the public hearing the military airport provides comments and an analysis concerning compatibility of the proposed school facilities with the high noise or accident potential generated by military airport or ancillary military facility operations that may have an adverse effect on public health and safety, consideration and analysis of the comments and analysis provided by the military airport before making a final determination.

K. If a school district uses its own project manager for new school construction, the members of the school district governing board and the project manager shall sign an affidavit stating that the members and the project manager understand and will follow the minimum adequacy requirements prescribed in section 15-2011.

L. The school facilities board shall establish a separate account in the new school facilities fund designated as the litigation account to pay attorney fees, expert witness fees and other costs associated with litigation in which the school facilities board pursues the recovery of damages for deficiencies correction that resulted from alleged construction defects or design defects that the school facilities board believes caused or contributed to a failure of the school building to conform to the building adequacy requirements prescribed in section 15-2011. Attorney fees paid pursuant to this subsection shall not exceed the market rate for similar types of litigation. ~~The joint committee on capital review shall conduct an annual review of the litigation account, including the costs associated with current and potential litigation.~~ ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE SCHOOL FACILITIES BOARD SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW THE COSTS ASSOCIATED WITH CURRENT AND POTENTIAL LITIGATION THAT MAY BE PAID FROM THE LITIGATION ACCOUNT.

M. Until the state board of education and the auditor general adopt rules pursuant to section 15-213, subsection I, the school facilities board may allow school districts to contract for construction services and materials through the qualified select bidders list method of project delivery for new school facilities pursuant to this section.

N. The school facilities board shall submit electronically a report on project management services and preconstruction services to the governor, the president of the senate and the speaker of the house of representatives by December 31 of each year. The report shall compare projects that use project management and preconstruction services with those that do not. The report shall address cost, schedule and other measurable components of a construction project. School districts, construction manager at risk firms and project management firms that participate in a school facilities board funded project shall provide the information required by the school facilities board in relation to this report.

O. If a school district constructs new square footage according to section 15-342, paragraph 33, the school facilities board shall review the

design plans and location of any new school facility submitted by school districts and another party to determine whether the design plans comply with the adequacy standards prescribed in section 15-2011 and the square footage per pupil requirements pursuant to subsection D, paragraph 3, subdivision (b) of this section. When the school district qualifies for a distribution of monies from the new school facilities fund according to this section, the school facilities board shall distribute monies to the school district from the new school facilities fund for the square footage constructed under section 15-342, paragraph 33 at the same cost per square foot established by this section that was in effect at the time of the beginning of the construction of the school facility. Before the school facilities board distributes any monies pursuant to this subsection, the school district shall demonstrate to the school facilities board that the facilities to be funded pursuant to this section meet the minimum adequacy standards prescribed in section 15-2011. The agreement entered into pursuant to section 15-342, paragraph 33 shall set forth the procedures for the allocation of these funds to the parties that participated in the agreement.

Sec. 13. Section 21-222, Arizona Revised Statutes, is amended to read:

21-222. Arizona lengthy trial fund

A. The Arizona lengthy trial fund is established consisting of monies received from the additional fees paid on all filings, appearances, responses and answers pursuant to section 12-115. The monies in the fund shall not be used for any purpose other than as prescribed in this section.

B. The supreme court shall administer the fund and shall adopt rules for the administration of the fund. Not more than three per cent of the monies in the fund shall be used for the reasonable and necessary costs of administering the fund. On or before the fifteenth day of each month, on receipt of a request for reimbursement the supreme court shall transmit monies from the fund to a jury commissioner for monies paid to a juror under this section, together with a fee of not less than the amount prescribed in section 12-284, subsection A, class E for each application for payment of replacement or supplemental earnings by a juror.

C. Subject to the availability of monies, monies in the fund shall be used to pay full or partial earnings replacement or supplementation to jurors who serve as petit jurors for more than five days and who receive less than full compensation. The amount of replacement or supplemental earnings shall be at least forty dollars but not more than three hundred dollars per day per juror beginning on the fourth day of jury service.

D. A juror whose jury service lasts more than five days may submit a request for payment from the fund. The amount a juror receives from the fund is limited to the difference between the jury fee prescribed in section 21-221 and the actual amount of earnings a juror earns, not less than forty dollars, up to the maximum level payable under subsection C of this section, minus any amount the juror actually received from the juror's employer during the same time period. A juror who requests payment from the fund:

1. Shall disclose on the form the juror's regular earnings, the amount the juror's employer will pay during the term of jury service starting on the fourth day and thereafter, the amount of replacement or supplemental earnings being requested and any other information that the jury commissioner deems necessary.

2. Before receiving payment from the fund, shall submit verification from the juror's employer, if any, regarding the earnings information that is provided under paragraph 1. This verification may include the employee's most recent earnings statement or a similar document.

3. In order to verify the weekly income if the juror is self-employed or receives compensation other than wages, shall provide a sworn affidavit attesting to the juror's approximate gross weekly income, together with any other information that the supreme court requires.

E. Jurors who are unemployed and are not eligible for payment pursuant to subsections C and D of this section are eligible to be paid forty dollars per day, even if they receive income in the form of spousal maintenance, pensions, retirement, unemployment compensation, disability benefits or other similar income. Commissioners shall not deduct these other forms of income in calculating the amount these jurors are to be paid from the fund.

~~F. The supreme court shall annually report to the joint legislative budget committee on the amount of monies collected and disbursed from the fund and the number of jurors who received monies from the fund. Beginning July 1, 2011, the report shall be submitted electronically.~~

Sec. 14. Section 23-773, Arizona Revised Statutes, is amended to read:

23-773. Examination and determination of claims

A. A representative designated by the department as a deputy shall promptly examine any claim for benefits and, on the basis of the facts found by the deputy, shall determine whether or not the claim is valid. If the claim is valid, the deputy shall also determine the week with respect to which the benefit year shall commence, the weekly benefit amount payable and the maximum duration of the benefit.

B. The deputy shall promptly notify the claimant and any other interested parties of the determination and the reasons for the determination. Except as provided in subsection D of this section, unless the claimant or an interested party, within seven calendar days after the delivery of notification, or within fifteen calendar days after notification was mailed to the claimant's or interested party's last known address, files an appeal from the determination, it shall become final, and benefits shall be paid or denied in accordance with the determination. The department shall adopt rules to allow an appeal to be filed in writing, electronically or by telephone. If an appeal tribunal affirms a determination of the deputy allowing benefits, or the appeals board affirms a determination or decision allowing benefits, the benefits shall be paid regardless of any appeal that may thereafter be taken, but if that decision is finally reversed, no employer's account shall be charged with benefits so paid.

C. On receipt of a request from an interested party for information about a deputy's determination made pursuant to this section or section 23-673, the department shall make available by memorandum or other written document within five days after receipt of the request the following information:

1. The facts considered and the facts relied on in making the determination.

2. The specific statutes, regulations or other authority relied on in making the determination.

3. The reasoning applied in making the determination.

D. Before the time for appeal as prescribed in subsection B of this section has expired, an interested party may request a reconsidered determination. The department shall examine the request and, within seven calendar days, deny the request or issue a reconsidered determination. ~~If the department denies the request based on an alleged failure of the interested party to make a timely response but the interested party subsequently proves that the response was timely filed and received by the department, the department shall report that result to the joint legislative budget committee.~~ The interested party may prove that a response was timely filed by using evidence of fax records that documents the date and time when a faxed response was transmitted and received by the department. A request for reconsideration that is denied shall be treated as an appeal, and the same procedure shall be followed as provided for in case of appeal from the original determination. If a reconsidered determination is issued, the time for appeal shall run from the date of issuance of the reconsidered determination. The employer and the claimant shall each be permitted no more than one request for reconsideration on each case.

E. Before the actual filing of an appeal under subsection B of this section, but not later than the time permitted to appeal, the department on its own motion may issue a reconsidered determination. After the time for appeal has expired, but within one year after the issuance of the original determination, the department with authorization of the unemployment insurance program administrator may issue a reconsidered determination, on the basis of newly discovered evidence that by due diligence could not have been previously discovered, if no administrative or judicial review has occurred or is pending on the original determination. If a redetermination is based on fraud, the one year limitation on the issuance of redeterminations does not apply.

F. Prompt notice in writing of any reconsidered determination under subsection E of this section and the reasons for reconsideration shall be given to all interested parties. An interested party may appeal within the time prescribed under subsection B of this section, and the same procedure shall be followed as provided for in case of an appeal from the original determination.

Sec. 15. Section 27-935, Arizona Revised Statutes, is amended to read:

27-935. Plan review and evaluation by private consultants

A. Subject to section 38-503 and other applicable statutes and rules, the state mine inspector may contract with a private consultant for the purpose of assisting the inspector in reviewing reclamation plans that are submitted under this chapter to determine whether the plans meet the criteria and requirements of this chapter and the rules adopted by the inspector.

B. The inspector shall pay the consultant for the services rendered from the inspector's appropriation under section 27-934. ~~The inspector shall report to the staff director of the joint legislative budget committee:~~

~~1. Expenditures of money for purposes of this section.~~

~~2. The name and address of each consultant.~~

~~3. The plan submittals that cause the expenditure of the monies.~~

Sec. 16. Section 27-1234, Arizona Revised Statutes, is amended to read:

27-1234. Plan review and evaluation by private consultants

A. Subject to section 38-503 and other applicable statutes and rules, the state mine inspector may contract with a private consultant for the purpose of assisting the inspector in reviewing reclamation plans that are submitted under this chapter to determine whether the plans meet the criteria and requirements of this chapter and the rules adopted by the inspector.

B. The inspector shall pay the consultant for the services rendered from the inspector's appropriation under section 27-1233. ~~The inspector shall report to the staff director of the joint legislative budget committee:~~

~~1. Expenditures of money for purposes of this section.~~

~~2. The name and address of each consultant.~~

~~3. The plan submittals that cause the expenditure of the monies.~~

Sec. 17. Section 28-2404, Arizona Revised Statutes, is amended to read:

28-2404. Special organization license plates

A. Special organization license plates authorized before ~~the effective date of this section~~ SEPTEMBER 30, 2009 remain valid license plates issued by this state unless the legislature enacts legislation specifically terminating those license plates.

B. The department shall issue special organization license plates authorized before ~~the effective date of this section~~ SEPTEMBER 30, 2009 to initial applicants or applicants requesting a duplicate, replacement or new license plate.

C. The director shall allow a request for a special organization license plate authorized before ~~the effective date of this section~~ SEPTEMBER 30, 2009 to be combined with a request for personalized special plates if the organization makes the request and pays the department the monies necessary as determined by the department to cover the department's costs to implement the combination. The request shall be in a form prescribed by the director and is subject to the fees for the personalized special plates in addition to

the fees required for the organization special license plate. ~~After receiving a request from an organization to allow for a combination of the special organization license plate with personalized special plates, the department shall provide to the joint legislative budget committee a detailed written statement of the implementation costs of the combination.~~

D. An organization that receives authorization for a special organization license plate before ~~the effective date of this section~~ SEPTEMBER 30, 2009 may redesign the special organization license plate if the new design is approved by the department and the organization pays thirty-two thousand dollars to the department to issue the redesigned special organization license plate.

E. Of the twenty-five dollar fee required by section 28-2402 for the original special plates and for renewal of special plates, eight dollars is a special plate administration fee and seventeen dollars is an annual donation.

F. The department shall deposit, pursuant to sections 35-146 and 35-147, all special plate administration fees in the state highway fund established by section 28-6991 and shall distribute all donations collected pursuant to this section as authorized in a written resolution of the entity that provides the thirty-two thousand dollars to the department pursuant to subsection D of this section. The entity must use the donations for the same purpose as originally approved.

G. The department shall issue special organization license plates authorized before ~~the effective date of this section~~ SEPTEMBER 30, 2009 to applicants who are otherwise qualified by law for the license plates and who are not members of the organization if the department receives a written resolution from the organization requesting issuance to nonmembers.

Sec. 18. Section 28-7009, Arizona Revised Statutes, is amended to read:

28-7009. <u>Statewide transportation acceleration needs account; establishment; definition</u>

A. The statewide transportation acceleration needs account is established as a separate account in the state highway fund. The account consists of all of the following, except that the source of monies in the fund shall not be a consent agreement or any type of negotiated settlement by any state or local agency or any donation made in place of a consent agreement or any type of settlement:

1. Monies appropriated by the legislature.

2. Monies designated for deposit in the account by the transportation board, a state agency or a political subdivision.

3. Monies received from the United States government for the purpose of accelerating transportation projects.

4. Monies received from political subdivisions, Indian tribes or this state or its agencies for the purpose of accelerating transportation projects.

5. Interest and other income received from investing monies in the account.

6. Gifts, grants, donations or other amounts received from any public or private source for deposit in the account for the purpose of accelerating transportation projects.

B. On notice from the transportation board, the state treasurer shall invest and divest monies in the statewide transportation acceleration needs account as provided by section 35-313, and monies earned from investment shall be credited to the account.

C. The transportation board may establish any subaccount in the statewide transportation acceleration needs account that the board determines is necessary or appropriate to carry out the purposes of this section.

D. If a governmental entity or a private person deposits monies in the statewide transportation acceleration needs account for acceleration of a specific project and the appropriate regional planning agency or council of governments in cooperation with the transportation board approves the project, the board shall designate the monies deposited by the governmental entity or private person solely for the project for which the monies are deposited.

E. Notwithstanding section 28-6993, and any other agreements entered into by the department of transportation for the distribution and expenditure of monies from the state highway fund, the transportation board shall not approve any expenditures from the statewide transportation acceleration needs account unless the expenditure is made in accordance with this section and is for the construction or reconstruction of freeways, state highways, bridges and interchanges that are contained in the regional transportation plan of a county or the department's long-range statewide transportation plan pursuant to section 28-506. For the purposes of this subsection, a regional transportation plan is a twenty year comprehensive, performance based, multimodal and coordinated regional transportation plan that is approved for the county as provided by law and as amended or otherwise modified.

F. Monies in the statewide transportation acceleration needs account shall be used only to pay for the following costs of a transportation project approved pursuant to this section:

1. Except as provided in sections 28-7010 and 28-7011:

(a) Materials and labor.

(b) Acquisition of rights-of-way for highway needs.

(c) Design and other engineering services that are within the scope of engineering practice as provided in title 32, chapter 1.

(d) Other directly related costs approved by the transportation board.

2. Beginning in fiscal year 2006-2007, interest costs resulting from bonds, loans, notes or other obligations issued or incurred or advances made by or on behalf of a city, town or county.

G. Monies in the statewide transportation acceleration needs account that are appropriated by the legislature and any interest earnings shall be allocated as follows:

1. For a county with a population of at least one million two hundred thousand persons for the area included in the regional planning agency's transportation improvement plan, sixty per cent.

2. For a county with a population of more than five hundred thousand persons but less than one million two hundred thousand persons for the area included in the regional planning agency's transportation improvement plan, sixteen per cent.

3. For all other counties, twenty-four per cent.

H. The regional planning agency in a county designated as a transportation management area shall establish a process for the review and approval of transportation projects eligible to receive monies from the statewide transportation acceleration needs account. As part of its request to the transportation board for monies, the regional planning agency shall ensure and submit evidence satisfactory to the board that any project costs not eligible for monies from the statewide transportation acceleration needs account are available and dedicated to the project. In all other counties, the department, in cooperation with the metropolitan planning organization or the council of governments that has the authority to approve transportation projects for the county, shall develop requests for expenditure of monies from the statewide transportation acceleration needs account. As part of the request to the transportation board for monies, the metropolitan planning organization or the council of governments for the department shall submit evidence satisfactory to the board that any project costs not eligible for monies from the statewide transportation acceleration needs account are available and dedicated to the project.

I. On receipt of a request for monies from the statewide transportation acceleration needs account, the transportation board shall place the request on the agenda for the next regular business meeting of the board. The board shall review the request and, in cooperation with the regional planning agency, the metropolitan planning organization or the council of governments, approve the request or further modify the request before approval.

J. The transportation board shall not approve the release of any monies from the statewide transportation acceleration needs account for a transportation project unless the board verifies that all costs related to construction of the project are covered.

K. A city, town or county may use monies that are in the statewide transportation acceleration needs account or any subaccount of the statewide transportation acceleration needs account, including monies that were previously approved by the board for a project and that were not specifically designated for interest costs for that project, for interest costs only if all of the following occur:

1. The regional planning agency in a county designated as a transportation management area recommends that the monies be spent for interest costs.

2. The board approves the regional planning agency's recommendation described in paragraph 1 of this subsection.

3. The city, town or county complies with this section.

L. Monies in the statewide transportation acceleration needs account shall be used to supplement, not supplant, funding that would otherwise be made available for projects.

~~M. On or before July 1 of each year, the transportation board shall submit a report of its activities pursuant to this section to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the secretary of state, the director of the joint legislative budget committee and the director of the Arizona state library, archives and public records.~~

~~N.~~ M. A regional planning agency that receives monies from the statewide transportation acceleration needs account shall report on or before December 15 of each year to the senate and house of representatives transportation committees on approved projects and amounts expended for those projects.

~~O.~~ N. For the purposes of this section, "project" means the construction or reconstruction of a specific portion of a freeway or state highway or a bridge or interchange or a portion of a bridge or interchange that is constructed at a single location.

Sec. 19. Section 31-239, Arizona Revised Statutes, is amended to read:

31-239. Utility fees

A. The director shall establish by rule a reasonable utility fee for electrical utilities that are consumed by prisoners who are confined in a correctional facility. The fee shall not exceed two dollars per month. The director shall charge each prisoner who possesses at least one major electrical appliance a utility fee. The director shall deduct the utility fee monthly from the prisoner's spendable account.

B. The director shall use the monies collected pursuant to this section to offset the cost of the department's utility expenses. ~~The director shall report by September 1 of each year to the director of the joint legislative budget committee and the director of the governor's office of strategic planning and budgeting on the monies that are collected and spent pursuant to this section.~~

C. The director shall exempt the following prisoners from payment of the utility fee:

1. Prisoners at reception centers.

2. Prisoners in the behavioral treatment unit at the special management unit.

3. Developmentally disabled prisoners who are housed in a special programs unit.

4. Prisoners who are housed in unit 8 at the Florence prison facility.

5. Prisoners who are inpatients at the Alhambra prison facility special programs psychiatric hospital.

6. Prisoners who are inpatients at the Flamenco prison facility mental health treatment unit.

D. The director shall deduct monies credited to an indigent inmate's spendable account for the payment of the utility fee.

Sec. 20. Section 31-285, Arizona Revised Statutes, is amended to read:

31-285. Transition program release; report

A. An inmate who enters a transition program pursuant to this article shall be released from confinement three months earlier than the inmate's earliest release date based on the inmate's risk and need and rules adopted pursuant to section 31-281. An inmate who the director determines has participated in the program but who is not low risk shall not be released from confinement earlier than the inmate's earliest release date.

B. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, the department shall prepare a ~~quarterly~~ report that details the cost reductions to the department that are directed to the transition program pursuant to this article and the number of participants who did not receive an early release under the transition program. The reduction rate shall equal at least seventeen dollars per inmate per day. The department shall submit a copy of its report to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the director of the joint legislative budget committee~~,~~ AND the secretary of state ~~and the director of the Arizona state library, archives and public records~~.

C. The state treasurer shall deposit any cost reductions that are identified pursuant to subsection B of this section in the transition services fund established by section 31-286 for the purpose of providing transitional services.

Sec. 21. Section 31-467, Arizona Revised Statutes, is amended to read:

31-467. Adoption of interstate compact for the supervision of adult offenders

The governor is authorized and directed to enter into a compact on behalf of the state of Arizona with any of the United States lawfully joined in the compact in a form substantially as follows:

ARTICLE I

PURPOSE

A. Arizona and the compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner and when

1 necessary return offenders to the originating jurisdictions. The compacting
2 states also recognize that Congress, by enacting the crime control act, 4
3 United States Code section 112 (1965), has authorized and encouraged compacts
4 for cooperative efforts and mutual assistance in the prevention of crime.
5 B. It is the purpose of this compact and the interstate commission
6 created under this compact, through means of joint and cooperative action
7 among the compacting states, to do all of the following:
8 1. Provide the framework for the promotion of public safety and
9 protect the rights of victims through the control and regulation of the
10 interstate movement of offenders in the community.
11 2. Provide for the effective tracking, supervision and rehabilitation
12 of these offenders by the sending and receiving states.
13 3. Equitably distribute the costs, benefits and obligations of the
14 compact among the compacting states.
15 C. In addition, this compact will do all of the following:
16 1. Create an interstate commission that will establish uniform
17 procedures to manage the movement between states of adults placed under
18 community supervision and released to the community under the jurisdiction of
19 courts, paroling authorities, corrections or other criminal justice agencies
20 that will promulgate rules to achieve the purpose of this compact.
21 2. Ensure an opportunity for input and timely notice to victims and to
22 jurisdictions where defined offenders are authorized to travel or to relocate
23 across state lines.
24 3. Establish a system of uniform data collection, access to
25 information on active cases by authorized criminal justice officials and
26 regular reporting of compact activities to heads of state councils, state
27 executive, judicial and legislative branches and criminal justice
28 administrators.
29 4. Monitor compliance with rules governing interstate movement of
30 offenders and initiate interventions to address and correct noncompliance.
31 5. Coordinate training and education regarding regulations of
32 interstate movement of offenders for officials involved in such activity.
33 D. The compacting states recognize that there is no right of any
34 offender to live in another state and that duly accredited officers of a
35 sending state may at all times enter a receiving state and apprehend and
36 retake any offender under supervision subject to the provisions of this
37 compact and bylaws and rules promulgated under this compact.
38 E. Compacting states recognize no offender may live in another state
39 when acceptance criteria that has been established or adopted by the
40 compacting state has not been met. It is the policy of the compacting states
41 that the activities conducted by the interstate commission created in this
42 compact are the formation of public policies and are therefore public
43 business.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context otherwise requires:

1. "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute or operation of law.

2. "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

3. "Commissioner" means the voting representative of each compacting state appointed pursuant to article IV of this compact.

4. "Compact administrator" means the director of the Arizona department of corrections, who is responsible for the administration and management of Arizona's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

5. "Compacting state" means any state that has enacted the enabling legislation for this compact.

6. "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

7. "Member" means the commissioner of a compacting state or the commissioner's designee, who shall be a person officially connected with the commissioner.

8. "Noncompacting state" means any state that has not enacted the enabling legislation for this compact.

9. "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies.

10. "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

11. "Rules" means acts of the interstate commission, duly promulgated pursuant to article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

12. "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

13. "State council" means the resident members of the state council for interstate adult offender supervision created by each state under article IV of this compact.

ARTICLE III

THE COMPACT COMMISSION

A. This compact creates the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth in the compact, including

1 the power to sue and be sued, and additional powers conferred on it by
2 subsequent action of the respective legislatures of the compacting states in
3 accordance with the terms of this compact. The interstate commission shall
4 consist of commissioners selected and appointed by resident members of a
5 state council for interstate adult offender supervision for each state. In
6 addition to the commissioners who are the voting representatives of each
7 state, the interstate commission shall include individuals who are not
8 commissioners but who are members of interested organizations. The
9 noncommissioner members must include a member of the national organizations
10 of governors, legislators, state chief justices, attorneys general and crime
11 victims. All noncommissioner members of the interstate commission shall be
12 ex officio, nonvoting members. The interstate commission may provide in its
13 bylaws for any additional, ex officio, nonvoting members it deems necessary.
14 B. Each compacting state represented at any meeting of the interstate
15 commission is entitled to one vote. A majority of the compacting states
16 shall constitute a quorum for the transaction of business, unless a larger
17 quorum is required by the bylaws of the interstate commission. The
18 interstate commission shall meet at least once each calendar year. The
19 chairperson may call additional meetings and, on the request of twenty-seven
20 or more compacting states, shall call additional meetings. Public notice
21 shall be given of all meetings and meetings shall be open to the public.
22 C. The interstate commission shall establish an executive committee
23 that includes commission officers, members and others that are determined by
24 the bylaws. The executive committee may act on behalf of the interstate
25 commission during periods when the interstate commission is not in session,
26 with the exception of rule making or amendment to the compact. The executive
27 committee oversees the day-to-day activities managed by the executive
28 director and interstate commission staff, administers enforcement and
29 compliance with the provisions of the compact, its bylaws and as directed by
30 the interstate commission and performs other duties as directed by the
31 commission or set forth in the bylaws.
32 ARTICLE IV
33 THE STATE COUNCIL
34 A. Arizona shall create a state council for interstate adult offender
35 supervision that is responsible for the appointment of the commissioner who
36 shall serve on the interstate commission from Arizona. The commissioner
37 shall be the compact administrator or designee.
38 B. The membership of the state council shall include one legislator
39 who is appointed by the speaker of the house of representatives, one
40 legislator who is appointed by the president of the senate, one victim's
41 advocate who is appointed by the governor, the deputy compact administrator
42 of the state department of corrections who is appointed by the director of
43 the state department of corrections, the deputy compact administrator of the
44 administrative office of the courts who is appointed by the director of the
45 administrative office of the courts, one judge who is appointed by the chief

justice of the supreme court, one sheriff who is appointed by the Arizona sheriff's association and any other members determined by the state council.

C. The state council shall exercise oversight and advocacy concerning Arizona's participation in interstate commission activities and other duties as determined by the council's members including the development of policy concerning operations and procedures of the compact within Arizona.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers and duties:

1. To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

2. To promulgate rules and take action consistent with this compact.

3. To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.

4. To enforce compliance with compact provisions, interstate commission rules and bylaws, using all necessary and proper means, including judicial process.

5. To establish and maintain offices.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept or contract for services of personnel, including members and members' staffs.

8. To establish and appoint committees and hire staff it deems necessary to carry out its functions, including an executive committee as required by article III that may act on behalf of the interstate commission in carrying out its powers and duties under this compact.

9. To elect or appoint such officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials and services and to receive, utilize and dispose of them.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures and levy dues as provided in article X of this compact.

14. To sue and be sued.

15. To provide for dispute resolution among compacting states.

16. To perform functions necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary and state councils of the compacting states concerning the activities of the

interstate commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the interstate commission.

18. To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

19. To establish uniform standards for the reporting, collecting and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority vote of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct necessary or appropriate to carry out the purposes of the compact, including:

1. Establishing the fiscal year of the interstate commission.

2. Establishing an executive committee and other necessary committees.

3. Providing reasonable standards and procedures:

(a) For the establishment of committees, and

(b) Governing any general or specific delegation of any authority or function of the interstate commission.

4. Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting.

5. Establishing the titles and responsibilities of the officers of the interstate commission.

6. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

7. Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that exist on the termination of the compact after paying or reserving all of its debts and obligations.

8. Providing transition rules for start up administration of the compact.

9. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

B. The interstate commission shall, by a majority vote of the members, elect from among its members a chairperson and a vice-chairperson, each of whom shall have the powers and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers elected shall serve without compensation or remuneration from the interstate commission. Subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and

1 responsibilities as officers of the interstate commission. The interstate
2 commission, through its executive committee, shall appoint or retain an
3 executive director for such period, on terms and conditions and for
4 compensation the interstate commission deems appropriate. The executive
5 director shall serve as secretary to the interstate commission, and hire and
6 supervise other staff authorized by the interstate commission, but shall not
7 be a member.
8 C. The interstate commission shall maintain its corporate books and
9 records in accordance with the bylaws.
10 D. The members, officers, executive director and employees of the
11 interstate commission shall be immune from suit and liability, either
12 personally or in their official capacity, for any claim for damage to or loss
13 of property or personal injury or other civil liability caused by or arising
14 out of any actual or alleged act, error or omission that occurred within the
15 scope of interstate commission employment, duties or responsibilities. This
16 subsection shall not be construed to protect any person from suit or
17 liability for any damage, loss, injury or liability caused by the intentional
18 or willful and wanton misconduct of any person. The interstate commission
19 shall defend the commissioner of a compacting state, or his or her
20 representatives or employees, or the interstate commission's representatives
21 or employees, in any civil action seeking to impose liability, arising out of
22 any actual or alleged act, error or omission that occurred within the scope
23 of interstate commission employment, duties or responsibilities, or that the
24 defendant had a reasonable basis for believing occurred within the scope of
25 interstate commission employment, duties or responsibilities, if the actual
26 or alleged act, error or omission did not result from intentional wrongdoing
27 on the part of the person. The interstate commission shall indemnify and
28 hold the commissioner of a compacting state, the appointed designee or
29 employees, or the interstate commission's representatives or employees,
30 harmless in the amount of any settlement or judgment obtained against such
31 persons arising out of any actual or alleged act, error or omission that
32 occurred within the scope of interstate commission employment, duties or
33 responsibilities, or that such persons had a reasonable basis for believing
34 occurred within the scope of interstate commission employment, duties or
35 responsibilities, provided that the actual or alleged act, error or omission
36 did not result from gross negligence or intentional wrongdoing on the part of
37 the person.
38 ARTICLE VII
39 ACTIVITIES OF THE INTERSTATE COMMISSION
40 A. The interstate commission shall meet and take actions consistent
41 with the provisions of this compact.
42 B. Except as otherwise provided in this compact and unless a greater
43 percentage is required by the bylaws, in order to constitute an act of the
44 interstate commission, the act must be taken at a meeting of the interstate

commission and must receive an affirmative vote of a majority of the members present.

C. Each member of the interstate commission has the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication, is subject to the same quorum requirements of meetings at which members are present in person.

D. The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, on the request of a majority of the members, shall call additional meetings.

E. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating the rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

F. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the government in the sunshine act (5 United States Code section 552b). The interstate commission and any of its committees may close a meeting to the public if it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the interstate commission's internal personnel practices and procedures.

2. Disclose matters specifically exempted from disclosure by statute.

3. Disclose trade secrets or commercial or financial information that is privileged or confidential.

4. Involve accusing any person of a crime, or formally censuring any person.

5. Disclose information of a personal nature if disclosure would constitute a clearly unwarranted invasion of personal privacy.

6. Disclose investigatory records compiled for law enforcement purposes.

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of the entity.

8. Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

9. Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

G. For every meeting closed pursuant to subsection F, the interstate commission's chief legal officer shall publicly certify that, in the legal officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons for the actions taken, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules that specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII
RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate rules to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states. Rule making shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant to this article. The rule making shall substantially conform to the principles of the federal administrative procedure act, 5 U.S.C.S. section 551 et seq., and the federal advisory committee act, 5 U.S.C.S. App. 2, section 1 et seq., as may be amended. All rules and amendments are binding on the date specified in each rule or amendment.

B. If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

C. When promulgating a rule, the interstate commission shall:

1. Publish the proposed rule stating with particularity the text of the rule that is proposed and the reason for the proposed rule.

2. Allow persons to submit written data, facts, opinions and arguments, which shall be publicly available.

3. Provide an opportunity for an informal hearing.

4. Promulgate a final rule and its effective date, if appropriate, based on the rule making record.

D. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence as defined in the federal administrative procedure act, in the rule making record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

1. Notice to victims and opportunity to be heard.

2. Offender registration and compliance.

3. Violations and returns.

4. Transfer procedures and forms.

5. Eligibility for transfer.

6. Collection of restitution and fees from offenders.

7. Data collection and reporting.

8. The level of supervision to be provided by the receiving state.

9. Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

10. Mediation, arbitration and dispute resolution.

E. The existing rules governing the operation of the previous compact superseded by this act shall be null and void twelve months after the first meeting of the interstate commission created under this compact.

F. On determination by the interstate commission that an emergency exists, it may promulgate an emergency rule that is effective immediately on adoption, provided that the usual rule making procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

A. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states that significantly affect compacting states. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject

matter of this compact that may affect the powers, responsibilities or actions of the interstate commission, the interstate commission is entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

B. The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities. The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and noncompacting states. The interstate commission shall enact bylaws or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

C. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII, subsection B of this compact.

ARTICLE X

FINANCE

A. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based on a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding on all compacting states that governs the assessment. Any increase in Arizona's assessment shall be approved by the state council. ~~The state council shall notify the joint legislative budget committee of any increase in the assessment.~~

C. The interstate commission shall not incur any obligations of any kind before securing the funds adequate to meet the obligations and shall not pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENTS

A. Any state, as defined in article II of this compact, is eligible to become a compacting state. The compact shall become effective and binding on legislative enactment of the compact into law by no less than thirty-five states. The initial effective date shall be the later of July 1, 2001, or on enactment into law by the thirty-fifth state. Thereafter it is effective and binding, as to any other compacting state, on enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in interstate commission activities on a nonvoting basis before adoption of the compact by all states and territories of the United States.

B. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment is effective and binding on the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

A. Once effective, the compact shall continue in force and remain binding on each compacting state. A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact. The effective date of withdrawal is the effective date of the repeal. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing on the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. Reinstatement following withdrawal of any compacting state shall occur on the withdrawing state reenacting the compact or on such later date determined by the interstate commission.

B. If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or any duly promulgated rules the interstate commission may impose any or all of the following penalties:

1. Fines, fees and costs in amounts deemed to be reasonable as fixed by the interstate commission.

2. Remedial training and technical assistance as directed by the interstate commission.

3. Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor,

1 the chief justice or chief judicial officer of the state, the majority and
2 minority leaders of the defaulting state's legislature and the state council.
3 The grounds for default include failure of a compacting state to perform
4 obligations or responsibilities imposed on it by this compact, interstate
5 commission bylaws or duly promulgated rules. The interstate commission shall
6 immediately notify the defaulting state in writing of the penalty imposed by
7 the interstate commission on the defaulting state pending a cure of the
8 default. The interstate commission shall stipulate the conditions and the
9 time period within which the defaulting state must cure its default. If the
10 defaulting state fails to cure the default within the time period specified
11 by the interstate commission, in addition to any other penalties imposed in
12 this subsection, the defaulting state may be terminated from the compact on
13 an affirmative vote of a majority of the compacting states and all rights,
14 privileges and benefits conferred by this compact shall be terminated from
15 the effective date of suspension. Within sixty days of the effective date of
16 termination of a defaulting state, the interstate commission shall notify the
17 governor, the chief justice or chief judicial officer and the majority and
18 minority leaders of the defaulting state's legislature and the state council
19 of the termination. The defaulting state is responsible for all assessments,
20 obligations and liabilities incurred through the effective date of
21 termination including any obligations, the performance of which extends
22 beyond the effective date of termination. The interstate commission shall
23 not bear any costs relating to the defaulting state unless otherwise mutually
24 agreed on between the interstate commission and the defaulting state.
25 Reinstatement following termination of any compacting state requires both a
26 reenactment of the compact by the defaulting state and the approval of the
27 interstate commission pursuant to the rules.
28 C. The interstate commission, by majority vote of the members, may
29 initiate legal action in the United States district court for the District of
30 Columbia or, at the discretion of the interstate commission, in the federal
31 district where the interstate commission has its offices to enforce
32 compliance with the provisions of the compact or its duly promulgated rules
33 and bylaws, against any compacting state in default. If judicial enforcement
34 is necessary, the prevailing party shall be awarded all costs of the
35 litigation including reasonable attorney fees.
36 D. The compact dissolves effective on the date of the withdrawal or
37 default of the compacting state that reduces membership in the compact to one
38 compacting state. On the dissolution of this compact, the compact becomes
39 null and void and shall be of no further force or effect and the business and
40 affairs of the interstate commission shall be wound up and any surplus funds
41 shall be distributed in accordance with the bylaws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV
EFFECT OF COMPACT

A. This compact does not diminish the constitutional authority of the Arizona legislature.

B. This compact is not contrary to any law of the state of Arizona. Notwithstanding any other law of the state of Arizona, this compact shall govern the interstate supervision of adult offenders.

C. The interstate commission shall promulgate rules and take action consistent with this compact that are binding on the state of Arizona as to the interstate supervision of adult offenders unless and to the extent the rules or action conflict with Arizona statutes.

D. Nothing in this section prevents the enforcement of any other Arizona law that is not inconsistent with this compact.

E. All agreements between the interstate commission and the compacting states are binding in accordance with the terms of the agreement. On the request of a party to a conflict over meaning or interpretation of interstate commission actions, and on a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

F. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by the provision on the interstate commission is ineffective and the obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency to which the obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Sec. 22. Section 35-142, Arizona Revised Statutes, is amended to read:

35-142. <u>Monies kept in funds separate from state general fund; receipt and withdrawal</u>

A. All monies received for and belonging to the state shall be deposited in the state treasury and credited to the state general fund except the following, which shall be placed and retained in separate funds:

1. The unexpendable principal of monies received from federal land grants shall be placed in separate funds and the account of each such separate fund shall bear a title indicating the source and the institution or purpose to which such fund belongs.

2. The interest, rentals and other expendable money received as income from federal land grants shall be placed in separate accounts, each account

bearing a title indicating the source and the institution or purpose to which the fund belongs. Such expendable monies shall be expended only as authorized, regulated and controlled by the general appropriation act or other act of the legislature.

3. All private or quasi-private monies authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

4. All monies legally pledged to retirement of building indebtedness or bonds issued by those institutions authorized to incur such indebtedness or to issue such bonds shall be placed in separate accounts.

5. Monies of a multi-county water conservation district authorized by law to be paid to or held by the state treasurer shall be placed in separate accounts, each account bearing a title indicating the source and purpose of such fund.

6. All monies collected by the Arizona game and fish department shall be deposited in a special fund known as the state game and fish protection fund for the use of the Arizona game and fish commission in carrying out the provisions of title 17.

7. All federal monies that are received by the department of economic security for family assistance benefits and medical eligibility as a result of efficiencies developed by the department of economic security and that would otherwise revert to the state general fund pursuant to section 35-190 shall be retained for use by the department of economic security in accordance with the terms and conditions imposed by the federal funding source in an account or accounts established or authorized by the state treasurer.

8. Monies designated by law as special state funds shall not be considered a part of the general fund. Unless otherwise prescribed by law, the state treasurer shall be the custodian of all such funds.

9. All monies received and any accounts established and maintained by the director of the Arizona state retirement system or the administrator of the public safety personnel retirement system, the corrections officer retirement plan and the elected officials' retirement plan.

B. No money shall be received or held by the state treasurer except as authorized by law, and in every instance the treasurer shall issue a receipt for money received and shall record the transaction in the statewide accounting system. No money shall be withdrawn from the treasury except on the warrant or electronic funds transfer voucher of the department of administration.

C. All federal monies granted and paid to the state by the federal government shall be accounted for in the accounts or funds of the state in the necessary detail to meet federal and state accounting, budgetary and auditing requirements, and all appropriations for matching such federal monies shall be transferred from the general fund to such separate funds as needed, except as otherwise required by the federal government.

D. Nothing in this section requires the establishment of separate accounts or funds for such federal monies unless otherwise required by federal or state law. The department of administration has the authority to use the most efficient system of accounts and records, consistent with legal requirements and standard and necessary fiscal safeguards.

E. Nothing in this section precludes the creation by the department of administration of a clearing account or other acceptable accounting method to effect prompt payment of claims from an approved budget or appropriation. The department of administration shall report each account or fund established or cancelled to the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting.

F. Nothing in this section or any other section precludes the use of monies kept in funds separate from the general fund, the interest from which accrues to the general fund, for payment of claims against the general fund, provided sufficient monies remain available for payment of claims against such funds.

G. The department of administration may issue warrants for qualified expenditures of federal program monies before they are deposited in the state treasury. The receipt of federal monies shall be timed to coincide, as closely as administratively feasible, with the redemption of warrants by the state treasurer. The department of administration shall limit expenditures to the amount that has been made available for the use under the grant award by the federal government. The state agency initiating the expenditures is responsible for ensuring that expenditures qualify for coverage under the guidelines of the federal grant award.

H. The department of administration shall establish the policies and procedures for all state agencies for drawing federal monies. When the established method results in federal monies being held by this state, the department of administration may use the interest earned on the monies to pay the federal government for any related interest liability. If an interest liability is incurred due to a state agency varying from the established policies and procedures, the department of administration shall charge the appropriate agency account or fund. ~~Interest payment charges to agencies shall be reported by the department of administration to the joint legislative budget committee on or before March 1.~~ Any federal interest liability owed to this state as a result of the delayed federal disbursements shall be used to offset this state's interest liability to the federal government. Any remaining interest earnings shall be deposited in the state general fund.

I. Any state agency or authorized agent of a state agency may accept credit cards pursuant to an agreement entered into by the state treasurer pursuant to section 35-315 for the payment of any amount due to that agency or agent or this state.

J. Except for the department of revenue for tax payments, agencies or authorized agents on behalf of state agencies that accept credit cards shall

1 deduct any applicable discount fee and processing fee associated with the
2 transaction amount before depositing the net amount in the appropriate state
3 fund. No other reduction is permitted against the transaction amount. The
4 net amount deposited in the appropriate state fund shall be considered as the
5 full deposit required by law of monies received by the agency or the
6 authorized agent. Payment of any applicable discount fee and processing fee
7 shall be accounted for in the annual report submitted to the governor's
8 office of strategic planning and budgeting in accordance with section
9 41-1273. The transaction amount of any credit card transaction shall not be
10 reduced by any discount fee or processing fee in an amount in excess of the
11 merchant card settlement fees reflected in the state banking contract with
12 the state treasurer's office.
13 K. Any state agency that contracts with an authorized agent for the
14 electronic processing of transactions pursuant to title 41, chapter 23 may
15 include a provision in the contract to allow the authorized agent to impose a
16 convenience fee. If allowed, the convenience fee shall be charged to the
17 cardholder in addition to the transaction amount, except for the following:
18 1. Except as provided in subsection R of this section, any permits,
19 licenses or other authorizations needed to pursue a trade or occupation in
20 this state.
21 2. Except as provided in subsection R of this section, any permits,
22 licenses or other authorizations needed to establish, expand or operate a
23 business in this state.
24 3. Except as provided in subsection R of this section, any permits,
25 licenses or other authorizations needed to register a vehicle or license a
26 driver in this state.
27 L. Each state agency or its authorized agent shall:
28 1. Deduct the amount of the convenience fee before depositing the
29 transaction amount or the transaction amount reduced by the discount fee or
30 the processing fee, or both, into the appropriate state fund.
31 2. Not deduct any part of the convenience fee from the transaction
32 amount before depositing the net amount into the appropriate state fund.
33 3. Deduct the amount of the discount fee or the processing fee, or
34 both, from the transaction amount before depositing the net amount into the
35 appropriate state fund.
36 M. The net amount deposited in the appropriate state fund pursuant to
37 subsection K or L of this section shall be considered as the full deposit of
38 monies that is required by law and that is received by the agency.
39 N. Notwithstanding section 35-142.01, convenience fees received by a
40 state agency or its authorized agent are limited to, and may be used to
41 offset, the costs imposed by the authorized agent in processing the
42 transactions.
43 O. When the percentage of electronic transactions first exceeds at
44 least thirty per cent of a state agency's total transactions, the state
45 agency shall perform a cost benefit report, including costs of convenience

fees, the amount of revenue generated and any realized cost savings. ~~The state agency shall submit the cost benefit report to the joint legislative budget committee within six months after reaching the thirty per cent threshold.~~

P. State agencies shall report the number of transactions, the number of electronic transactions, the total dollar amount of transactions processed, the total dollar amount of any discount fee, the total dollar amount of any processing fee and the total dollar amount of any convenience fee charged, deducted or paid pursuant to subsections J and K of this section annually by October 1 to the governor, the government information technology agency and the joint legislative budget committee.

Q. Nothing in this section or any other provision of law authorizes any state agency, authorized agent of any state agency or budget unit to establish a bank account for any government monies. All monies received by or on behalf of this state shall be deposited with and in the custody of the state treasurer or in an account that is authorized by the state treasurer pursuant to this section. This subsection does not apply to monies received and any accounts established and maintained by the director of the Arizona state retirement system or the administrator of the public safety personnel retirement system, the corrections officer retirement plan and the elected officials' retirement plan.

R. If a state agency provides an alternative method of payment, the convenience fee may be charged to the cardholder in addition to the transaction amount.

Sec. 23. Section 35-193, Arizona Revised Statutes, is amended to read:

35-193. Revolving funds

A. The supervisory official of a budget unit may apply to the department of administration to provide a revolving fund in an amount which will allow the budget unit to pay operating expense items under procedures prescribed by the department of administration.

B. The application for a revolving fund shall state the purposes for which required, the amount deemed necessary, the particular person who shall have custody of and be charged with the handling and accounting of the fund and the appropriation or other fund to which the revolving fund is to be charged.

C. The department of administration shall review the application as to purpose and reasonableness of amount requested and if acceptable may draw a warrant to the order of the officer applying therefor, and charge the amount thereof against the appropriation or other fund of that budget unit as requested. ~~The department shall not approve an amount of more than fifty thousand dollars for a budget unit without approval of the joint legislative budget committee.~~

D. The manner of accounting for a revolving fund shall be as prescribed by the director of the department of administration. A revolving

fund established under this section does not revert to the state general fund at the end of the fiscal year.

E. At the request of the director of the department of administration, the applicant shall return to the state treasurer the full amount of the revolving fund or amount requested and no claims for services of the officer applying therefor or the head of the budget unit shall be paid until such request has been complied with.

Sec. 24. Section 36-2903.03, Arizona Revised Statutes, is amended to read:

36-2903.03. United States citizenship and qualified alien requirements for eligibility; report; definition

A. A person who is applying for eligibility under this chapter shall provide verification of United States citizenship or documented verification of qualified alien status. Beginning July 1, 2006, an applicant who is applying for services pursuant to this chapter shall provide satisfactory documentary evidence of citizenship or qualified alien status as required by the federal deficit reduction act of 2005 (P.L. 109-171; 120 STAT. 4; 42 United States Code section 1396b) or any other applicable federal law or regulation.

B. A qualified alien may apply for eligibility pursuant to section 36-2901, paragraph 6, subdivision (a) and, if otherwise eligible for title XIX, may receive all services pursuant to section 36-2907 if the qualified alien meets at least one of the following requirements:

1. Is designated as one of the exception groups under 8 United States Code section 1613(b).

2. Has been a qualified alien for at least five years.

3. Has been continuously present in the United States since August 21, 1996.

C. Notwithstanding any other law, persons who were residing in the United States under color of law on or before August 21, 1996, and who were receiving services under this article based on eligibility criteria established under the supplemental security income program, may apply for state funded services and, if otherwise eligible for supplemental security income-medical assistance only coverage except for United States citizenship or qualified alien requirements, may be enrolled with the system and receive all services pursuant to section 36-2907.

D. A person who is a qualified alien who does not meet the requirements of subsection B of this section or who is a noncitizen who does not claim and provide verification of qualified alien status may apply for title XIX eligibility under section 36-2901, paragraph 6, subdivision (a) and, if otherwise eligible for title XIX, may receive only emergency services pursuant to section 1903(v) of the social security act.

E. In determining the eligibility for all qualified aliens pursuant to this chapter, the income and resources of any person who executed an affidavit of support pursuant to section 213A of the immigration and

nationality act on behalf of the qualified alien and the income and resources of the spouse, if any, of the sponsoring individual shall be counted at the time of application and for the redetermination of eligibility for the duration of the attribution period as specified in federal law.

F. A person who is a qualified alien or a noncitizen and who is not eligible for title XIX may receive only emergency services.

G. ~~Beginning October 1, 2007,~~ ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, the administration shall submit a ~~quarterly~~ report to the governor, the president of the senate, the speaker of the house of representatives and the staff director of the joint legislative budget committee that includes the following information:

1. The number of individuals for whom the administration verified immigration status using the systematic alien verification for entitlements program administered by the United States citizenship and immigration services.

2. The number of documents that were discovered to be fraudulent by using the systematic alien verification for entitlements program.

3. A list of the types of fraudulent documents discovered.

4. The number of citizens of the United States who were referred by the administration for prosecution pursuant to violations of state or federal law and the number of individuals referred by the administration for prosecution who were not citizens.

H. The administration shall provide copies of the report to the secretary of state and the director of the Arizona state library, archives and public records.

I. For purposes of this section, "qualified alien" means an individual who is one of the following:

1. Defined as a qualified alien under 8 United States Code section 1641.

2. Defined as a qualified alien by the attorney general of the United States under the authority of Public Law 104-208, section 501.

3. An Indian described in 8 United States Code section 1612(b)(2)(E).

Sec. 25. Section 36-2912, Arizona Revised Statutes, is amended to read:

36-2912. <u>Healthcare group coverage; program requirements for small businesses and public employers; related requirements; definitions</u>

A. The administration shall administer a healthcare group program to allow willing contractors to deliver health care services to persons defined as eligible pursuant to section 36-2901, paragraph 6, subdivisions (b), (c), (d) and (e). In counties with a population of less than five hundred thousand persons, the administration may contract directly with any health care provider or entity. The administration may enter into a contract with another entity to provide administrative functions for the healthcare group program.

1 B. Employers with two eligible employees or up to an average of fifty
2 eligible employees under section 36-2901, paragraph 6, subdivision (d):
3 1. May contract with the administration to be the exclusive health
4 benefit plan if the employer has five or fewer eligible employees and enrolls
5 one hundred per cent of these employees into the health benefit plan.
6 2. May contract with the administration for coverage available
7 pursuant to this section if the employer has six or more eligible employees
8 and enrolls eighty per cent of these employees into the healthcare group
9 program.
10 3. Shall have a minimum of two and a maximum of fifty eligible
11 employees at the effective date of their first contract with the
12 administration.
13 C. The administration shall not enroll an employer group in healthcare
14 group sooner than ninety days after the date that the employer's health
15 insurance coverage under an accountable health plan is discontinued.
16 Enrollment in healthcare group is effective on the first day of the month
17 after the ninety day period. This subsection does not apply to an employer
18 group if the employer's accountable health plan discontinues offering the
19 health plan of which the employer is a member.
20 D. Employees with proof of other existing health care coverage who
21 elect not to participate in the healthcare group program shall not be
22 considered when determining the percentage of enrollment requirements under
23 subsection B of this section if either:
24 1. Group health coverage is provided through a spouse, parent or legal
25 guardian, or insured through individual insurance or another employer.
26 2. Medical assistance is provided by a government subsidized health
27 care program.
28 3. Medical assistance is provided pursuant to section 36-2982,
29 subsection I.
30 E. An employer shall not offer coverage made available pursuant to
31 this section to persons defined as eligible pursuant to section 36-2901,
32 paragraph 6, subdivision (b), (c), (d) or (e) as a substitute for a federally
33 designated plan.
34 F. An employee or dependent defined as eligible pursuant to section
35 36-2901, paragraph 6, subdivision (b), (c), (d) or (e) may participate in
36 healthcare group on a voluntary basis only.
37 G. Notwithstanding subsection B, paragraph 2 of this section, the
38 administration shall adopt rules to allow a business that offers healthcare
39 group coverage pursuant to this section to continue coverage if it expands
40 its employment to include more than fifty employees.
41 H. The administration shall provide eligible employees with disclosure
42 information about the health benefit plan.
43 I. The director shall:
44 1. Require that any contractor that provides covered services to
45 persons defined as eligible pursuant to section 36-2901, paragraph 6,

1 subdivision (a) provide separate audited reports on the assets, liabilities
2 and financial status of any corporate activity involving providing coverage
3 pursuant to this section to persons defined as eligible pursuant to section
4 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).
5 2. Prohibit the administration and program contractors from
6 reimbursing a noncontracting hospital for services provided to a member at a
7 noncontracting hospital except for services for an emergency medical
8 condition.
9 3. Require that a contractor, the administration or an accountable
10 health plan negotiate reimbursement rates. The reimbursement rate for an
11 emergency medical condition for a noncontracting hospital is:
12 (a) In counties with a population of more than five hundred thousand
13 persons, one hundred fourteen per cent of the reimbursement rates established
14 pursuant to section 36-2903.01, subsection H. The hospital shall notify the
15 contractor when a member is stabilized.
16 (b) In counties with a population of less than five hundred thousand
17 persons, one hundred twenty-five per cent of the reimbursement rates
18 established pursuant to section 36-2903.01, subsection H. The hospital shall
19 notify the contractor when a member is stabilized.
20 4. Use monies from the healthcare group fund established by section
21 36-2912.01 for the administration's costs of operating the healthcare group
22 program.
23 5. Ensure that the contractors are required to meet contract terms as
24 are necessary in the judgment of the director to ensure adequate performance
25 by the contractor. Contract provisions shall include, at a minimum, the
26 maintenance of deposits, performance bonds, financial reserves or other
27 financial security. The director may waive requirements for the posting of
28 bonds or security for contractors that have posted other security, equal to
29 or greater than that required for the healthcare group program, with the
30 administration or the department of insurance for the performance of health
31 service contracts if funds would be available to the administration from the
32 other security on the contractor's default. In waiving, or approving waivers
33 of, any requirements established pursuant to this section, the director shall
34 ensure that the administration has taken into account all the obligations to
35 which a contractor's security is associated. The director may also adopt
36 rules that provide for the withholding or forfeiture of payments to be made
37 to a contractor for the failure of the contractor to comply with provisions
38 of its contract or with provisions of adopted rules.
39 6. Adopt rules.
40 7. Provide reinsurance to the contractors for clean claims based on
41 thresholds established by the administration. For the purposes of this
42 paragraph, "clean claims" has the same meaning prescribed in section 36-2904.
43 J. With respect to services provided by contractors to persons defined
44 as eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c),
45 (d) or (e), a contractor is the payor of last resort and has the same lien or

subrogation rights as those held by health care services organizations licensed pursuant to title 20, chapter 4, article 9.

K. The administration shall offer a health benefit plan on a guaranteed issuance basis to small employers as required by this section. All small employers qualify for this guaranteed offer of coverage. The administration shall offer to all small employers the available health benefit plan and shall accept any small employer that applies and meets the eligibility requirements. In addition to the requirements prescribed in this section, for any offering of any health benefit plan to a small employer, as part of the administration's solicitation and sales materials, the administration shall make a reasonable disclosure to the employer of the availability of the information described in this subsection and, on request of the employer, shall provide that information to the employer. The administration shall provide information concerning the following:

1. Provisions of coverage relating to the following, if applicable:

(a) The administration's right to establish premiums and to change premium rates and the factors that may affect changes in premium rates.

(b) Renewability of coverage.

(c) Any preexisting condition exclusion.

(d) The geographic areas served by the contractor.

2. The benefits and premiums available under all health benefit plans for which the employer is qualified.

L. The administration shall describe the information required by subsection K of this section in language that is understandable by the average small employer and with a level of detail that is sufficient to reasonably inform a small employer of the employer's rights and obligations under the health benefit plan. This requirement is satisfied if the administration provides the following information:

1. An outline of coverage that describes the benefits in summary form.

2. The rate or rating schedule that applies to the product, preexisting condition exclusion or affiliation period.

3. The minimum employer contribution and group participation rules that apply to any particular type of coverage.

4. In the case of a network plan, a map or listing of the areas served.

M. A contractor is not required to disclose any information that is proprietary and protected trade secret information under applicable law.

N. At least sixty days before the date of expiration of a health benefit plan, the administration shall provide a written notice to the employer of the terms for renewal of the plan.

O. The administration shall increase or decrease premiums based on actuarial reviews by an independent actuary of the projected and actual costs of providing health care benefits to eligible members. Before changing premiums, the administration must give sixty days' written notice to the employer. For each contract period the administration shall set premiums

1 that in the aggregate cover projected medical and administrative costs for
2 that contract period and that are determined pursuant to generally accepted
3 actuarial principles and practices by an independent actuary.
4 P. The administration shall consider age, sex, health status-related
5 factors, group size, geographic area and community rating when it establishes
6 premiums for the healthcare group program.
7 Q. Except as provided in subsection R of this section, a health
8 benefit plan may not deny, limit or condition the coverage or benefits based
9 on a person's health status-related factors or a lack of evidence of
10 insurability. A health benefit plan shall not provide or offer any service,
11 benefit or coverage that is not part of the health benefit plan contract.
12 R. A health benefit plan shall not exclude coverage for preexisting
13 conditions, except that:
14 1. A health benefit plan may exclude coverage for preexisting
15 conditions for a period of not more than twelve months or, in the case of a
16 late enrollee, eighteen months. The exclusion of coverage does not apply to
17 services that are furnished to newborns who were otherwise covered from the
18 time of their birth or to persons who satisfy the portability requirements
19 under this section.
20 2. The contractor shall reduce the period of any applicable
21 preexisting condition exclusion by the aggregate of the periods of creditable
22 coverage that apply to the individual.
23 S. The contractor shall calculate creditable coverage according to the
24 following:
25 1. The contractor shall give an individual credit for each portion of
26 each month the individual was covered by creditable coverage.
27 2. The contractor shall not count a period of creditable coverage for
28 an individual enrolled in a health benefit plan if after the period of
29 coverage and before the enrollment date there were sixty-three consecutive
30 days during which the individual was not covered under any creditable
31 coverage.
32 3. The contractor shall give credit in the calculation of creditable
33 coverage for any period that an individual is in a waiting period for any
34 health coverage.
35 T. The contractor shall not count a period of creditable coverage with
36 respect to enrollment of an individual if, after the most recent period of
37 creditable coverage and before the enrollment date, sixty-three consecutive
38 days lapse during all of which the individual was not covered under any
39 creditable coverage. The contractor shall not include in the determination
40 of the period of continuous coverage described in this section any period
41 that an individual is in a waiting period for health insurance coverage
42 offered by a health care insurer or is in a waiting period for benefits under
43 a health benefit plan offered by a contractor. In determining the extent to
44 which an individual has satisfied any portion of any applicable preexisting
45 condition period the contractor shall count a period of creditable coverage

without regard to the specific benefits covered during that period. A contractor shall not impose any preexisting condition exclusion in the case of an individual who is covered under creditable coverage thirty-one days after the individual's date of birth. A contractor shall not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before age eighteen and who is covered under creditable coverage thirty-one days after the adoption or placement for adoption.

U. The written certification provided by the administration must include:

1. The period of creditable coverage of the individual under the contractor and any applicable coverage under a COBRA continuation provision.

2. Any applicable waiting period or affiliation period imposed on an individual for any coverage under the health plan.

V. The administration shall issue and accept a written certification of the period of creditable coverage of the individual that contains at least the following information:

1. The date that the certificate is issued.

2. The name of the individual or dependent for whom the certificate applies and any other information that is necessary to allow the issuer providing the coverage specified in the certificate to identify the individual, including the individual's identification number under the policy and the name of the policyholder if the certificate is for or includes a dependent.

3. The name, address and telephone number of the issuer providing the certificate.

4. The telephone number to call for further information regarding the certificate.

5. One of the following:

(a) A statement that the individual has at least eighteen months of creditable coverage. For the purposes of this subdivision, "eighteen months" means five hundred forty-six days.

(b) Both the date that the individual first sought coverage, as evidenced by a substantially complete application, and the date that creditable coverage began.

6. The date creditable coverage ended, unless the certificate indicates that creditable coverage is continuing from the date of the certificate.

W. The administration shall provide any certification pursuant to this section within thirty days after the event that triggered the issuance of the certification. Periods of creditable coverage for an individual are established by presentation of the certifications in this section.

X. The healthcare group program shall comply with all applicable federal requirements.

Y. Healthcare group may pay a commission to an insurance producer. To receive a commission, the producer must certify that to the best of the

producer's knowledge the employer group has not had insurance in the ninety days before applying to healthcare group. For the purposes of this subsection, "commission" means a one time payment on the initial enrollment of an employer.

Z. On or before ~~June 15 and November 15~~ SEPTEMBER 30 of each year, the director shall submit a report to the joint legislative budget committee regarding the number and type of businesses participating in healthcare group and that includes updated information on healthcare group marketing activities. The director, within thirty days of implementation, shall notify the joint legislative budget committee of any changes in healthcare group benefits or cost sharing arrangements.

AA. The administration shall submit the following to the joint legislative budget committee:

1. ~~Quarterly reports~~ ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, A REPORT regarding the financial condition of the healthcare group program. The ~~reports~~ REPORT shall include the number of persons and employer groups enrolled in the program and medical loss information and projections.

2. An annual financial audit.

3. The analysis that is used to determine premiums pursuant to subsection O of this section.

BB. Beginning July 1, 2009, and each fiscal year thereafter, healthcare group shall limit employer group enrollment to not more than five per cent more than the number of employer groups enrolled in the program at the end of the preceding fiscal year. Healthcare group shall give enrollment priority to uninsured groups.

CC. For the purposes of this section:

1. "Accountable health plan" has the same meaning prescribed in section 20-2301.

2. "COBRA continuation provision" means:

(a) Section 4980B, except subsection (f)(1) as it relates to pediatric vaccines, of the internal revenue code of 1986.

(b) Title I, subtitle B, part 6, except section 609, of the employee retirement income security act of 1974.

(c) Title XXII of the public health service act.

(d) Any similar provision of the law of this state or any other state.

3. "Creditable coverage" means coverage solely for an individual, other than limited benefits coverage, under any of the following:

(a) An employee welfare benefit plan that provides medical care to employees or the employees' dependents directly or through insurance, reimbursement or otherwise pursuant to the employee retirement income security act of 1974.

(b) A church plan as defined in the employee retirement income security act of 1974.

(c) A health benefits plan, as defined in section 20-2301, issued by a health plan.

1 (d) Part A or part B of title XVIII of the social security act.
2 (e) Title XIX of the social security act, other than coverage
3 consisting solely of benefits under section 1928.
4 (f) Title 10, chapter 55 of the United States Code.
5 (g) A medical care program of the Indian health service or of a tribal
6 organization.
7 (h) A health benefits risk pool operated by any state of the United
8 States.
9 (i) A health plan offered pursuant to title 5, chapter 89 of the
10 United States Code.
11 (j) A public health plan as defined by federal law.
12 (k) A health benefit plan pursuant to section 5(e) of the peace corps
13 act (22 United States Code section 2504(e)).
14 (l) A policy or contract, including short-term limited duration
15 insurance, issued on an individual basis by an insurer, a health care
16 services organization, a hospital service corporation, a medical service
17 corporation or a hospital, medical, dental and optometric service corporation
18 or made available to persons defined as eligible under section 36-2901,
19 paragraph 6, subdivisions (b), (c), (d) and (e).
20 (m) A policy or contract issued by a health care insurer or the
21 administration to a member of a bona fide association.
22 4. "Eligible employee" means a person who is one of the following:
23 (a) Eligible pursuant to section 36-2901, paragraph 6, subdivisions
24 (b), (c), (d) and (e).
25 (b) A person who works for an employer for a minimum of twenty hours
26 per week or who is self-employed for at least twenty hours per week.
27 (c) An employee who elects coverage pursuant to section 36-2982,
28 subsection I. The restriction prohibiting employees employed by public
29 agencies prescribed in section 36-2982, subsection I does not apply to this
30 subdivision.
31 (d) A person who meets all of the eligibility requirements, who is
32 eligible for a federal health coverage tax credit pursuant to section 35 of
33 the internal revenue code of 1986 and who applies for health care coverage
34 through the healthcare group program. The requirement that a person be
35 employed with a small business that elects healthcare group coverage does not
36 apply to this eligibility group.
37 5. "Emergency medical condition" has the same meaning prescribed in
38 the emergency medical treatment and active labor act (P.L. 99-272; 100 Stat.
39 164; 42 United States Code section 1395dd(e)).
40 6. "Genetic information" means information about genes, gene products
41 and inherited characteristics that may derive from the individual or a family
42 member, including information regarding carrier status and information
43 derived from laboratory tests that identify mutations in specific genes or
44 chromosomes, physical medical examinations, family histories and direct
45 analyses of genes or chromosomes.

1 7. "Health benefit plan" means coverage offered by the administration
2 for the healthcare group program pursuant to this section.
3 8. "Health status-related factor" means any factor in relation to the
4 health of the individual or a dependent of the individual enrolled or to be
5 enrolled in a health plan including:
6 (a) Health status.
7 (b) Medical condition, including physical and mental illness.
8 (c) Claims experience.
9 (d) Receipt of health care.
10 (e) Medical history.
11 (f) Genetic information.
12 (g) Evidence of insurability, including conditions arising out of acts
13 of domestic violence as defined in section 20-448.
14 (h) The existence of a physical or mental disability.
15 9. "Hospital" means a health care institution licensed as a hospital
16 pursuant to chapter 4, article 2 of this title.
17 10. "Late enrollee" means an employee or dependent who requests
18 enrollment in a health benefit plan after the initial enrollment period that
19 is provided under the terms of the health benefit plan if the initial
20 enrollment period is at least thirty-one days. Coverage for a late enrollee
21 begins on the date the person becomes a dependent if a request for enrollment
22 is received within thirty-one days after the person becomes a dependent. An
23 employee or dependent shall not be considered a late enrollee if:
24 (a) The person:
25 (i) At the time of the initial enrollment period was covered under a
26 public or private health insurance policy or any other health benefit plan.
27 (ii) Lost coverage under a public or private health insurance policy
28 or any other health benefit plan due to the employee's termination of
29 employment or eligibility, the reduction in the number of hours of
30 employment, the termination of the other plan's coverage, the death of the
31 spouse, legal separation or divorce or the termination of employer
32 contributions toward the coverage.
33 (iii) Requests enrollment within thirty-one days after the termination
34 of creditable coverage that is provided under a COBRA continuation provision.
35 (iv) Requests enrollment within thirty-one days after the date of
36 marriage.
37 (b) The person is employed by an employer that offers multiple health
38 benefit plans and the person elects a different plan during an open
39 enrollment period.
40 (c) The person becomes a dependent of an eligible person through
41 marriage, birth, adoption or placement for adoption and requests enrollment
42 no later than thirty-one days after becoming a dependent.
43 11. "Preexisting condition" means a condition, regardless of the cause
44 of the condition, for which medical advice, diagnosis, care or treatment was
45 recommended or received within not more than six months before the date of

the enrollment of the individual under a health benefit plan issued by a contractor. Preexisting condition does not include a genetic condition in the absence of a diagnosis of the condition related to the genetic information.

12. "Preexisting condition limitation" or "preexisting condition exclusion" means a limitation or exclusion of benefits for a preexisting condition under a health benefit plan offered by a contractor.

13. "Small employer" means an employer who employs at least one but not more than fifty eligible employees on a typical business day during any one calendar year.

14. "Waiting period" means the period that must pass before a potential participant or eligible employee in a health benefit plan offered by a health plan is eligible to be covered for benefits as determined by the individual's employer.

Sec. 26. Section 37-106.01, Arizona Revised Statutes, is amended to read:

37-106.01. Power to contract for central Arizona project water for use on state lands; payment of costs; selling unallocated water; disposition of revenue from sale of central Arizona project water and water rights

A. The state land department, with the approval of the governor ~~and the joint legislative budget committee~~, may make contracts for and on behalf of the state with the United States or a multi-county water conservation district, organized under title 48, chapter 22, or both, for the purchase and delivery of water from the central Arizona project for use for municipal and industrial purposes on state lands within such district and to agree to pay therefor an amount equal to that paid by other municipal and industrial users under the project for comparable quantities.

B. The quantity of water for which the department is authorized to contract shall not exceed one hundred thousand acre-feet per annum diverted from the aqueduct system between the Colorado river and the Salt river, and one hundred thousand acre-feet per annum diverted from the system south of the Salt river.

C. All or any part of the rights to water acquired by the department under any such contract may be sold, assigned and transferred to any lessee or purchaser of any of the state lands on which such water has been or is to be used or to any provider of permanent municipal water service to those lands. The department shall not make the purchase or use of central Arizona project water by the lessee a condition to renewal of a lease of state land or by the purchaser or lessee in a sale or new lease where mining of groundwater from state lands will not be involved. The transferee of any rights to water under this subsection must have or obtain before the transfer a contract with either or both the United States or a multi-county water conservation district for service of central Arizona project water for

1 municipal and industrial use. The transferee shall reimburse the department,
2 on a pro rata basis, for all costs and charges, including capital costs and
3 administrative expenses, incurred by the department, as of the time of
4 transfer, under its contract for the purchase and delivery of central Arizona
5 project water under subsection A of this section.
6 D. The cost of central Arizona project water shall be paid from
7 revenues derived from the transfer of water rights acquired by the department
8 under its contract and from revenues from the sale of central Arizona project
9 municipal and industrial water or, in the event such revenues are not
10 sufficient, such cost shall be a charge against the state, providing such
11 contract does not violate article IX, section 5, Constitution of Arizona.
12 Nothing in this section shall be construed as creating a lien upon state
13 lands or against the interest of the state therein or as creating an
14 obligation of the state to pay any charges, costs, assessments or debts other
15 than those described in this section.
16 E. Before the selection board allocates central Arizona project water
17 to specific state trust lands the department, with the board's approval, may
18 enter into interim contracts to sell unallocated central Arizona project
19 water for municipal and industrial uses on state or any other land subject to
20 a determination by a multi-county water conservation district that the
21 proposed action complies with the terms of the applicable subcontract and the
22 central Arizona project master repayment contract and subject to approval of
23 the director of the department of water resources. Purchasers of water under
24 this subsection shall reimburse the department, on a pro rata basis, for all
25 costs and charges, including capital costs and administrative expenses,
26 incurred by the department under its contract for the purchase and delivery
27 of central Arizona project water under subsection A of this section.
28 F. The department, with the approval of the state selection board, may
29 enter into contracts to undertake or authorize the storage of central Arizona
30 project water for which the department has signed a municipal and industrial
31 water service subcontract, but that the department has not otherwise
32 allocated for use. A person with whom the department contracts shall pay to
33 a multi-county water conservation district all applicable operation,
34 maintenance and replacement charges established under the provisions of title
35 48, chapter 22 and associated with any water stored, but shall not be
36 responsible for capital costs paid by the department pursuant to its
37 contracts with the multi-county water conservation district. Each contract
38 between the department and another person for water storage shall specify
39 that the water storage permit holder for the stored water shall assign to the
40 department a share of any long-term storage credits accrued pursuant to the
41 permit and that the department's share of the long-term storage credits shall
42 be negotiated based on the proportion of the costs incurred by the department
43 in the water storage. The department may sell long-term storage credits for
44 the benefit of the state trust land at the appraised fair market value of the
45 credits. In undertaking water storage pursuant to this subsection, the

department and the persons with whom it contracts shall comply with all of the provisions of title 45, chapter 3.1. For the purposes of this subsection, "water storage", "long-term storage credit" and "water storage permit" have the same meanings prescribed in section 45-802.01.

G. The department shall deposit, pursuant to sections 35-146 and 35-147, revenues from the transfer of water rights under subsection C of this section and from the sale of water under subsection E of this section, except for monies attributable to reimbursement of administrative expenses, in the central Arizona project municipal and industrial repayment fund established by section 37-526. Monies attributable to reimbursement of administrative expenses, under both subsections C and E of this section, shall be deposited in the state general fund pursuant to sections 35-146 and 35-147.

Sec. 27. Section 37-623.02, Arizona Revised Statutes, is amended to read:

37-623.02. <u>Emergencies; prohibiting fireworks; liabilities and expenses; fire suppression revolving fund</u>

A. On request of the state forester, the governor may authorize the state forester to incur liabilities for suppressing wildland fires and responding to other unplanned all risk activities from unrestricted monies in the state general fund whether or not the legislature is in session.

B. The state forester has the authority to prohibit the use of fireworks during times of high fire potential in the unincorporated areas of the state.

C. The state forester or the state forester's designee shall review all liabilities incurred and expenditures made under this section and shall report the expenditures to the department of administration for audit according to department of administration rules. The state forester shall transmit a copy of the report to the state emergency council.

D. Liabilities incurred under this section are subject to the following limitations:

1. Wildland fire suppression or other unplanned all risk emergency liabilities shall not exceed three million dollars of state general fund monies pursuant to subsection A of this section in a fiscal year for costs associated with suppressing wildland fires, supporting other unplanned all risk activities such as fire, flood, earthquake, wind and hazardous material responses and preparing for periods of extreme fire danger and pre-position equipment and other fire suppression resources to provide for enhanced initial attack on wildland fires. The state forester shall not incur nonreimbursable liabilities for support of nonfire all risk activities. The governor shall determine when periods of extreme fire danger exist and must approve any expenditure for pre-positioning activities.

2. If the funding authorization in paragraph 1 of this subsection is exhausted, or if the nonreimbursable liabilities incurred exceed the cash balance of the fire suppression revolving fund, the state forester shall not

incur additional liabilities without the consent of a majority of the state emergency council as authorized by section 35-192.

E. The state forester shall process and pay claims for reimbursement for wildland fire suppression services as follows:

1. Except as provided by paragraph 2 of this subsection, within thirty days after receiving a complete and correct claim for wildland fire suppression services, the state forester shall pay the claim from available monies that have not been committed to the payment of other wildfire expenses.

2. Within thirty days after receiving a complete and correct claim for wildland fire suppression services on federal lands, the state forester shall complete the processing of the claim and forward the claim to the appropriate federal agency.

3. For any valid claim other than for federal reimbursement, if there is insufficient funding in the fire suppression revolving fund, the holder of the unpaid claim shall be issued a certificate pursuant to section 35-189.

~~F. No later than December 31 of each year the state forester shall submit a report to the joint legislative budget committee and the governor detailing the specific uses of all monies authorized to be expended from the fire suppression revolving fund and any additional monies authorized by the governor to prepare for periods of extreme fire danger and pre-position equipment and other fire suppression resources to provide for enhanced initial attack on wildland fires.~~

~~G.~~ F. Monies received for suppressing wildland fires, pre-positioning equipment and firefighting resources and other unplanned all risk activities may be used for the purposes of section 37-623 and this section.

~~H.~~ G. The state forester shall adopt rules for administering the wildland fire suppression monies authorized under this section, subject to approval of the governor.

~~I.~~ H. The state forester may require reimbursement from cities and other political subdivisions of this state and state and federal agencies for costs incurred in the suppression of wildland fires, pre-suppression or unplanned all risk activities. Reimbursement shall be based on the terms and conditions in cooperative agreements, land ownership or negligence. The state forester may require reimbursement from individuals or businesses only for costs incurred in the suppression of wildland fires or unplanned all risk activities caused by their negligence or criminal acts.

~~J.~~ I. The fire suppression revolving fund is established consisting of civil penalties collected pursuant to section 36-1610 and monies received by the state forester for wildland fire suppression and pre-positioning equipment and resources and for payment for activities related to combating wildland fires and supporting other unplanned all risk activities such as fire, flood, earthquake, wind and hazardous material responses. The state forester shall not incur nonreimbursable liabilities for support of nonfire all risk activities. The state forester shall administer the fund, and all

monies received for these activities shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. Monies in the fire suppression revolving fund are continuously appropriated to the state forester, except that if the unobligated balance of the fund exceeds two million dollars at the end of any calendar year, the excess shall be transferred to the state general fund. Monies in the fire suppression revolving fund are otherwise exempt from the provisions of section 35-190 relating to lapsing of appropriations.

Sec. 28. Section 38-658, Arizona Revised Statutes, is amended to read:

38-658. Report to joint legislative budget committee

A. At least ten days before the department of administration enters into or renews contracts for medical and dental insurance coverage, the director of the department of administration shall meet with and review for the joint legislative budget committee in executive session the planned contribution strategy for each health plan, including indemnity health insurance, hospital and medical service plans, dental plans and health maintenance organizations. Information provided in executive session shall remain confidential until the contract award is made in compliance with title 41, chapter 23.

B. ON OR BEFORE OCTOBER 1 OF EACH YEAR, the director of the department of administration shall report to the joint legislative budget committee ~~at least semiannually~~ on the performance standards for health plans, including indemnity health insurance, hospital and medical service plans, dental plans and health maintenance organizations.

Sec. 29. Section 41-129, Arizona Revised Statutes, is amended to read:

41-129. Election systems improvement fund; purpose

A. The election systems improvement fund is established in the office of the secretary of state. The fund shall consist of monies received from the United States government, matching monies from state, county or local governments, legislative appropriations, gifts, grants and donations.

B. The secretary of state shall administer the fund. Any monies deposited into the fund in fiscal years 2002-2003 and 2003-2004 are appropriated to the secretary of state and are exempt from the provisions of section 35-190 relating to lapsing of appropriations. To the extent permitted by federal law, monies in the fund, other than state general fund monies, deposited each subsequent fiscal year are subject to legislative appropriation and such appropriations are subject to the lapsing provisions of section 35-190. State general fund monies appropriated to the fund beginning in fiscal year 2004-2005 are available for use by the secretary of state without further appropriation. Monies in the fund do not revert to the state general fund or any other funding source at the end of the fiscal year. The state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. ~~Within thirty days after any expenditure of monies from the fund~~ ON OR BEFORE DECEMBER 31 OF EACH YEAR, the secretary of state shall submit to

the joint legislative budget committee a summary of the total expenditure plan for the fund.

D. Monies in the fund shall be used to implement the provisions of the help America vote act of 2002 (P.L. 107-252).

Sec. 30. Section 41-178, Arizona Revised Statutes, is amended to read:

41-178. Distribution of notary bond fees

The state treasurer shall transmit, distribute or deposit all monies received pursuant to section 41-126, subsection A, paragraphs 11 and 12 as follows:

1. 1.31 per cent for deposit in the drug and gang enforcement account established by section 41-2402 for the purposes of section 41-2402, subsection ~~H~~ G.

2. 8.87 per cent for deposit in the domestic violence shelter fund established by section 36-3002.

3. 1.93 per cent for deposit in the child abuse prevention fund established by section 8-550.01.

4. 7.62 per cent for proportional deposit in each county's law library fund established by section 12-305, based on the number of notaries commissioned per county.

5. 0.35 per cent for deposit in the alternative dispute resolution fund established by section 12-135.

6. 23.79 per cent for deposit in the elected officials' retirement plan fund established by section 38-802, which shall be distributed to the fund pursuant to section 38-810.

7. 17.07 per cent for deposit in the judicial collection enhancement fund established by section 12-113.

8. 0.26 per cent for deposit in the confidential intermediary and fiduciary fund established by section 8-135.

9. 31.29 per cent for deposit in the notary bond fund established by section 41-314.

10. 7.51 per cent shall be distributed to the county where the notary is commissioned in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

Sec. 31. Section 41-191.05, Arizona Revised Statutes, is amended to read:

41-191.05. Colorado river land claims revolving fund; use; accounting; audit; disposition of monies

A. A Colorado river land claims revolving fund is established to be administered by the attorney general.

B. Monies in the fund shall be used by the attorney general for payment of costs and expenses incurred by the attorney general and the state land commissioner in the investigation and prosecution of this state's claims of ownership of sovereign lands in the vicinity of the Colorado river, in accordance with the provisions of law governing such claims. ~~No personnel shall be hired with monies from the fund without the approval of the joint~~

~~legislative budget committee, except temporary personnel appointed for a period not to exceed sixty days.~~

C. On or before October 15 of each year, the attorney general shall file with the governor, with copies to the director of the department of administration, the president of the senate and the speaker of the house of representatives, a full and complete account of the receipts and disbursements from the fund in the previous year. The auditor general shall audit the fund once a year.

D. Monies recovered by the state from the settlement of this state's sovereign land claims shall be transmitted to the state land commissioner to be deposited in the state general fund, except that twenty-five per cent of the monies recovered shall be deposited in the revolving fund established in subsection A of this section.

E. Monies in the fund are exempt from the lapsing provisions of section 35-190, except that any monies remaining unexpended or unencumbered on June 30, 1990 shall revert to the state general fund.

Sec. 32. Section 41-545, Arizona Revised Statutes, is amended to read:

41-545. Indian town hall fund

A. An Arizona Indian town hall fund is established that consists of monies collected or received at Indian town halls as fees that are intended to defray administrative costs related to these town halls pursuant to section 41-541. The commission shall deposit, pursuant to sections 35-146 and 35-147, all fees collected from this activity in this fund.

B. ~~The commission shall annually report to the joint legislative budget committee for its use of the monies in the fund.~~ Up to fifteen thousand dollars of monies in the fund may be expended by the commission each fiscal year.

Sec. 33. Section 41-621, Arizona Revised Statutes, is amended to read:

41-621. Purchase of insurance; coverage; limitations; exclusions; definitions

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

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

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

3. The state and its departments, agencies, boards and commissions and all officers, agents and employees thereof and such others as may be necessary to accomplish the functions or business of the state and its departments, agencies, boards and commissions against liability for acts or omissions of any nature while acting in authorized governmental or

proprietary capacities and in the course and scope of employment or authorization except as prescribed by this chapter.

4. All personal property reported to the department of administration, including vehicles and aircraft owned by the state and its departments, agencies, boards and commissions and all non-owned personal property which is under the clear responsibility of this state because of written leases or other written agreements.

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

6. Workers' compensation and employers' liability insurance.

7. Design and construction of buildings, roads, environmental remediations and other construction projects.

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

B. To the extent it is determined necessary and in the best interests of the state, the department of administration shall obtain insurance or provide for state self-insurance against property damage caused by clients and liability coverage resulting from~~,~~ the direct or incidental care of clients participating in programs of the state and its departments, agencies, boards or commissions relating to custodial care. The insurable programs shall include foster care, programs for the developmentally disabled, an independent living program pursuant to section 8-521 and respite-sitter service programs. The department shall obtain insurance or provide for state self-insurance pursuant to this subsection to protect the clients participating in these programs and individual providers of these program services on behalf of the state and its departments, agencies, boards or commissions. The insurance provided under this subsection does not include medical or workers' compensation coverage for providers. The department may include in its annual budget request pursuant to section 41-622, subsection D a charge for the insurance or self-insurance provided in this subsection. To assist in carrying out the provisions of this subsection, the department shall establish a seven member advisory board in accordance with the following provisions:

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

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

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

4. Board members shall serve for three year terms.

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

6. The board shall provide advice to the department regarding coverage and administration of the provisions of this subsection and shall assist the department in coordinating its activities pursuant to this subsection with state departments, agencies, boards and commissions.

C. The department of administration may obtain insurance against loss, to the extent it is determined necessary and in the best interests of the state as provided in subsection F of this section for the professional liability of individual physicians and psychiatrists who provide services under a contract with the state department of corrections. Coverage is limited to acts and omissions committed inside a state department of corrections facility while in the performance of the contract and to individual physicians and psychiatrists who demonstrate to the satisfaction of the state department of corrections that they cannot otherwise obtain professional liability coverage for the services required by the contract. The director of the department of administration may impose on the state department of corrections a deductible ~~of not more than ten thousand dollars per~~ FOR EACH loss that arises out of a professional liability claim pursuant to this subsection. ANY CHANGES IN deductible amounts established by the director shall be subject to ~~annual~~ review by the joint legislative budget committee.

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

E. The department of administration may determine, in the best interests of the state, that state self-insurance is necessary or desirable and, if that decision is made, shall provide for state self-insurance for losses arising out of state property, liability or workers' compensation claims prescribed by subsection A of this section. If the department of administration provides state self-insurance, such coverage shall be excess over any other valid and collectible insurance. The director of the department of administration may impose on state departments, agencies, boards and commissions a deductible ~~of not more than ten thousand dollars per~~

1 FOR EACH loss that arises out of a property, liability or workers'
2 compensation loss pursuant to this subsection. ANY CHANGES IN deductible
3 amounts established by the director shall be subject to ~~annual~~ review by the
4 joint legislative budget committee.
5 F. In carrying out the provisions of this chapter, the department of
6 administration shall establish and provide the state with some or all of the
7 necessary risk management services, or shall contract for risk management
8 services pursuant to chapter 23 of this title, as the director of the
9 department of administration deems necessary in the best interest of the
10 state, and may, in addition to other specifications of such coverage as
11 deemed necessary, determine self-insurance to be established. The provisions
12 of chapter 23 of this title shall not apply to the department of
13 administration's procurement of insurance to cover losses arising out of
14 state property or liability claims prescribed in subsections A and D of this
15 section or excess loss insurance for the state's workers' compensation
16 liability for individual or aggregate claims, or both, in such amounts and at
17 such primary retention levels as the department of administration deems in
18 the best interest of the state. In purchasing insurance to cover losses
19 arising out of state property or liability claims prescribed by subsection A
20 of this section, the department of administration is not subject to the
21 provisions of title 20, chapter 2, article 5.
22 G. No successful bidder for risk management services pursuant to this
23 section shall be entitled to receive directly or indirectly any sales
24 commission, contingent commission, excess profit commission, or other
25 commissions, or anything of value, as payment for the risk management
26 services except those amounts received directly from this state as payment
27 for the risk management services.
28 H. The department of administration shall pay for purchased risk
29 management services, premiums for insurance on state property and state
30 liability and workers' compensation pursuant to the provisions of this
31 chapter.
32 I. A state officer, agent or employee acting in good faith, without
33 wanton disregard of his statutory duties and under the authority of an
34 enactment that is subsequently declared to be unconstitutional, invalid or
35 inapplicable~~,~~ is not personally liable for an injury or damage caused
36 thereby except to the extent that he would have been personally liable had
37 the enactment been constitutional, valid and applicable.
38 J. A state officer, agent or employee, except as otherwise provided by
39 statute, is not personally liable for an injury or damage resulting from his
40 act or omission in a public official capacity where the act or omission was
41 the result of the exercise of the discretion vested in him if the exercise of
42 the discretion was done in good faith without wanton disregard of his
43 statutory duties.

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

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

1. Losses against this state and its departments, agencies, boards and commissions that arise out of and are directly attributable to an act or omission determined by a court to be a felony by a person who is provided coverage pursuant to this article unless the state knew of the person's propensity for that action, except those acts arising out of the operation or use of a motor vehicle.

2. Losses arising out of contractual breaches.

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

N. A claim for liability damages made pursuant to this chapter may be settled and payment made up to the amount of twenty-five thousand dollars or such higher limit as may be established by the joint legislative budget committee with the approval of the director of the department of administration. A claim over the amount of twenty-five thousand dollars up to fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration and the attorney general. Any claim over the amount of fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration, the attorney general and the joint legislative budget committee. If it is in the best interest of this state, the joint legislative budget committee may establish higher settlement limits. Any settlements involving amounts in excess of fifty thousand dollars or such higher limit as may be established by the joint legislative budget committee shall be approved by the department of administration, the attorney general and the joint legislative budget committee pursuant to the authority granted. The settlement of liability claims shall be solely the authority of the department of administration, the attorney general and the joint legislative budget committee. No state department, agency, board or commission or any officer, agent or employee of this state may voluntarily make any payment,

assume any obligation, incur any expense or maintain the individual right of consent for liability claims made pursuant to this chapter except as provided by this section.

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

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

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

P. The department of administration shall pay, on behalf of any state officer, agent or employee, any damages, excluding punitive damages, for which the officer, agent or employee becomes legally responsible if the acts or omissions resulting in liability were within the officer's, agent's or employee's course and scope of employment. The department of administration may pay for all damages however designated which the officer, agent or employee becomes legally responsible for if the acts or omissions resulting in liability are determined by the director of the department of administration to be within the person's course and scope of employment.

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

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

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

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

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

S. To the extent it is determined necessary and in the best interest of this state, the department of administration may obtain design and construction insurance or provide for self-insurance against property damage caused by this state, its departments, agencies, boards and commissions and all officers and employees of this state in connection with the construction of public works projects. Workers' compensation liability insurance may be purchased to cover both general contractors and subcontractors doing work on a specific contracted work site. The department may include in its annual budget request, pursuant to section 41-622, subsection D, the cost of the insurance purchased or provided. In connection with the construction of public works projects, the department of administration may also use an owner-controlled or wrap-up insurance program if all of the following conditions are met:

1. The total cost of the project is over fifty million dollars.

2. The program maintains completed operations coverage for a term during which coverage is reasonably commercially available as determined by the director of the department of insurance, but in no event for less than three years.

3. Bid specifications clearly specify for all bidders the insurance coverage provided under the program and the minimum safety requirements that shall be met.

4. The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor believes is necessary for protection from any liability arising out of the contract. The cost of the additional insurance shall not be passed through to this state on a contract bid.

5. The program does not include surety insurance.

T. The state may purchase an owner-controlled or wrap-up policy that has a deductible or self-insured retention as long as the deductible or self-insured retention does not exceed one million dollars.

U. For the purposes of subsections S and T of this section:

1. "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover this state and all of the contractors, subcontractors, architects and engineers on a specified contracted work site for purposes of general liability, property damage and workers' compensation.

2. "Specific contracted work site" means construction being performed at one site or a series of contiguous sites separated only by a street, roadway, waterway or railroad right-of-way, or along a continuous system for the provision of water and power.

V. Notwithstanding any other statute the department of administration may:

1. Limit the liability of a person who contracts to provide goods, software or other services to this state.

2. Allow the person to disclaim incidental or consequential damages.

3. Indemnify or hold harmless any party to the contract.

Sec. 34. Section 41-712, Arizona Revised Statutes, is amended to read:

41-712. <u>Telecommunications program office; state contractor; cost of operation; employees; report</u>

A. The director shall establish a telecommunications program office within the department to enter into a primary contract with a corporation authorized to do business in this state for the contractor to provide for the installation and maintenance of telecommunication systems and to act as the state's agent for telecommunication carrier services to the offices, departments and agencies of this state. Each office, department and agency of this state shall contract with the primary contractor through the telecommunications program office and make payment to the primary contractor for its telecommunications needs. ~~The department shall submit for review by the joint legislative budget committee its initial contractor and carrier~~

~~cost rate structure by agency and fund type and shall submit a request for review to the joint legislative budget committee for each subsequent rate structure modification.~~

B. With the approval of the director, the telecommunications program office may enter into more than one contract for each statewide telecommunications product or service not provided by the primary contractor.

C. The director shall pay administrative costs of the telecommunications program office and each office, department or other state agency shall pay from available monies the proportionate cost of administration of the office as determined by the director. In carrying out this subsection, the director shall only employ those contract managers, telephone operators, help desk personnel and forensic investigators required to oversee the primary contract and administer efficiently the telecommunications program office.

D. The department shall prepare and submit an annual consolidated telecommunications budget report to the joint legislative budget committee in connection with its annual budget request showing the previous fiscal year's actual payments and the next fiscal year's anticipated payments charged and received by the primary contractor from state offices, departments and agencies for telecommunications services.

E. All procurement pursuant to this section shall be as prescribed in chapter 23 of this title unless otherwise provided by law.

F. Any contract involving the use of a state highway right-of-way is subject to approval pursuant to sections 28-304, 28-363, 28-7045, 28-7048 and 28-7209.

Sec. 35. Section 41-763.02, Arizona Revised Statutes, is amended to read:

41-763.02. Special market adjustments; committee

A. The director shall establish a system of special market adjustments to modify salaries of state employees within certain identified job classifications.

B. The system shall provide for salary adjustments, subject to legislative appropriation, for state positions and for positions in job classifications that, in the opinion of the director, are critical to the orderly conduct of the agencies in which the positions are located and that meet specific comparative criteria. These criteria include whether the positions are experiencing substantially above average turnover or have salaries that are substantially below comparable positions outside state service.

C. The director shall establish procedures to determine the job classifications eligible for special market adjustments. The procedures shall include:

1. The systematic identification of job classifications based on specific comparative criteria including turnover and salary information.

2. The consideration of job classifications identified by agency directors.

3. In cases in which significant increases are recommended, recommended increases may be scheduled over two or more years. If multiple year increases are recommended, the cost of funding the proposed adjustments in each year shall be included.

D. A special market adjustment committee is established consisting of the following members:

~~1. The director of the joint legislative budget committee or the director's designee who serves as an advisory member. For the purposes of this paragraph, "advisory member" means a member who gives advice to the other members of the committee at meetings of the committee but is not eligible to vote and is not a member for purposes of determining whether a quorum is present.~~

~~2.~~ 1. The director of the governor's office of strategic planning and budgeting or the director's designee.

~~3.~~ 2. The administrative director of the courts or the administrative director's designee.

~~4.~~ 3. Two members who have at least ten years of experience in human resources administration and who are appointed by the director of the department of administration. One of these members shall be employed in the private sector.

~~5.~~ 4. One member who is a member of an employee organization that has at least one thousand members and who is appointed by the director of the department of administration.

~~6.~~ 5. Two members who are state agency directors, deputy directors or assistant directors and who are appointed by the director of the department of administration.

E. Members of the special market adjustment committee who are appointed by the director of the department of administration shall not serve more than two consecutive three year terms. The department shall provide staff for the special market adjustment committee.

F. The special market adjustment committee may assist the director in determining recommendations for the cost of funding the proposed adjustments.

Sec. 36. Section 41-792.01, Arizona Revised Statutes, is amended to read:

41-792.01. <u>Capital outlay stabilization fund; authorization for collection of rental; basis of payment; distribution of monies collected; transfer of payment; lease-purchase building operating and maintenance fund; definition</u>

A. The capital outlay stabilization fund is established which shall consist of monies paid into it in accordance with subsections D and F of this section and legislative appropriations to the account. All monies in the

fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

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

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

D. The rental rates authorized for agencies occupying state owned buildings shall be determined by the joint committee on capital review after recommendation by the director before July 1 of each even-numbered year. The rental is payable whether the state department or state agency is funded in whole or in part by state monies. The department of administration shall transfer the entire amount of the rental fee assessed on a state agency from the agency account into the capital outlay stabilization fund promptly at the start of each fiscal year. During the remainder of the fiscal year, the department of administration shall calculate pro rata adjustments to the rental fee on a monthly basis to reflect any changes in the occupancy of state owned buildings. The department of administration shall transfer the amount of the rental fee adjustment assessed on a state agency from the agency account into the capital outlay stabilization fund. The rental fee authorized for state agencies occupying state owned buildings is the greater of the amount included in each agency's annual operating budget as reported by the staff of the joint legislative budget committee or the pro rata adjusted amount based on actual occupancy. The director of the department of administration~~, upon recommendation of the joint committee on capital review,~~ may authorize an exemption for periods of one year or more at a time for a state agency from the full payment account transfer requirements of this subsection if the agency can demonstrate a practice of making full payment of rent on a different basis necessitated by its cash flow. If a state agency does not have the financial resources for state owned space, or does not occupy or vacates state owned space after the beginning of the fiscal year, the director of the department of administration, on recommendation of the joint committee on capital review, may authorize a whole or partial exemption from payment of the rental fee. ~~The department of administration shall report quarterly to the director of the joint legislative budget committee on the status of rental fee collections and adjustments.~~

E. The rental authorized for state agencies occupying state leased buildings shall be the greater of the amount included in each agency's annual operating budget as reported by the staff of the joint legislative budget committee or the pro rata adjusted amount based on actual occupancy. The rental amount shall include the amount necessary to pay the lease or lease-purchase obligation and may include the amount necessary to pay

operating costs associated with the lease-purchase buildings. The rental is payable whether the state department or state agency is funded in whole or in part by state monies. At the start of each fiscal year, the department of administration shall transfer the entire amount of the rental fee assessed on a state agency from the agency account into the department of administration's funds established for the purposes of this subsection. The department shall transfer from the applicable state agency budgets to the lease-purchase building operating and maintenance fund established in subsection H of this section amounts necessary to pay all operating costs associated with a lease-purchase building in the amounts reported by the staff of the joint legislative budget committee. During the remainder of the fiscal year, the department of administration shall calculate pro rata adjustments to the rental fee on a monthly basis to reflect any changes in the occupancy of state leased buildings. The director of the department of administration~~, on recommendation of the joint committee on capital review,~~ may authorize an exemption for a state agency from the full payment account transfer requirements of this subsection for one year periods or longer periods if the agency can demonstrate a practice of making full payment of rent on a different basis necessitated by its cash flow. If a state agency does not have the financial resources for state leased space, or does not occupy or vacates state leased space after the beginning of the fiscal year, the director of the department of administration, on recommendation of the joint committee on capital review, may authorize a whole or partial exemption from payment of the rental fee.

F. The department shall charge state agencies for the full costs of labor services it provides to accomplish tenant improvement projects within a building owned by or leased to the state. Charges for this labor shall be deposited in the capital outlay stabilization fund.

G. State universities, community colleges and the department of transportation are exempt from the provisions of this section, except when these state agencies are using space under the jurisdiction of the department of administration.

H. The lease-purchase building operating and maintenance fund is established consisting of monies transferred into it in accordance with subsection E of this section. All monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. Monies in the fund are subject to legislative appropriation.

I. For the purposes of this section, "state department" or "state agency" means any department or agency of the executive or judicial branch of state government.

Sec. 37. Section 41-821, Arizona Revised Statutes, is amended to read:

41-821. <u>Arizona historical society; powers; officers; duties of board of directors</u>

A. An Arizona historical society is established.

B. Subject to limitations imposed by law, the society may purchase, receive, hold, lease and sell property, real and personal, for the benefit of this state and use of the society. The society may solicit private monetary donations for program activities.

C. The society shall have a president, a treasurer, a board of directors and other officers who shall be elected by the members of the society at times and by methods the bylaws of the society prescribe. The board of directors may designate from among its members an executive committee with authority to act in place of the board of directors and in accordance with directions the board of directors may give when the board of directors is not in session.

D. The president shall preside at meetings of the society and of the board of directors.

E. The treasurer shall have custody of the monies of the society, other than legislative appropriations. The treasurer shall hold the monies of the society deposited in trust for the society's use and for the benefit of this state and shall disburse them only as prescribed by law and the bylaws of the society. ~~The treasurer shall submit to the joint legislative budget committee a written report detailing all expenditures of nonappropriated funds for the society at the beginning of each quarter.~~

F. The board of directors shall hold in trust for this state and administer for the benefit of this state and use of the society all property acquired by the society.

G. All expenditures of legislative appropriations to the society shall be made on claims duly itemized, verified and approved by the executive director. The executive director shall present and file claims for payment with the director of the department of administration. The director of the department of administration shall draw the warrant on the state treasurer. The society may expend nonappropriated private funds related to program activities.

H. The board of directors shall annually designate one or more historical organizations within each county of this state that are incorporated as nonprofit organizations and that are deemed to have a functioning program of historical value based on criteria established by the board of directors. The board of directors may organize chapters made up of groups of its members who have a common interest in a geographical area of this state or a common interest in a field of history, may provide for the governance of these chapters and may grant to any chapter the power to exercise authority of the society as the board of directors may determine.

I. The board of directors, subject to legislative appropriation, may contract with certified historical organizations for services to be performed for the benefit of this state. The contracts shall be prepared by the Arizona historical society. The board of directors shall annually review the contracts to ensure fulfillment of their provisions.

J. The board of directors may employ an executive director and may employ or authorize the employment of other employees it considers appropriate to carry out the functions of the society. The executive director and all other employees shall have duties and exercise authority as may be prescribed by the board of directors or by the executive director acting under the direction of the board of directors.

K. The board may operate a program for the establishment and maintenance of historical markers at various locations in this state.

L. In cooperation with the advisory council established by section 41-827.01, the board shall operate and maintain the centennial museum that houses the mining and mineral museum and may engage in other activities related to the museum as determined by the board or the executive director. Monies received pursuant to this subsection shall be credited to an account to be used for the maintenance and operations of the centennial museum that houses the mining and mineral museum.

Sec. 38. Section 41-986, Arizona Revised Statutes, is amended to read:

41-986. Arizona arts endowment fund

A. The Arizona arts endowment fund is established consisting of monies appropriated annually to the fund.

B. The Arizona commission on the arts shall administer the fund. On notice from the commission, the state treasurer shall invest and divest monies in the fund as provided by section 35-313. Monies earned from investment:

1. Shall be credited to the fund.

2. Are a continuing appropriation to the commission.

C. The commission may not spend any monies in the fund except monies earned from investment of fund monies.

D. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

E. The commission may enter into contracts with private charitable, nonprofit organizations that qualify for tax exemption under section 501(c)(3) of the United States internal revenue code to administer monies that are donated by the organization for use in conjunction with monies from the Arizona arts endowment fund. The commission shall adopt rules regarding matching private monies with monies from the Arizona arts endowment fund in a manner consistent with the intent of the fund.

F. The commission shall include in its annual report an accounting of the private monies that are donated for use in conjunction with the monies from the Arizona arts endowment fund. ~~Each year the joint legislative budget committee shall review the commission's records regarding amounts received from private sources in comparison with the amount appropriated to the fund.~~

G. Notwithstanding any law to the contrary, no monies from the Arizona arts endowment fund may be spent for payment to any person or entity for use in desecrating, casting contempt on, mutilating, defacing, defiling, burning,

trampling or otherwise dishonoring or causing to bring dishonor on religious objects, the flag of the United States or the flag of this state.

Sec. 39. Section 41-1509, Arizona Revised Statutes, is amended to read:

41-1509. Oil overcharge fund; source of monies; uses; energy project loans; conditions

A. An oil overcharge fund is established. Monies received by the state as a result of oil overcharge settlements shall be deposited, pursuant to sections 35-146 and 35-147, in the fund. At least fifteen per cent of all monies received shall be allocated in accordance with subsections B and C of this section for loans, grants and other purposes which benefit the low income population.

B. The director may grant loans from the principal balance of the oil overcharge fund to assist political subdivisions and nonprofit organizations of this state in funding energy projects. Loans may be granted in accordance with the following provisions in a manner and on terms and conditions prescribed by the director:

1. Loans shall be made only for projects which meet legal requirements imposed on the uses of oil overcharge monies.

2. The director shall assess an administrative fee on each loan to cover the annual cost to this state of administering the loan program. Fees collected shall be deposited in the oil overcharge fund. Subject to legislative appropriation and in accordance with legal requirements, monies in the fund may be expended for the reasonable and necessary costs of administering the fund.

3. Each loan shall be evidenced by a contract between the political subdivision or nonprofit organization and the director, acting on behalf of this state. The contract shall provide a payment schedule including principal, interest and administrative fees for the term of the loan.

4. Each contract shall provide that the attorney general may commence actions that are necessary to enforce contracts and achieve repayments of loans made pursuant to this section.

C. Monies in the oil overcharge fund may be expended for grants and other purposes ~~which~~ THAT meet the applicable legal requirements imposed on their use ~~upon approval of the joint legislative budget committee~~.

D. The director shall report annually to the legislature on the status of the oil overcharge fund. The report shall include a financial summary of the oil overcharge fund for the preceding fiscal year with a description of the outstanding loans issued. It shall also include a summary of programs and projects for which grants were awarded and monies were expended. It shall include specific information regarding the program's starting and completion dates, the process by which the program was authorized and whether the program was authorized by the legislature or the executive branch, the current status of the program and the amount expended to date and whether the program is funded as a grant or a loan. The report shall be submitted to the

president of the senate and the speaker of the house of representatives no later than December 31 of each year.

E. Investment earnings on the unexpended balance of the oil overcharge fund shall be credited to the oil overcharge fund.

F. The oil overcharge fund is exempt from the requirements of section 35-190, relating to lapsing of appropriations.

Sec. 40. Section 41-2401, Arizona Revised Statutes, is amended to read:

41-2401. Criminal justice enhancement fund

A. The criminal justice enhancement fund is established consisting of monies collected pursuant to section 12-116.01 and monies available from any other source. The state treasurer shall administer the fund.

B. On or before November 1 of each year, each department, agency or office that receives monies pursuant to this section shall provide to the Arizona criminal justice commission a report for the preceding fiscal year. The report shall be in a form prescribed by the Arizona criminal justice commission ~~and shall be reviewed by the director of the joint legislative budget committee~~. The report shall set forth the sources of all monies and all expenditures. The report shall not include any identifying information about specific investigations.

C. On or before December 1 of each year, the Arizona criminal justice commission shall compile all reports into a single comprehensive report and shall submit a copy of the comprehensive report to the governor, the president of the senate, the speaker of the house of representatives and the director of the joint legislative budget committee.

D. On the first day of each month, the state treasurer shall distribute or deposit:

1. 6.46 per cent in the Arizona automated fingerprint identification system fund established by section 41-2414.

2. 1.61 per cent to the department of juvenile corrections for the treatment and rehabilitation of youth who have committed drug-related offenses.

3. 16.64 per cent in the peace officers' training fund established by section 41-1825.

4. 3.03 per cent in the prosecuting attorneys' advisory council training fund established by section 41-1830.03.

5. 9.35 per cent to the supreme court for the purpose of reducing juvenile crime.

6. 8.56 per cent to the department of public safety. Fifteen per cent of the monies shall be allocated for deposit in the Arizona deoxyribonucleic acid identification system fund established by section 41-2419. Eighty-five per cent of the monies shall be allocated to state and local law enforcement authorities for the following purposes:

1 (a) To enhance projects that are designed to prevent residential and
2 commercial burglaries, to control street crime, including the activities of
3 criminal street gangs, and to locate missing children.
4 (b) To provide support to the Arizona automated fingerprint
5 identification system.
6 (c) Operational costs of the criminal justice information system.
7 7. 9.35 per cent to the department of law for allocation to county
8 attorneys for the purpose of enhancing prosecutorial efforts.
9 8. 6.02 per cent to the supreme court for the purpose of enhancing the
10 ability of the courts to process criminal and delinquency cases, orders of
11 protection, injunctions against harassment and any proceeding relating to
12 domestic violence matters, for auditing and investigating persons or entities
13 licensed or certified by the supreme court and for processing judicial
14 discipline cases. Notwithstanding section 12-143, subsection A, the salary
15 of superior court judges pro tempore who are appointed for the purposes
16 provided in this paragraph shall, and the salary of other superior court
17 judges pro tempore who are appointed pursuant to section 12-141 for the
18 purposes provided in this paragraph may, be paid in full by the monies
19 received pursuant to this paragraph.
20 9. 11.70 per cent to the county sheriffs for the purpose of enhancing
21 county jail facilities and operations, including county jails under the
22 jurisdiction of county jail districts.
23 10. 1.57 per cent to the Arizona criminal justice commission.
24 11. 9.00 per cent in the crime laboratory operations fund established
25 by section 41-1772.
26 12. 2.30 per cent in the crime laboratory assessment fund established
27 by section 41-2415.
28 13. 7.68 per cent in the victims' rights fund established by section
29 41-191.08.
30 14. 4.60 per cent in the victim compensation and assistance fund
31 established by section 41-2407.
32 15. 2.13 per cent to the supreme court for the purpose of providing
33 drug treatment services to adult probationers through the community
34 punishment program established in title 12, chapter 2, article 11.
35 E. Monies distributed pursuant to subsection D, paragraphs 3, 4, 7, 9,
36 11, 12, 13 and 14 of this section constitute a continuing appropriation.
37 Monies distributed pursuant to subsection D, paragraphs 1, 2, 5, 8, 10 and 15
38 of this section are subject to legislative appropriation.
39 F. The portion of the eighty-five per cent of the monies for direct
40 operating expenses of the department of public safety in subsection D,
41 paragraph 6 of this section is subject to legislative appropriation. The
42 remainder of the monies in subsection D, paragraph 6 of this section
43 including the portion of the eighty-five per cent for local law enforcement
44 is continuously appropriated.

G. The allocation of monies pursuant to subsection D, paragraphs 6, 7, 8 and 9 of this section shall be made in accordance with rules adopted by the Arizona criminal justice commission pursuant to section 41-2405.

Sec. 41. Section 41-2402, Arizona Revised Statutes, is amended to read:

41-2402. Drug and gang enforcement account; resource center fund

A. A drug and gang enforcement account is established within the criminal justice enhancement fund consisting of monies appropriated to the account by the legislature and any other monies available from other sources, public or private, to be used for the purpose of enhancing efforts to deter, investigate, prosecute, adjudicate and punish drug offenders and members of criminal street gangs as defined in section 13-105.

B. The Arizona criminal justice commission shall distribute monies from the drug and gang enforcement account in the following manner:

1. Up to fifty per cent to fund law enforcement agencies approved by the commission to enhance both:

(a) The investigation of drug and gang offenses and related criminal activity.

(b) Drug and gang education and prevention programs.

2. Up to fifty per cent to fund programs and agencies approved by the commission to enhance the state, county, city or town prosecution of drug and gang offenses and related criminal activity.

3. Up to thirty per cent to fund programs and agencies approved by the commission for the purpose of enhancing the ability of the courts to process drug and gang offenses and related criminal cases, either through the appointment of judges pro tempore or the establishment of additional divisions of the courts only for the purposes of this section, enhancing defense and probation services, including treatment, and funding the drug testing program.

4. Up to thirty per cent to fund programs by county sheriffs and the state department of corrections, as approved by the commission, to enhance drug offender treatment programs and the jail operations and facilities available to detain and incarcerate drug offenders and members of criminal street gangs as defined in section 13-105.

5. Up to thirty per cent to fund programs and agencies, as approved by the commission, to enhance the integration of criminal justice records relating to drug and gang offenders and their related criminal activity.

~~C. Before any monies are expended from the account, the criminal justice commission shall submit to the joint legislative budget committee a plan of proposed expenditures from the account and the anticipated fiscal and operational impact of those expenditures on all state and local agencies.~~

~~D.~~ C. Any state agency that receives monies allocated from this account shall not include such monies as part of its continuation budget base for the purpose of requesting appropriations for the following fiscal year.

~~E.~~ D. All the monies allocated from this account shall be dedicated solely to the purpose of enhancing efforts to deter, investigate, prosecute, adjudicate and punish drug and gang and related criminal offenders, except those monies allocated pursuant to subsection ~~H~~ G of this section.

~~F.~~ E. Notwithstanding the limitations prescribed in subsection B of this section, any federal monies or matching state monies in the drug and gang enforcement account may only be allocated by the commission pursuant to a plan approved by the federal government.

~~G.~~ F. The auditor general shall annually perform a full and complete audit of the fund or the commission shall annually contract with an accounting firm to perform the audit and deliver a report to the governor and the legislature. The audit shall be charged to the drug and gang enforcement account.

~~H.~~ G. A resource center fund is established consisting of monies received pursuant to section 12-284.03, subsection A, paragraph 1 and section 41-178 and all monies received from public or private gifts, grants or other sources, excluding federal monies and monies to be passed through to other entities, to be used solely for the purpose of funding the Arizona youth survey. Monies in the fund are subject to legislative appropriation. Any monies unexpended or unencumbered on June 30 of each year shall not be subsequently expended or encumbered unless reappropriated. No monies in the drug and gang enforcement account except those received pursuant to this subsection shall be used to fund the Arizona youth survey. Monies that are expended pursuant to this subsection are subject to the reporting requirements prescribed in section 41-617.01.

Sec. 42. Section 41-2826, Arizona Revised Statutes, is amended to read:

41-2826. <u>Department of juvenile corrections restitution fund</u>

A. The department of juvenile corrections restitution fund is established for the payment of restitution and monetary assessments by youths who are ordered to pay restitution or monetary assessments and who are financially unable to pay or who are otherwise unable to be employed to earn money to pay restitution or monetary assessments and who are working in the committed youth work program prescribed by section 41-2822 or the community work program established by section 41-2825. The fund consists of federal, state and local appropriations, monies distributed to the fund pursuant to section 41-2828 and grants, gifts, devises and donations from any public or private source. The fund shall be used to pay a youth for the youth's work in the committed youth work program prescribed by section 41-2822 and to provide monies for the community work program established by section 41-2825.

B. The director may direct the payment of monies from the fund to the victim or the court for community restitution activities the youth does to pay restitution or monetary assessments that were ordered by the juvenile court or that the youth agreed to pay as part of a community work program administered by the department. If a youth performs community restitution

pursuant to this subsection, the entity providing the work shall supervise the youth's work. The youth shall be credited for each hour worked at an hourly rate set by the director.

C. As monies are available, the department shall pay from the fund youths who perform work or community restitution activities for restitution and monetary assessments purposes.

D. The department may expend, for the payment of administrative costs and expenses, an amount not greater than ten per cent of the fund balance as of the end of the preceding fiscal year.

E. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

~~F. On or before August 15 of each year, the department shall submit a report to the joint legislative budget committee detailing all revenues received by and expenditures made from the fund during the most recent fiscal year.~~

Sec. 43. Section 41-3542, Arizona Revised Statutes, is amended to read:

41-3542. Advisory commission; powers and duties; report

A. The Arizona public safety communications advisory commission shall make recommendations to the agency regarding the development and maintenance of work plans to outline areas of work to be performed and appropriate schedules for at least the following:

1. The development of a standard based system that provides interoperability of public safety agencies' communications statewide.

2. The promotion of the development and use of standard based systems.

3. The identification of priorities and essential tasks determined by the advisory commission.

4. The development of a timeline for project activities.

5. Completion of a survey of existing and planned efforts statewide and benchmark against similar efforts nationally.

6. Providing support for the state interoperability executive committee.

7. Establishing committees and work groups as necessary.

B. The agency may:

1. Employ personnel as required with available monies.

2. Enter into contracts to assess, design, construct and use public safety communications systems.

3. Accept grants, fees and other monies for use by the agency and the advisory commission.

4. Enter into agreements to carry out the purposes of this article.

5. Request cooperation from any state agency for the purposes of this article.

C. The department of public safety shall consult with the director of the government information technology agency or the director's designee on an ongoing basis. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, the director of the

government information technology agency shall submit a ~~quarterly~~ report to the joint legislative budget committee for review regarding expenditures and progress of the commission, including a review of staff operations and preparation of requests for proposals for system detail and concept work.

D. The commission shall annually submit a report of its activities and recommendations to the governor, the speaker of the house of representatives and the president of the senate on or before December 1 and shall provide a copy of the report to the secretary of state ~~and the director of the Arizona state library, archives and public records~~.

Sec. 44. Section 46-803, Arizona Revised Statutes, is amended to read:

46-803. Eligibility for child care assistance

A. The department shall provide child care assistance to eligible families who are attempting to achieve independence from the cash assistance program and who need child care assistance in support of and as specified in their personal responsibility agreement pursuant to chapters 1 and 2 of this title.

B. The department shall provide child care assistance to eligible families who are transitioning off of cash assistance due to increased earnings or child support income in order to accept or maintain employment. Eligible families must request this assistance within six months after the cash assistance case closure. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease whenever the family income exceeds one hundred sixty-five per cent of the federal poverty level.

C. The department shall provide child care assistance to eligible families who are diverted from cash assistance pursuant to section 46-298 in order to obtain or maintain employment. Child care assistance may be provided for up to twenty-four months after the case closure and shall cease whenever the family income exceeds one hundred sixty-five per cent of the federal poverty level.

D. The department may provide child care assistance to support eligible families with incomes of one hundred sixty-five per cent or less of the federal poverty level to accept or maintain employment. Priority for this child care assistance shall be given to families with incomes of one hundred per cent or less of the federal poverty level.

E. The department may provide child care assistance to families referred by child protective services and to children in foster care pursuant to title 8, chapter 5 to support child protection.

F. The department may provide child care assistance to special circumstance families whose incomes are one hundred sixty-five per cent or less of the federal poverty level and who are unable to provide child care for a portion of a twenty-four hour day due to a crisis situation of domestic violence or homelessness, or a physical, mental, emotional or medical condition, participation in a drug treatment or drug rehabilitation program or court ordered community restitution. Priority for this child care

assistance shall be given to families with incomes of one hundred per cent or less of the federal poverty level.

G. In lieu of the employment activity required in subsection B, C or D of this section, the department may allow eligible families with teenaged custodial parents under twenty years of age to complete a high school diploma or its equivalent or engage in remedial education activities reasonably related to employment goals.

H. The department may provide supplemental child care assistance for department approved education and training activities if the eligible parent, legal guardian or caretaker relative is working at least a monthly average of twenty hours per week and this education and training are reasonably related to employment goals. The eligible parent, legal guardian or caretaker relative must demonstrate satisfactory progress in the education or training activity.

I. Beginning March 12, 2003, the department shall establish waiting lists for child care assistance and prioritize child care assistance for different eligibility categories in order to manage within appropriated and available monies. Priority of children on the waiting list shall start with those families at one hundred per cent of the federal poverty level and continue with each successive ten per cent increase in the federal poverty level until the maximum allowable federal poverty level of one hundred sixty-five per cent. Priority shall be given regardless of time spent on the waiting list.

J. The department shall establish criteria for denying, reducing or terminating child care assistance that include:

1. Whether there is a parent, legal guardian or caretaker relative available to care for the child.

2. Financial or programmatic eligibility changes or ineligibility.

3. Failure to cooperate with the requirements of the department to determine or redetermine eligibility.

4. Hours of child care need that fall within the child's compulsory academic school hours.

5. Reasonably accessible and available publicly funded early childhood education programs.

6. Whether an otherwise eligible family has been sanctioned and cash assistance has been terminated pursuant to chapter 2 of this title.

7. Other circumstances of a similar nature.

8. Whether sufficient monies exist for the assistance.

K. Families receiving child care assistance under subsection D or F of this section are also subject to the following requirements for such child care assistance:

1. Each child is limited to no more than sixty cumulative months of child care assistance. The department may provide an extension if the family can prove that the family is making efforts to improve skills and move towards self-sufficiency.

2. Families are limited to no more than six children receiving child care assistance.

3. Copayments shall be imposed for all children receiving child care assistance. Copayments for each child may be higher for the first child in child care than for additional children in child care.

L. The department shall review each case at least once a year to evaluate eligibility for child care assistance.

M. The department shall report on December 31 and June 30 of each year to the joint legislative budget committee the total number of families who applied for child care assistance and the total number of families who were denied assistance under this section because the parents, legal guardians or caretaker relatives who applied for assistance were not citizens or legal residents of the United States or were not otherwise lawfully present in the United States.

N. This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

~~O. Notwithstanding section 35-173, monies appropriated for the purposes of this section shall not be used for any other purpose without the approval of the joint legislative budget committee.~~

~~P.~~ O. The department shall refer all child care subsidy recipients to child support enforcement and to local workforce services and provide information on the earned income tax credit.

Sec. 45. Section 49-545, Arizona Revised Statutes, is amended to read:

49-545. Agreement with independent contractor; qualifications of contractor; agreement provisions

A. The director is authorized to enter into an emissions inspection agreement with one or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of any official emissions inspection stations in such numbers and locations as may be required to provide vehicle owners reasonably convenient access to inspection facilities for the purpose of obtaining compliance with this article and the rules adopted pursuant to this article. The agreement may provide that official inspection stations shall be placed in permanent or movable buildings at particular locations as well as in mobile units for conveyance from one preannounced particular location to another.

B. The director is prohibited from entering into an emissions inspection agreement with any independent contractor who:

1. Is engaged in the business of manufacturing, selling, maintaining or repairing vehicles, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.

2. Does not have the capability, resources or technical and management skill to adequately construct, equip, operate and maintain a sufficient number of official emissions inspection stations to meet the demand for

1 inspection of every vehicle which is required to be submitted for inspection
2 pursuant to this article.
3 C. All persons employed by the independent contractor in the
4 performance of an emissions inspection agreement are deemed to be employees
5 of the independent contractor and not of this state. No employee of the
6 independent contractor shall wear any badge, insignia, patch, emblem, device,
7 word or series of words which would tend to indicate that such person is
8 employed by this state. Employees of the independent contractor are
9 specifically prohibited under this subsection from wearing the flag of this
10 state, the words "state of Arizona", the words "official emissions inspection
11 program" or any similar emblem or phrase.
12 D. The emissions inspection agreement authorized by this section shall
13 contain, in addition to any other provisions, provisions relating to the
14 following:
15 1. A contract term or duration of between five and seven years with
16 reasonable compensation to the contractor if the provisions of this article
17 are repealed.
18 2. That nothing in the agreement or contract shall require the state
19 to purchase any asset or assume any liability if such agreement or contract
20 is not renewed.
21 3. The minimum requirements for adequate staff, equipment, management
22 and hours and place of operation of official emissions inspection stations.
23 4. The submission of such reports and documentation concerning the
24 operation of official emissions inspection stations as the director and the
25 auditor general may require.
26 5. Surveillance by the department of environmental quality and the
27 auditor general to ensure compliance with vehicular emissions standards,
28 procedures, rules and laws.
29 6. The right of this state, upon providing reasonable notice to the
30 independent contractor, to terminate the contract with the independent
31 contractor and the right of this state on termination of the contract to
32 assume operation of the vehicle emissions inspection program through another
33 contract provider or otherwise.
34 7. The right of this state upon termination of the term of the
35 agreement or upon assumption of the operation of the program to have
36 transferred and assigned to it for reasonable compensation any interest in
37 land, buildings, improvements, equipment, parts, tools and services used by
38 the independent contractors in their operation of the program.
39 8. The right of this state upon termination of the term of the
40 agreement or assumption of the operation of the program to have transferred
41 and assigned to it any contract rights, and related obligations, for land,
42 buildings, improvements, equipment, parts, tools and services used by the
43 independent contractors in their operation of the program.
44 9. The obligation of the independent contractors to provide in any
45 agreement to be executed by them, and to maintain in any agreements

previously executed by them, for land, buildings, improvements, equipment, parts, tools and services used in their operation of the program for the right of the independent contractors to assign to this state any of their rights and obligations under such contract.

10. The right of the independent contractor, in the event the contract is terminated and the state elects to assume operation of the vehicle emissions inspection program through another contractor or otherwise, to retain and not transfer to the state any interest in or any contract rights and related obligations for improvements, equipment, parts, tools and services THAT ARE used by the independent contractor in the operation of the program and ~~which~~ THAT are proprietary in nature, as may be more specifically set forth in the contract.

11. The amounts of liquidated damages payable by this state to the independent contractor if the state exercises its right to terminate the contract at the conclusion of each year of the contract pursuant to paragraph 6 of this subsection. The damages recoverable by the independent contractor if the state exercises its right to terminate the contract shall be limited to the liquidated damages specified in the contract.

12. Any other provision deemed necessary by the director for the administration or enforcement of the emissions inspection agreement.

E. The department of environmental quality shall establish bid specifications or contract terms for a contract with an independent contractor as provided in this section, review bids for award of a contract with the independent contractors and negotiate any terms of a contract with the independent contractors.

F. In evaluating bids for an emissions inspection agreement, no additional consideration shall be given to a bid solely on the basis of the type of conditioning mode proposed in the bid.

G. After a contract is awarded to an independent contractor, the director may modify the contract with the independent contractor to allow the contractor and the state to comply with amendments to applicable statutes or rules. These modifications are exempt from public bidding and may include the addition, deletion or alteration of any contract provision in order to make compliance feasible, including inspection fees and services rendered. Provisions relating to contract term or duration may be amended, except that the term or duration of the contract in existence on August 6, 1999 shall not be extended beyond December 31, 2001. Any proposed modification or amendment to the contract is subject to prior review by the joint legislative budget committee. If the director cannot negotiate an acceptable modification of the contract, the state may terminate the contract.

~~H. The following apply for any contract that takes effect beginning on or after January 1, 2002 and for which the contractor will be providing services under this section:~~

~~1. The department of environmental quality shall report at the end of each calendar quarter to the joint legislative budget committee on the status of the contract process, discussions, development of the request for proposal, contract negotiations, and any other information as may be requested.~~

~~2. The contract terms are subject to prior review by the joint legislative budget committee before placement of any advertisement that solicits a response to requests for proposal.~~

~~3. Any proposed modification or amendment to the contract is subject to prior review by the joint legislative budget committee.~~

Sec. 46. Effective date

Sections 5-557 and 5-559, Arizona Revised Statutes, as amended by this act, are effective from and after June 30, 2012.

APPROVED BY THE GOVERNOR APRIL 13, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2011.

Passed the House February 3, 2011

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 5, 2011

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2016

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 7, 2011,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7 day of April, 2011,

at 2:35 o'clock P. M.

Nicole Benke
Secretary to the Governor

Approved this 13th day of

April, 2011,

at 11:05 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13th day of April, 2011,

at 4:59 o'clock P M.

Ken Bennett
Secretary of State

H.B. 2016