NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the Register first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Register after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

PREAMBLE

1. Sections Affected — **Rulemaking Action**

R2-5-403	Amend
R2-5-405	Amend
R2-5-407	Amend
R2-5-410	Amend
R2-5-411	Amend
R2-5-412	Renumber
R2-5-412	New Section
R2-5-413	Renumber
R2-5-413	Amend
R2-5-414	Renumber
R2-5-414	Amend
R2-5-415	Renumber
R2-5-415	Amend
R2-5-416	Renumber
R2-5-416	Amend
R2-5-417	Renumber
R2-5-417	Amend
R2-5-418	Renumber
R2-5-418	Amend
R2-5-419	Renumber
R2-5-419	Amend
R2-5-420	Renumber
R2-5-420	New Section
R2-5-421	Renumber
R2-5-421	Amend
R2-5-422	Renumber
R2-5-422	Amend
R2-5-423	Renumber
R2-5-423	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. § 41-763(2) and 41-763(6)

Implementing statute: A.R.S. § 41-783(17)

3. The effective date of the rules:

October 3, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 2185, June 16, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 2152, June 16, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Gordon Carrigan, Human Resources Generalist

Address: 1831 West Jefferson, Rm 104
Phoenix, Arizona 85007

Telephone: (602) 542-4784

Fax: (602) 542-2796

6. An explanation of the rule, including the agency's reason for initiating the rule:

R2-5-403 is being amended to include an expansion of the donated annual leave benefit passed by the Legislature. R2-5-407, military leave, is being amended to conform to the method in use for other types of leave when calculating accrual and use of leave time, to provide consistency in application, and to ensure that eligible employees receive the benefit equitably. R2-5-410 is being amended to convert 3 days and 5 days to hours to provide clarity and consistency in application. A new Section concerning Family Medical Leave Act (FMLA) leave, to be inserted as R2-5-412, is necessary to establish consistent state practices that conform to the law, and related amendments are necessary for R2-5-405 and R2-5-411. A new Section is to be inserted as R2-5-420 with a subsection transferred from R2-5-418 (to be 419) that is incongruent with 418 and needs to be separate. Because of the new Sections R2-5-412 and R2-5-420, it is necessary to renumber R2-5-412 through R2-5-421 as R2-5-413 through R2-5-423. In addition: life insurance maximums are being changed in R2-5-416 (to be 417) to reflect current practice and allow for future flexibility; and revisions to the procedures in R2-5-421 (to be 423) are being made to expand recognition leave to make it more useful to agencies. Clarifications and housekeeping revisions are being made to all sections along with the specific changes. The changes are consistent with the work of the Personnel Rules Review Committee (PRRC).

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

There will be no small business impact. There will be some impact on the expenditure of state funds. R2-5-403 involves the inter-agency transfer of annual leave time, and any extra costs would be administrative and minimal. Payroll expenditure for annual leave would be reduced for the giving agency and increased for the receiving agency, but the costs to the state would be transferred rather than increased. R2-5-412 is procedural with no costs involved. R2-5-417 allows for the increase of supplemental and dependent life insurance at the employee's choosing and cost. R2-5-423 could result in increased costs for certain agencies. This rule establishes a recognition leave formula of 8 hours for each 50 employees for agencies with more than 100 employees. Agencies with up to 100 employees will retain their current allocation of 16 hours, and agencies with up to 150 employees will match their current allocation of 24 hours. The increase in hours begins with 8 for 151 employees. An increase of 16 hours begins at 251 employees; at 1,000 employees the increase is 112 hours; and at 9,750 employees the increase is 1,176 hours. Average salary statistics for state employees indicate that the cost increase would range from $225 for 16 hours to $1,578 for 112 hours to $17,134 for 1,176 hours. The award of recognition leave is at the discretion of each agency head. The other proposed rules changes will not involve cost considerations.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A small focus group of agency representatives suggested several changes for clarification, primarily to R2-5-403(E), Contribution of Annual Leave, that were implemented by either the addition of a word or by restating a phrase or sentence. Several agency personnel managers suggested some changes pertaining to clarification that were handled in the same manner as the focus group's suggestions. There were changes suggested by GRRC staff related to format, style, and syntax that were implemented. There were no substantive changes.

11. A summary of the principal comments and the agency response to them:

Two public hearings were held with only three attendees who were there as observers and who did not offer comments. The only public comment received was in a letter to the Department's Director concerning expanding eligibility for bereavement leave. We did not include the suggestion, because we believe that we have addressed the immediate family needs of employees sufficiently and that a cutoff must be established. A copy of the letter is attached.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:
The Family Medical Leave Act Regulations of 1993, 29 CFR 825.100 through 29 CFR 825.312 located in R2-5-412

14. Was this rule previously adopted as an emergency rule?
No

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

ARTICLE 4. BENEFITS

Sections
R2-5-403. Annual Leave
R2-5-405. Industrial ~~Disability~~ Leave
R2-5-407. Military ~~leave~~ Leave
R2-5-410. Bereavement Leave
R2-5-411. Parental Leave
R2-5-412. Leave for Serious Health Conditions
~~R2-5-412~~ R2-5-413. Medical ~~leave~~ Leave ~~without~~ Without ~~pay~~ Pay
~~R2-5-413~~ R2-5-414. Leave Without Pay
~~R2-5-414~~ R2-5-415. Insurance ~~programs~~ Plans
~~R2-5-415~~ R2-5-416. Health Benefit Plan
~~R2-5-416~~ R2-5-417. Life and Short Term Disability Income Insurance ~~Plan~~ Plans
~~R2-5-417~~ R2-5-418. Retiree Health Benefit Plan
~~R2-5-418~~ R2-5-419. Health Benefit Plan for ~~former~~ Former ~~elected~~ Elected ~~officials~~ Officials
R2-5-420. Health Benefit Plan for Surviving Spouse of Elected Official
~~R2-5-419~~ R2-5-421. Life ~~insurance~~ Insurance ~~plan~~ Plan for ~~former~~ Former ~~elected~~ Elected ~~officials~~ Officials
~~R2-5-420~~ R2-5-422. Flexible or ~~cafeteria~~ Cafeteria ~~employee~~ Employee ~~benefit~~ Benefit ~~plan~~ Plan
~~R2-5-421~~ R2-5-423. Recognition ~~leave~~ Leave

ARTICLE 4. BENFITS

R2-5-403. Annual Leave

A. Definition. "Annual leave" ~~includes all periods~~ means a period of approved absence with pay ~~which are~~ that is not chargeable to another category of leave.

B. Accrual.

1. All ~~state service~~ employees except ~~seasonal,~~ temporary, emergency, clerical pool, and part-time employees shall accrue annual leave in accordance with the following schedule:

Credited Service	~~*Hours Per Month*~~	*Hours Bi-weekly*
Fewer than 3 years	~~8~~	3.70
3 years but fewer than 7 years	~~10~~	4.62
7 years but fewer than 15 years	~~12~~	5.54
15 years or more	~~14~~	6.47

2. Part-time employees who:
   a. ~~work~~ Work 1/4 time, 1/2 time, or 3/4 time ~~will~~ shall accrue a proportional amount of annual leave~~.~~; or
   b. ~~Part-time employees who work~~ Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time ~~will~~ shall accrue annual leave at the next lower rate.
3. ~~Seasonal, temporary~~ Temporary, emergency, ~~and~~ clerical pool ~~employees~~, and part-time employees who work less than 1/4 time, ~~do~~ shall not accrue annual leave.
4. Eligible employees accrue ~~the appropriate number of hours of annual leave on a pay period or monthly basis, as determined by the agency head. Accrued~~ annual leave ~~is credited~~ on the last day of ~~the~~ each bi-weekly pay period ~~or month in which earned~~, ~~provided~~ if the employee ~~has been~~ is in a pay status for at least 1/2 of the ~~employee's working days~~ scheduled work hours in that pay period ~~or month~~.
5. Service in a ~~positions~~ position ~~which~~ that became covered in accordance with A.R.S. Title 41, Chapter 4, (formerly A.R.S. Title 38, Chapter 6), ~~shall be~~ is considered credited service in determining accrual rate change dates.
6. The effective date for change in the accrual rate is the 1st day of the pay period ~~or month~~ immediately following the attainment of the required credited service.

C. Credited service.
1. ~~The date of the beginning of credited~~ Credited service ~~is~~ shall be calculated from the 1st day of the 1st complete pay period worked.
2. Credited service shall include:
   ~~2~~a. Any period of service as an employee of a state budget unit ~~prior to~~ before a break in service ~~shall not be counted unless the break in service was~~ of less than 2 years ~~duration and~~ that ~~was~~ is not the result of disciplinary action~~.~~;
   ~~3~~b. Any period of leave without pay ~~in excess~~ of 240 hours or less ~~shall not be counted as credited service.~~;
   c. Approved Family Medical Leave Act (FMLA) leave;
   ~~4~~d. Military leave taken ~~pursuant to~~ under A.R.S. §§ 26-168, 26-171, or 38-610 ~~shall be counted as credited service.~~; and
   ~~5~~e. Active military service of an employee who is restored to state service ~~pursuant to~~ under A.R.S. § 38-298 ~~is not a break in service and shall be counted as credited service~~.

D. Accumulation.
1. Except as provided in subsections (D)(2) and (D)(3), an employee shall forfeit ~~Annual~~ annual leave accumulated in excess of 240 hours as of the last day of the last pay period ~~starting~~ that begins in ~~any~~ a calendar year ~~shall be forfeited~~, unless the Director authorizes an exception in an individual case. ~~The~~ An application for exception submitted to the Director shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.
2. An employee who ~~is credited with~~ accrues additional annual leave for working on a state holiday may exceed the 240-hour limitation by up to 24 hours.
3. An employee may retain ~~Annual~~ annual leave accumulated as a result of service ~~which~~ that became covered in accordance with A.R.S. Title 41, Chapter 4, (formerly A.R.S. Title 38, Chapter 6), ~~may be retained by the employee~~ without regard to the accumulation limit contained in subsection (D)(1).

E. ~~Contribution~~ Donation of annual leave.
1. Definitions.
   a. "Immediate family" means the recipient employee's parent, spouse, ~~and~~ or child, whether natural, adopted, foster, or step.
   b. *"Family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.*
   ~~b~~c. "Extended illness or injury" means a period of at least 3 ~~or more~~ weeks ~~of illness or injury which is verified by a licensed health care practitioner~~ to a maximum of 6 consecutive months.
2. Eligibility. ~~Annual leave may be contributed by 1 employee to another employee in the same agency provided both of the following conditions are satisfied:~~
   ~~a.~~ ~~The recipient of the donated leave has a seriously incapacitating and extended illness or injury, or a member of the immediate family of the recipient of the donated leave has a seriously incapacitating and extended illness or injury; and~~
   ~~b.~~ ~~The recipient of leave for a qualifying illness or injury has exhausted all leave except for sick leave granted in accordance with R2-5-404(A)(4). If the employee is the recipient of donated annual leave for illness or injury of the recipient's immediate family, the recipient 1st must exhaust 40 hours of sick leave, if available for this purpose pursuant to R2-5-404(A)(4).~~
   a. An employee may donate annual leave to an individual who has no accumulated annual leave if the individual is:
      i. Another employee in the same agency as the donating employee; or
      ii. A family member of the donating employee who is employed in another agency.
   b. The recipient employee in the same agency or the recipient family member in another agency may use the donated annual leave to care for the recipient or an immediate family member who has a seriously incapacitating illness or injury.
   c. A recipient employee or family member may use a maximum of 6 consecutive months of annual leave donated for each qualifying occurrence unless the recipient employee or family member applies for Long-Term Disability (LTD) by the end of the 5th month. The recipient employee or family member then may continue to use donated annual leave until an LTD determination is made.
   d. Before using donated annual leave, a recipient employee:
      i. With a qualifying illness or injury shall exhaust all available sick leave and annual leave ~~except sick leave granted in accordance with R2-5-404(A)(4)~~; or
      ii. Whose immediate family member has a qualifying illness or injury shall exhaust 40 hours of sick leave granted in accordance with R2-5-404(A)(4), if available, and all annual leave.
3. Unused ~~Leave~~ leave. If the ~~leave~~ recipient employee separates from state service, recovers ~~prior to~~ before using all donated leave, or the need for the donated annual leave is otherwise abated, the agency shall return unused leave ~~shall be returned~~ to ~~leave~~ contributors on a pro-rata basis.

4. ~~Donated Leave Computation~~ Calculation of hours donated. An agency shall adjust ~~The~~ the ~~dollar amount~~ number of hours of annual leave donated ~~leave shall be adjusted proportionately~~ in ~~relation~~ proportion to the ~~salary~~ hourly rate of pay of the donating employee ~~donating the leave~~ and the ~~salary of the~~ recipient employee ~~receiving the donated leave~~. To ~~determine~~ calculate the ~~proportionate adjusted dollar value~~ number of hours of ~~the~~ donated annual leave:~~, divide the dollar amount of the annual leave donated, based upon the annual leave contributor's salary, by the annual leave recipient's hourly rate. The resulting calculation is the number of hours donated to the leave recipient.~~
   a. Multiply the actual number of hours donated by the donating employee's hourly rate of pay; and
   b. Divide the result by the recipient employee's hourly rate of pay.

F. Use of annual leave. An employee may take ~~Annual~~ annual leave ~~may be taken~~ at any time approved by the agency head. An agency shall not advance ~~Annual~~ annual leave ~~shall not be advanced~~ to an employee.

G. Movement to another agency. An employee who moves from 1 agency to another state service agency shall transfer all accumulated and unused annual leave to the employee's annual leave account in the new agency.

H. Separation. An agency shall pay an employee who separates from state service ~~shall be paid~~ for all unused and unforfeited annual leave at the employee's current rate of pay.

R2-5-405. Industrial ~~Disability~~ Leave

A. Use of leave.
1. An agency head shall place an employee who sustains a job-related disability that is compensable under the Workers' Compensation Law, A.R.S. Title 23, Chapter 6, ~~A.R.S., shall be placed~~ on sick leave.
2. ~~After all sick leave is exhausted, if~~ If an employee exhausts all sick leave and does not request annual or compensatory leave, or has exhausted annual or compensatory leave, an agency head shall place the employee ~~shall be placed~~ on leave without pay.
3. If an employee is on leave under the Worker's Compensation laws and that leave qualifies for Family Medical Leave Act (FMLA) leave, an agency shall count it as FMLA leave. An agency shall apply industrial leave and FMLA concurrently.

B. Payments.
1. An employee shall use leave in an amount necessary to receive total payments (leave payments plus Workers' Compensation payments) ~~not to~~ that do not exceed the gross salary of the employee.
2. If ~~the~~ an employee receives a retroactive Workers' Compensation payment for ~~the initial five-day~~ any period of industrial ~~disability~~ illness or injury~~, and~~ for ~~that period has received~~ which leave payments were received, the employee shall reimburse the agency for ~~five days of~~ Workers' Compensation payments that exceed 100% of the employee's base pay before the illness or injury, and the agency shall restore the equivalent value of leave ~~shall be restored~~ to the employee's appropriate leave account.

C. Light duty. ~~In the event of~~ If an employee has a job-related disability that ~~would impair~~ impairs performance on the former job, the agency head shall make every effort to place the employee in a suitable position~~, as reasonably determined by the agency head~~.

D. Restriction. An agency head shall not grant ~~Sick~~ sick leave ~~with pay~~ or leave without pay ~~shall not be granted~~ to an employee who fails to accept compensation available ~~pursuant to~~ under the industrial injury and disease provisions of A.R.S. §§ 23-901 to 23-1091.

E. Health ~~Benefit~~ benefit ~~Plan~~ plan participation.
1. An employee who is on leave without pay due to an industrial ~~disability~~ illness or injury may continue to participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan for a maximum of 6 months from the date of illness or injury by paying the employee contribution.
2. At the end of ~~this~~ the 6-month period, an employee who remains on leave without pay due to industrial ~~disability~~ illness or injury may continue to participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan by paying both the state and employee contributions, until the employee returns to work or is determined to be eligible for Medicare coverage or Long-Term Disability, whichever occurs first.

F. Life ~~Insurance~~ insurance ~~Plan~~ plan participation. An employee who is on leave without pay ~~may~~ ~~continue~~ continues to participate in the ~~Basic~~ basic ~~Life~~ life and ~~Accidental~~ accidental ~~Death~~ death and ~~Dismemberment~~ dismemberment ~~Insurance~~ insurance ~~Plan~~ plan without cost for 6 months after the month in which the illness or injury occurs. During this time, the employee may continue supplemental life and dependent life coverages that were in effect at the start of the leave by paying the applicable premium. ~~by paying the state premium. An employee who elects to continue to participate in the Basic Plan may also continue any Supplemental coverage which is in force at the beginning of the leave without pay by continuing to pay the premium.~~

~~**G.** Disability Income Insurance Plan participation. An employee who is on leave without pay may continue to participate in the Disability Income Insurance Plan by paying the premium.~~

~~H~~G. Termination. The insurance coverage of an individual on leave without pay who ~~allows payment of the~~ fails to pay insurance premiums or contributions ~~to become delinquent~~ when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium or contribution paid.

~~H~~**H.** Accrual of leave. An employee shall continue to ~~accrue~~ receive full leave ~~credits~~ accrual as long as the employee ~~is using~~ uses 2 or more hours of paid leave each day.

R2-5-407. Military ~~leave~~ Leave

An employee who requests absence with pay on military leave ~~pursuant to~~ under A.R.S. § 26-168, 26-171, or 38-610 shall submit a copy of the orders for duty with the request for military leave. An employee may be absent with pay for military purposes for up to 240 regularly scheduled work hours in any 2 consecutive years.

R2-5-410. Bereavement Leave

An employee may be absent with pay for up to ~~3~~ 24 ~~consecutive working days~~ regularly scheduled work hours ~~of that employee~~ due to the death or funeral of a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, one who functioned "in loco parentis", grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law. An agency head may extend ~~The~~ the bereavement leave ~~may be extended~~ for ~~two working days~~ 16 work hours if the employee travels out-of-state for the funeral.

R2-5-411. Parental Leave

"Parental leave" ~~is~~ means any combination of annual leave, sick leave, compensatory leave, or leave without pay taken by an employee due to pregnancy, childbirth, miscarriage, ~~or~~ abortion, or ~~for~~ adoption of children. An agency head shall approve a request for parental leave of an employee subject to the following conditions:

1. An employee may take ~~Sick~~ sick leave ~~may be taken~~ only for periods of disability.
2. ~~The parental~~ Parental leave ~~following~~ for ~~the~~ childbirth, miscarriage, abortion, or adoption shall not exceed 12 weeks, unless the agency head approves ~~such~~ a request for a longer duration.
3. ~~The~~ An agency shall not require an employee ~~is not required~~ to exhaust all annual leave, sick leave, or compensatory leave ~~prior to~~ before taking leave without pay.
4. ~~The~~ An employee shall specify the number of hours of annual leave, sick leave, compensatory leave, and leave without pay to be used when requesting parental leave.
5. If leave under this Section qualifies for FMLA leave, an agency shall count it as FMLA leave.
~~5~~6. An employee returning to work from leave without pay taken as part of a parental leave shall return to the position occupied at the start of the parental leave. If this position no longer exists, the agency shall conduct a reduction in force ~~shall be conducted~~.

R2-5-412. Leave for Serious Health Condition

A. General. If an employee's condition qualifies as a serious health condition under FMLA, the employee may take a maximum of 12 weeks of leave in the following order:
1. The employee shall use all accrued sick leave;
2. The employee shall then use all accrued annual leave;
3. If the employee exhausts all accrued sick and annual leave, the agency head shall grant medical leave without pay under R2-5-413; and
4. The provisions of the FMLA, not the provisions of R2-5-413(B), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave. The FMLA Regulations of 1993, 29 CFR 825.100 through 29 CFR 825.312, are incorporated by this reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

B. Family leave. If an employee's leave qualifies for FMLA leave to care for a family member with a serious health condition:
1. The employee may use any sick leave available under R2-5-404(A)(4);
2. The employee then shall use all accrued annual leave;
3. If the employee exhausts all available sick and accrued annual leave, the agency head shall grant leave without pay under R2-5-414; and
4. The provisions of the FMLA, not the provisions of R2-5-414(D), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave.

C. Compensatory time. An employee may use accrued compensatory time for an FMLA qualified leave.

D. Leave without pay. An agency head shall apply leave without pay granted for an FMLA-qualified leave simultaneously with leave available under R2-5-413 and R2-5-414.

E. Counting FMLA leave. To determine the maximum leave available under FMLA, an agency head shall include all leave time granted that qualifies as FMLA leave.

F. Health benefit plan participation. An employee who is on FMLA leave is eligible to participate in the health benefit plan under R2-5-416.

G. Life insurance plan participation. An employee who is on FMLA leave without pay:
1. Continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan; and
2. May continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium.

H. Conflict. If there is a conflict between the provisions of these rules and the FMLA, the provisions of the FMLA govern.

R2-5-~~412~~ 413. Medical ~~leave~~ Leave ~~without~~ Without ~~pay~~ Pay

A. ~~Upon application,~~ An agency head shall place a permanent status employee ~~shall be~~ ~~granted~~ on medical leave without pay~~, provided all the following conditions are satisfied~~ if:

1. The employee is unable to work due to a non-job-related, seriously incapacitating and extended illness or injury; ~~and,~~
2. A physician selected by the employee documents ~~The~~ the seriousness and extensiveness of the incapacitating illness or injury ~~are documented by a physician selected by the employee~~, subject to confirmation by an agency-selected physician, at the expense of the agency, whose opinion shall be used to determine whether a medical leave without pay should be granted; ~~and,~~
3. The employee ~~has exhausted~~ exhausts all leave balances, including any leave donated to the employee; and
4. The leave ~~is to be terminated~~ terminates ~~upon~~ when the ~~employee's~~ employee ~~return~~ returns to work or the employee is absent for 180 days, whichever occurs ~~first~~ 1st.

B. An agency head shall determine ~~The~~ the status of an employee who returns to work from medical leave without pay ~~shall be determined~~ in the ~~same~~ manner ~~as an employee who returns to work from leave without pay as~~ specified in R2-5-~~413~~ 414 (D)(2).

R2-5-~~413~~ 414. Leave Without Pay

A. Approval. All leave without pay ~~must be approved in advance and in writing by the agency head~~ requires a written request by an employee in advance and approval by the agency head. An agency head shall approve leave without pay requested as a part of a parental leave.

B. Documentation of leave. A request for leave without pay in excess of 80 consecutive hours shall include the beginning date of the leave without pay, the reason for the request, the anticipated date of the return to work, and the signature or signatures of the appropriate level or levels of authority approving the request.

~~B~~C. Use of leave. Except for parental leave, FMLA leave, military leave, or leave granted to forestall a reduction in force, ~~or leave granted to accept an uncovered position,~~ an agency head shall not grant leave without pay in excess of 80 consecutive hours ~~shall not be granted~~ until all accrued annual leave~~, compensatory leave,~~ and, if the leave without pay is for medical reasons, sick leave ~~is~~ are exhausted.

~~**C.** Documentation of leave. All requests for leave without pay in excess of 80 consecutive hours shall be documented by stating the beginning date of the leave without pay, the reasons for the request, the anticipated date of the return to work, and contain the signature or signatures of the appropriate level or levels of authority approving the request.~~

D. Return to work.

1. An employee who returns to work after a period of leave without pay of 80 consecutive hours or less shall return to the same position occupied at the start of the leave without pay.
2. Except as provided in subsection (D)(4), an employee who returns to work after a period of leave without pay in excess of 80 consecutive hours ~~shall be~~ is entitled to return to a position in the class held at the start of the leave without pay, if ~~such~~ a position is available and funded, and ~~provided~~ if the leave without pay is terminated in 1 of the following ways:
   a. Expiration of its term and the employee's return to work~~.~~;
   b. ~~The rescission~~ Rescission of the leave without pay by the agency head ~~prior to~~ before its scheduled expiration, due to an unforeseen ~~and unexpected pressing necessity~~ need ~~resulting~~ that results in an insufficient number of employees available to provide service~~.~~ for which:
      i. The agency head shall provide written notice of ~~such~~ the rescission to the employee's last known address at least 15 days ~~prior to~~ before the date the employee is ~~required~~ directed to return to work~~.~~; or
      ii If circumstances beyond the agency's control do not permit at least a 15-day notice, the agency head shall provide notice as soon as ~~it is~~ possible after becoming aware of the need for the employee to return to work~~.~~; or
   c. ~~The curtailment~~ Curtailment of the leave without pay ~~prior to~~ before its scheduled expiration date, upon request of the employee and with approval of the agency head.
3. An agency head may consider the ~~Failure~~ failure or inability of an employee to return to work on the 1st work day after an approved leave without pay ~~may be considered~~ as a resignation, ~~or result in~~ a separation without prejudice, or ~~be~~ cause for dismissal.
   ~~a. If a funded position is available, and the employee does not return to work on the first working day following the expiration of the approved leave without pay or any extensions, the employee may be either considered to have resigned and be separated without prejudice or dismissed for cause, depending upon the circumstances as determined by the agency head, or~~
   ~~b~~4. If no funded position is available to accommodate an employee's return to work on the ~~first~~ 1st working day following ~~the~~ expiration of ~~the~~ an approved leave without pay or any extensions, the agency head may separate the employee ~~may be separated~~ without prejudice.

45. An employee returning to work from leave without pay granted for military service, for industrial ~~disability~~ illness or injury for up to 6 months, to forestall a reduction in force, as part of a parental or FMLA leave, or to accept an uncovered position, shall return to the position occupied at the start of the leave without pay. If this position or a position in the same class is not available and funded, the agency head shall conduct a reduction in force ~~shall be conducted~~.

E. Health benefit plan participation.

1. An employee who is on leave without pay for a health-related reason ~~which~~ that is not an industrial ~~disability~~ illness or injury may continue to participate in the health benefit plan by paying both the state and employee contribution. ~~This authority~~ Authority to continue participation in the health benefit plan shall terminate on the earliest of:
   a. Receipt of long-term disability benefits for which there is eligibility to continue health benefit plan participation under R2-5-418(A)(3);
   b. ~~when the employee is determined to be eligible~~ A determination of eligibility for Medicare coverage; or
   c. ~~when~~ 30 months ~~have elapsed since~~ after the incapacity began~~, whichever occurs first~~.
2. An employee who is on leave without pay for other than a health-related reason may continue to participate in the health benefit plan for a maximum of 6 months by paying both the state and employee contributions.

F. Life insurance plan participation. An employee who is on leave without pay may continue to participate in the basic life ~~and accidental death and dismemberment~~ insurance plan by paying the state premium. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage ~~which~~ that is in force at the beginning of the leave without pay by continuing to pay the premium. Authority to continue in the life insurance plan shall terminate in accordance with the time limits specified in subsection (E).

~~**G.** Disability income insurance plan participation. An employee who is on leave without pay for a health-related reason may continue to participate in the disability income insurance plan by paying the premium.~~

~~**H**~~**G.** Termination. The insurance coverage of an individual on leave without pay who ~~allows payment of the~~ fails to pay insurance premiums or contributions ~~to become delinquent~~ when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium or contribution paid.

~~**H**~~**H.** Disposition of accrued leave.

1. ~~The affected agencies and the~~ If an employee ~~who~~ is to be granted leave without pay by 1 agency to accept an uncovered position in another state service agency, the agency heads shall agree on whether the employee's accrued annual and compensatory leave ~~shall~~ is to be paid ~~off~~ or transferred in whole or in part. Sick leave shall be transferred. The same procedure shall apply upon the return of the employee to covered service.
2. The disposition of all current and future accrued leave of an employee who is to be granted leave without pay to accept a position in a non-state service agency or in another governmental jurisdiction shall be covered in the intergovernmental agreement concluded between the Director and ~~such~~ the non-state service agency or other jurisdiction.

R2-5-~~414~~ 415. Insurance ~~programs~~ Plans

A. Designation of qualifying health care plans. The ~~Director designates as~~ following types of plans are qualifying health care plans ~~the following types of plans~~:

1. ~~Indemnity Health Insurance Plans~~. Medical Insurance.
2. ~~Hospital and Medical Service Plans~~. Dental Insurance.
3. ~~Closed Panel Medical Plans~~ Vision Insurance.
4. ~~The Arizona Health Care Cost Containment System~~.

B. Designation of other qualifying insurance plans. ~~The Director designates as~~ Other qualifying insurance plans ~~the following types of plans~~ are:

1. Life Insurance ~~Plans~~.
2. Short-Term Disability Income Insurance ~~Plans~~.

~~**C.** Standards. All qualifying plans shall be financially responsible and provide adequate and satisfactory medical services, if applicable.~~

~~**D**~~**C.** Complaints. An employee who wishes to submit a complaint about ~~any~~ an employee insurance ~~program~~ plan shall contact the employee's Agency Insurance Liaison or a representative of the Department Benefits Section. Retired employees shall contact ~~the Group Insurance Liaison, Personnel Division, Department of Administration~~ a representative of the Department Human Resources Benefits Section.

R2-5-~~415~~ 416. Health Benefit Plan

A. Eligibility.

1. All state employees, except those listed in subsection (A)(2), and their eligible dependents may participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan, ~~provided~~ if they comply with the contractual requirements of the selected health ~~care~~ benefit plan. An eligible employee may enroll in a health ~~care~~ benefit plan at any time within the first 30 days of employment or during an open enrollment period specified by the Director. An eligible employee may submit an application for enrollment ~~at any other time, but participation in the Health Benefit Plan shall not become effective until the first day of the month following the completion of a 90-day waiting period from the date of the application.~~ within 31 days of a family status event.

2. The following categories of employees are not eligible to participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan:
   a. ~~Employees~~ An employee who ~~work~~ works ~~less~~ fewer than 20 hours per week~~.~~;
   b. ~~Employees~~ An employee in ~~seasonal,~~ a temporary, emergency, or clerical pool ~~positions.~~ position;
   c. A ~~Patients~~ patient or ~~inmates~~ inmate employed in a state ~~institutions.~~ institution;
   d. ~~Non~~ A non-state employee ~~officers~~ officer ~~and~~ or enlisted personnel of the National Guard of Arizona~~.~~;
   e. ~~Employees~~ An employee in a ~~positions~~ position established for rehabilitation purposes~~.~~;
   f. ~~Employees~~ An employee of any state college or university:
      i. Who ~~work~~ works ~~less~~ fewer than 20 hours per week; ~~or~~
      ii. Who ~~are~~ is engaged to work for ~~less~~ fewer than 6 months; or,
      iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to a non-immigrant alien ~~employees~~ employee, ~~to employees~~ an employee participating in a medical residency training program, or ~~to~~ a Cooperative Extension ~~employees~~ employee on federal appointment.

B. Eligibility exception. ~~Employees~~ An employee who ~~are~~ is on leave without pay may continue to participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan under the conditions ~~set forth~~ in:
1. R2-5-405 for employees on leave without pay due to industrial ~~disability; or~~ illness or injury;
2. R2-5-413 for employees on medical leave without pay; or
~~2~~3. R2-5-~~413~~ 414 for employees on leave without pay for any other reason.

C. Dependent eligibility. Dependents eligible to participate in the ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan include ~~the~~ an employee's spouse and each qualifying child.

D. Enrollment of dependents. An eligible employee may enroll eligible dependents at the time of the employee's original enrollment, within 31 days of a family status event, or at open enrollment.
~~1. An eligible employee may enroll:~~
   ~~a. Any eligible dependent within the first 30 days of the employee's employment.~~
   ~~b. A spouse within 30 days after the employee's marriage.~~
   ~~c. A child within 30 days after the child's birth.~~
   ~~d. Any eligible dependent during an open enrollment period specified by the Director.~~
~~2. An eligible employee may submit an application for enrollment of any eligible dependent at any other time, but participation in the Health Benefit Plan shall not become effective for such dependents until the first day of the month following the completion of a 90-day waiting period from the date of the application.~~

R2-5-~~416~~ 417. Life Insurance and Short-Term Disability Income Insurance ~~Plan~~ Plans

A. Eligibility.
1. All state employees, except those listed in subsection (A)(2), may participate in the ~~Life~~ life insurance and short-term ~~Disability~~ disability ~~Income~~ income ~~Insurance~~ insurance ~~Plan~~ plans.
2. The following categories of employees are not eligible to participate in the ~~Life~~ life insurance and short-term ~~Disability~~ disability ~~Income~~ income ~~Insurance~~ insurance ~~Plan~~ plans:
   a. ~~Employees~~ An employee who ~~work~~ works ~~less~~ fewer than 20 hours per week~~.~~;
   b. ~~Employees~~ An employee in a ~~seasonal,~~ temporary~~,~~ or emergency~~, or clerical pool~~ ~~positions.~~ position;
   c. ~~Patients~~ A patient or ~~inmate~~s inmate employed in a state ~~institutions.~~ institution;
   d. ~~Non~~ A non-state employee ~~officers~~ officer ~~and~~ or enlisted personnel of the National Guard of Arizona~~.~~;
   e. ~~Employees~~ An employee in ~~positions~~ a position established for rehabilitation purposes~~.~~;
   f. ~~Employees~~ An employee of any state college or university:
      i. Who ~~work~~ works ~~less~~ fewer than 20 hours per week; ~~or~~
      ii. Who ~~are~~ is engaged in work for ~~less~~ fewer than 6 months; or,
      iii. For whom contributions are not made to a state retirement plan. This disqualification does not apply to ~~employees~~ an employee participating in a medical residency training program~~,~~ or ~~to~~ a Cooperative Extension ~~employees~~ employee on federal appointment.

B. Supplemental insurance coverage. In addition to the basic life ~~and accidental death and dismemberment~~ insurance provided at no cost to ~~the~~ an employee, an eligible employee may elect to purchase additional group life ~~and group accidental death and dismemberment~~ insurance in an amount not to exceed 3 times the employee's annual salary, rounded down to the nearest $5,000, or ~~$150,000~~ $200,000, whichever is less.

C. Dependent coverage. An eligible employee may elect to purchase group life insurance for ~~eligible dependents~~ the employee's spouse and each qualifying child in an amount ~~not to exceed $2,000~~ established by the Director. ~~Dependents eligible to participate in the life insurance plan include the employee's spouse and each child.~~ The employee may contact a representative of the Human Resources Benefits Section or the employee's agency personnel liaison for details.

D. Long-term ~~Disability~~ disability coverage.
1. The monthly benefit paid under the disability portion of ~~the~~ a plan provided under A.R.S. § 38-651 ~~shall~~ may be reduced by ~~any payment~~ payments the employee receives or is eligible ~~for~~ to receive in the same month as~~:~~ determined by the terms and conditions of the plan.

~~a. Disability or regular retirement benefits from Social Security.~~
~~b. Regular retirement benefits from any state retirement plan.~~

~~2. The monthly benefit paid under the disability portion of the plan shall be reduced by any payment the employee receives in the same month as:~~
~~a. Worker's Compensation benefits.~~
~~b. Early retirement benefits from Social Security.~~
~~c. Disability or early retirement benefits from any state retirement plan.~~

R2-5-~~417~~ 418. Retiree Health Benefit Plan

A. Eligibility. ~~All~~ A state ~~employees~~ employee ~~and all employees of political subdivisions of the state and other instrumentalities of the state who are~~ is eligible to participate in the retiree health benefit plan if the employee is ~~either~~:

1. Retired ~~or disabled or members of the Arizona State Retirement System, the Arizona State Retirement Plan, the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, or the Corrections Officer Retirement Plan and their eligible dependents, and~~ under a state-sponsored retirement plan and continues enrollment in the retiree health benefit plan;
2. ~~Who are not eligible to obtain health and accident insurance through their former plan employers, are eligible to participate in a Retiree Health Benefit Plan designated by the Department of Administration~~. Newly retired under a state-sponsored retirement plan and within 31 days of the date of retirement enrolls in the retiree health benefit plan; or
3. On long-term disability under a state-sponsored plan.

B. Dependent eligibility. ~~For purposes of subsection (A), eligible dependents include the~~ A retired employee's spouse and each qualifying child are eligible to participate in the retiree health benefit plan.

C. Extended coverage. If a ~~retired~~ state employee dies while retired, on long term disability, or continuing to work when eligible for retirement, retiree health benefit plan coverage that is in effect for the employee's spouse or qualifying child may continue ~~the surviving spouse's health insurance is in force, the surviving spouse is eligible for extended coverage~~ by ~~paying the group rate~~ payment of the premium and ~~any~~ applicable administrative expense ~~charged by the State Retirement System~~.

R2-5-~~418~~ 419. Health Benefit Plan for ~~former~~ Former ~~elected~~ Elected ~~officials~~ Officials

A. Definition. "Former elected official" means an elected official as defined in A.R.S. § 38-801(3) who is no longer in office.

B. Eligibility. ~~All~~ A former elected ~~officials~~ official of this state ~~and any county of this state, and their eligible dependents, are~~ is eligible to participate in the ~~Retiree~~ retiree ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan ~~provided~~ if the former elected official:

1. Has at least ~~five~~ 5 years of credited service in the Elected Officials' Retirement Plan; ~~and,~~
2. Was covered under a ~~Group~~ group ~~Health~~ health or ~~Group~~ group ~~Health~~ health and ~~Accident~~ accident ~~Plan~~ plan at the time of leaving office; ~~and,~~
3. Served as an elected official on or after January 1, 1983~~.~~; and
4. Applies for enrollment within 31 days of leaving office or retiring.

C. Dependent eligibility. ~~Eligible dependents include the~~ A former elected official's spouse and each qualifying child are eligible to participate in the retiree health benefit plan.

D. Eligibility of surviving spouse.

~~1. Former elected official.~~ Upon the death of a former elected official, the surviving spouse is eligible for coverage under the ~~Retiree~~ retiree ~~Health~~ health ~~Benefit~~ benefit ~~Plan~~ plan by paying the ~~group rate~~ premium and ~~any~~ applicable administrative ~~expense~~ expenses ~~charged, provided~~ if:

1. ~~the~~ The deceased former elected official met the qualifications for eligibility listed in subsection (B) ~~above,~~; and ~~provided~~
2. ~~the~~ The surviving spouse ~~makes application~~ applies for coverage within ~~30~~ 31 days of the death of the former elected official.

~~2. Incumbent elected officials: Upon the death of an elected official who is currently serving in office, the surviving spouse is eligible for coverage under the Retiree Health Benefit Plan by paying the group rate premium and any administrative expense charged, provided the deceased elected official met the qualifications for eligibility listed in subsection (B) above, or would have met the qualifications upon the completion of the term of office in which the deceased elected official was serving at the time of death, and provided the surviving spouse makes application for coverage within 30 days of the death of the elected official.~~

E. Termination of coverage. The insurance coverage of a former elected official or the surviving spouse of a former elected official who ~~allows payment of the premium to become delinquent~~ fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-420. Health Benefit Plan for Surviving Spouse of Elected Official

A. Upon the death of an elected official who is currently serving in office, the surviving spouse is eligible for coverage under the retiree health benefit plan by paying the premium and applicable administrative expenses if:

1. The deceased elected official met the qualifications for eligibility listed in R2-5-419(B)(1) and (2), or would have met the qualifications upon completion of the term of office in which the deceased elected official was serving at the time of death; and
2. The surviving spouse applies for coverage within 31 days of the death of the elected official.

B. Termination of coverage. The insurance coverage of a surviving spouse who fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-~~419~~ 421. Life ~~insurance~~ Insurance ~~plan~~ Plan for ~~former~~ Former ~~elected~~ Elected ~~officials~~ Officials

A. Definitions. ~~The following words and phrases used in this Section have the defined meanings unless otherwise clearly indicated by the context.~~

~~1. Eligible dependent means the former elected official's spouse and each child.~~

~~2.~~ "Former elected official" means an elected official ~~who formerly occupied an office or position~~ as ~~specified~~ defined in A.R.S. § ~~41-1904~~ 38-801(3) who is no longer in office.

B. Eligibility. ~~All~~ A former elected ~~officials~~ official of this state~~, and their eligible dependents~~ spouse, and each qualifying child are eligible to participate in the group life insurance plan, ~~provided that~~ if the former elected official:

1. Has at least 5 years of credited service, as referenced in A.R.S. § 38-801 et seq., in the ~~elected~~ Elected ~~officials'~~ Officials' ~~retirement~~ Retirement ~~plan~~ Plan; and,
2. Served as an elected official on or after January 1, 1983.

C. Eligibility of surviving spouse.

1. ~~Former elected official.~~ Upon the death of a former elected official, the spouse is entitled to coverage under the group life insurance plan, ~~provided that~~ if:
   a. The deceased former elected official met the qualifications for eligibility listed in subsection (~~A~~B); ~~and~~
   b. The surviving spouse is receiving a monthly survivor's retirement check from the ~~Public Safety~~ Elected Officials' Retirement ~~System~~ Plan; ~~and,~~
   c. The surviving spouse ~~makes application~~ applies for the life insurance benefit within ~~30~~ 31 days of the death of the former elected official; and,
   d. The surviving spouse pays the ~~group rate~~ premium for the group life insurance ~~benefit~~ coverage based upon the spouse's age ~~at the time of application for the life insurance benefit~~ and pays ~~for any~~ applicable administrative expenses.
2. ~~Incumbent elected official.~~ Upon the death of an incumbent elected official ~~in office~~, the surviving spouse is eligible to participate in the life insurance plan for former elected officials in accordance with the terms of the insurance contract covering the former elected official at the time of death, ~~provided that~~ if:
   a. The deceased elected official met the qualifications for eligibility listed in subsection (~~A~~B) or would have met the qualifications upon ~~the~~ completion of the term of office in which the deceased elected official was serving at the time of death; ~~and,~~
   b. The surviving spouse is receiving a monthly survivor's retirement check from the ~~Public Safety~~ Elected Officials' Retirement ~~System~~ Plan; and,
   c. The surviving spouse ~~makes application~~ applies for the life insurance benefit within ~~30~~ 31 days of the death of the incumbent elected official.

D. Termination of coverage. The insurance coverage of either a former elected official or the surviving spouse of a former or incumbent elected official who ~~allows payment of the premium to become delinquent~~ fails to pay insurance premiums when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium paid.

R2-5-~~420~~ 422. Flexible or ~~cafeteria~~ Cafeteria ~~employee~~ Employee ~~benefit~~ Benefit ~~plan~~ Plan

A. Eligibility. ~~All~~ A state ~~employees~~ employee who ~~are~~ is eligible to participate in the state's employee insurance programs, other than the short-term disability program, ~~are~~ is enrolled in the flexible or cafeteria employee benefit plan, in accordance with 26 U.S.C. 125, Internal Revenue Code of 1986~~, incorporated by reference herein and on file in the Office of the Secretary of State and A.R.S. § 38-651.05~~.

~~**B.** Short term disability insurance. An election to pre-tax short term disability premiums shall be made by signature on an authorization form, prior to pre-taxing the premiums.~~

~~**C**~~**B.** Pre-taxing of plan premiums. The method of ~~the subtraction~~ subtracting ~~of~~ premiums for health and supplemental life insurance from gross salary ~~prior to~~ before ~~the deduction of~~ deducting federal and state income taxes and social security taxes, resulting in the pre-taxing of premiums for ~~the~~ health and supplemental life insurance plans, shall not ~~be changed~~ change or ~~cancelled~~ cancel until the end of the plan year~~, except for a change in family status or a change of the spouse's employment~~.

~~**D**~~**C.** Corresponding change in premiums. A ~~change in~~ family status event ~~or a change of the spouse's employment, which~~ that results in the modification of ~~the pre-taxing of premiums,~~ a pre-tax premium ~~shall~~ will also result in a corresponding change in the premium amount being deducted.

~~**E**~~**D.** Automatic disenrollment. A participant is automatically disenrolled from this plan if the participant ~~loses status as~~ ceases to be an eligible employee.

~~F~~**E.** Plan ~~Administrator~~ administrator. The Arizona Department of Administration ~~is responsible for the administration of~~ administers the plan~~, including~~ and ~~determining~~ determines the type~~, of plan~~, ~~the~~ structure, and components of the plan ~~and the components thereof~~.

~~G~~**F.** ~~Responsibilities~~ Responsibility for plan operation. The plan administrator ~~shall have~~ has sole authority to amend or terminate, in whole or in part, ~~this~~ the plan at any time. The plan administrator ~~shall have~~ has sole responsibility for effecting ~~the~~ salary reductions.

~~H~~**G.** Scope of authority. The plan administrator ~~shall have~~ has sole responsibility ~~for the administration of~~ to administer ~~this~~ the plan, including, but not limited to, the following:

1. To construe and interpret the plan, decide all questions of eligibility, and determine the amount, manner, and time of payment of any benefits ~~hereunder~~; and
2. To prescribe procedures to be followed by eligible employees who ~~desire~~ want to enroll in the plan.

R2-5-~~421~~ 423. Recognition ~~leave~~ Leave

A. Definition. "Recognition leave" means a period of paid leave granted by an agency head as an acknowledgment of exemplary employee service or extraordinary contributions ~~to~~ toward accomplishing the agency's goals.

B. ~~Granting leave. Recognition leave may be granted by an agency head in accordance with the provisions of this rule and the following schedule:~~

~~Number of Permanent Positions Assigned to Agency~~	~~Maximum Number of Hours Awarded Per Year~~
~~1-100~~	~~16 hrs~~
~~101-200~~	~~24 hrs~~
~~201-500~~	~~32 hrs~~
~~501-1500~~	~~48 hrs~~
~~1501-2999~~	~~96 hrs~~
~~3000-5999~~	~~192 hrs~~
~~6000-7999~~	~~288 hrs~~
~~8000 or more~~	~~384 hrs~~

Amount of leave. An agency with 100 or fewer permanent positions may award 16 hours of recognition leave per year. An agency with more than 100 permanent positions may award 8 hours of recognition leave per year per 50 permanent positions.

C. Procedure. An agency head shall develop and implement an employee recognition program and process. The agency head shall submit a proposed recognition leave program and process and any subsequent changes to the Director. The process shall include as a minimum:

1. Criteria for consideration;
2. Nominating procedures;
3. Categories of recognition used by the agency; and
4. Recommendation procedure, with final approval by the agency head.

~~C~~**D.** Use of ~~recognition~~ leave. ~~Recognition leave shall be taken during the calendar year granted.~~

~~1. If the recognition leave is not used during this original eligibility period, a single nonrenewable extension period of 60 calendar days may be granted by the agency head.~~

~~2.~~ ~~If the recognition leave is not taken during the original eligibility period or the extension, it shall be forfeited.~~ An employee shall use recognition leave within 1 year of receiving the leave.

~~D~~**E.** Movement to another agency. An employee who moves from 1 agency to another ~~State~~ state ~~Service~~ service agency shall transfer any unused recognition leave to the employee's recognition leave account in the new agency~~, subject to the requirements of subsection (C)~~.

~~E~~**F.** Separation. An employee who separates from ~~State~~ state ~~Service~~ service shall be paid for all unused recognition leave at the employee's current rate of pay.

~~F. Approval. Each agency shall submit its proposed recognition leave process and any subsequent changes to the Director for approval. The process shall include as a minimum:~~

~~1. Criteria for consideration for recognition leave;~~

~~2. Nominating procedures;~~

~~3. Categories of recognition utilized by the agency; and~~

~~4. Recommendation procedure, with final approval by the agency head.~~

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUE
INCOME AND WITHHOLDING TAX SECTION
SUBCHAPTER D. CORPORATIONS

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**

R15-2D-305	Repeal
R15-2D-305	New Section
R15-2D-306	Repeal
R15-2D-306	New Section
R15-2D-307	Repeal
R15-2D-307	New Section
Article 10	New Article
R15-2D-1001	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 42-1005

Implementing statutes: A.R.S. §§ 43-102, 43-1021, 43-1022, 43-1121, 43-1122, 43-1127, 43-1129, 43-1130, and 43-1169

3. **The effective date of the rules:**

October 4, 2000

4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 3 A.A.R. 1663, June 13,1997

Notice of Rulemaking Docket Opening: 5 A.A.R. 3232, September 17, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 1066, March 24, 2000

Notice of Recodification: 6 A.A.R. 2308, June 23, 2000

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jim Bilski, Tax Analyst

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-Mail: BilskiJ@revenue.state.az.us

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department is repealing rules R15-2D-305, R15-2D-306, and R15-2D-307 because the rules contain obsolete references and do not comply with current rulewriting guidelines. The Department is making new rules to replace those being repealed. The new rules clarify how corporate taxpayers elect and compute subtractions for deferred exploration expenses, amortization of pollution control property, and amortization of child care facilities.

R15-2D-1001 is a new rule that prescribes recordkeeping requirements for corporate taxpayers that claim a credit for an environmental technology facility. The rule also provides guidance to corporate taxpayers regarding the carryover of the credit to subsequent tax years. The new rule is placed in a new Article for rules related to corporate credits.

7. **Reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

It is expected that the benefits of the new rules will be greater than the costs. Corporate taxpayers will benefit by being informed of how to elect and compute the various subtractions. Corporate taxpayers will also benefit by knowing what records to keep to substantiate the environmental technology facility credit and to what extent a carryover credit is allowed. Corporate taxpayers that claim the subtractions or credit are expected to incur minimal costs related to the new rules. Corporate taxpayers that elect a subtraction will incur costs related to the election statement required to be attached to the income tax return. Corporate taxpayers that elect the credit will incur minimal costs related to the retention of the required records. However, these rules only provide guidance in the application of the statutes—the statutes impose the tax, allow for subtractions and credits, require elections, and require taxpayers to maintain adequate records. The Department of Revenue, the Governor's Regulatory Review Council, and the Secretary of State's Office will incur costs associated with the rulemaking process.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Based on the review performed by the staff of the Governor's Regulatory Review Council, the Department made various nonsubstantive grammatical and formatting changes. In addition, the Department recodified 15 A.A.C. 2 on June 23, 2000. The recodification created differences between the rule numbering used in the Notice of Proposed Rulemaking and this rulemaking package. Prior to the recodification, the 3 rules being repealed in this rulemaking package were numbered R15-2-1029, R15-2-1030, and R15-2-1032; respectively. The number of the rule related to the environmental technology facility credit changed from R15-2-1169 to R15-2D-1001. A new Article, Article 10, is added for rules related to corporate credits.

11. A summary of the principal comments and the agency response to them:

The Department did not receive any written or verbal comments on the rule action after the publication of the rulemaking in the Notice of Proposed Rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was the rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 2. DEPARTMENT OF REVENUEINCOME AND WITHHOLDING TAX SECTION SUBCHAPTER D. CORPORATIONS

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

Sections

~~R15-2D-305.~~ ~~Deferred Exploration Expenditures~~
R15-2D-305. Deferred Exploration Expenses
~~R15-2D-306.~~ ~~Amortization of Property Used for Atmospheric and Water Pollution Control - General Rule~~
R15-2D-306. Amortization of Property Used for Atmospheric and Water Pollution Control
~~R15-2D-307.~~ ~~Amortization of Child Care Facilities~~
R15-2D-307. Amortization of Child Care Facilities

ARTICLE 10. CREDITS

Section

R15-2D-1001. Environmental Technology Facility Tax Credit

ARTICLE 3. SUBTRACTIONS FROM ARIZONA GROSS INCOME

~~R15-2D-305. Deferred Exploration Expenditures~~

~~A.~~ ~~The amount of exploration expenses added to Arizona gross income pursuant to Section 43-1021, subsection (B), paragraph (16), may be subtracted on a ratable basis as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold. An election made for any taxable year shall be binding for such year.~~

~~**B.** The amount of the deduction allowable during the taxable year is an amount A that bears the same ratio to B (the total deferred discovery or exploration expenditures reduced by the amount of such expenditures deducted in prior taxable years) as C (the number of units of the produced ore or mineral sold during the taxable year) bears to D (the number of units of ore or mineral remaining as of the taxable year). The "number of units of ore or mineral remaining as of the taxable year" for the purposes of this proportion is the number of units of ore or mineral remaining at the end of the year to be recovered from the mines or deposits benefited by such expenditures including units recovered but not sold plus the number or units sold within the taxable year. The principles are applicable in estimating the number of units remaining as of the taxable year and the number of units sold during the year. The estimate is subject to revision in accordance with that section in the event it is ascertained as the result of further discovery, development, or operations that the remaining units are materially greater or less than the units remaining from a prior estimate.~~

~~**C.** If the taxpayer has paid or incurred expenditures of the character described herein, has made the election to defer such expenditures, and thereafter leases the mine or deposit benefited by such expenditures retaining a royalty interest therein, he shall be allowed the ratable deduction indicated in subsection (B).~~

~~**D.** The election to defer the exploration expenses up to $75,000.00 shall be made by a clear indication on the return or by a statement filed with the Department not later than 6 months after the filing on the return for the taxable year to which such election is applicable. In such statement, the taxpayer shall disclose the amount to be deferred, the name, location, extent, and nature of the mineral deposit to which the election relates. The election shall be binding for the taxable year relative to the election made.~~

R15-2D-305. Deferred Exploration Expenses

A. A taxpayer may elect to subtract a ratable portion of deferred exploration expenses added to income under A.R.S. § 43-1121. To make the election, a taxpayer shall attach a statement to the return for the applicable taxable year. The taxpayer shall disclose the following in the statement:

1. The amount of exploration expenses subject to the election; and
2. The name, location, and nature of the ore or mineral deposit to which the election relates.

B. A taxpayer may make an election under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year the election is to be effective. An election made under this Section is binding for the taxable year unless the taxpayer revokes the election to deduct exploration expenses under Internal Revenue Code § 617. If the taxpayer revokes the federal election, the taxpayer shall file Arizona amended income tax returns to reflect the changes in federal taxable income and Arizona taxable income that result from the revocation of the election.

C. Except as provided by subsection (D), a taxpayer shall compute the subtraction for a ratable portion of deferred exploration expenses by using the following formula:

$$A = B \times [C / (C + D)]$$

The above variables are defined as follows:

"A" is the deferred exploration expense subtraction allowable for the taxable year,

"B" is the total deferred exploration expenses reduced by the amount of deferred exploration expenses subtracted in prior taxable years,

"C" is the number of units of ore or mineral sold during the taxable year from the mine or deposit for which the deferred exploration expenses were incurred, and

"D" is the number of units of ore or mineral remaining at the end of the taxable year to be recovered and sold from the mine or deposit for which the deferred exploration expenses were incurred.

D. A taxpayer that has elected to recapture and capitalize exploration expenses under Internal Revenue Code § 617(b)(1)(A) shall reduce the amount computed under subsection (C) by the amount of the federal depletion deducted for the current taxable year that is allocable to the amount of Arizona deferred exploration expenses. A taxpayer shall not reduce the amount computed under subsection (C) to less than zero. A taxpayer shall compute the amount of the federal depletion deduction allocable to the Arizona deferred exploration expenses by multiplying the federal depletion deduction that relates to the mineral interest for which the exploration expenses were incurred by the ratio of the Arizona deferred exploration expenses to the total federal adjusted basis of the mineral interest before any depletion deduction. A taxpayer shall make the computation under this subsection for each subsequent taxable year until the cumulative amount of subtractions for deferred exploration expenses for all taxable years equals the total amount of exploration expenses that were deferred. The amount of the federal depletion deduction allocable to the deferred exploration expenses shall be considered a subtraction of deferred exploration expenses for purposes of computing:

1. The variable B in the formula under subsection (C) for subsequent taxable years,
2. The Arizona adjusted basis under subsection (I), and
3. The cumulative amount of subtractions for deferred exploration expenses.

E. A taxpayer that has elected to recapture and capitalize exploration expenses under Internal Revenue Code § 617(b)(1)(A) and not to defer up to $75,000 of exploration expenses under A.R.S. § 43-1121, shall add to Arizona gross income the amount of federal depletion deducted for the current taxable year that is allocable to the exploration expenses not deferred. A taxpayer shall compute the amount of the federal depletion deduction allocable to the exploration expenses not deferred by multiplying the federal depletion deduction that relates to the mineral interest for which the exploration expenses were incurred by the ratio of the exploration expenses not deferred to the total federal adjusted basis of the mineral interest before any depletion deduction. A taxpayer shall make the adjustment under this subsection for each subsequent taxable year until the cumulative adjustments for all taxable years equal the total amount of exploration expenses not deferred.

F. For purposes of computing the subtraction under subsection (C), a taxpayer shall estimate the number of recoverable units of ore or mineral according to an accepted industry method. The taxpayer shall revise the estimate if, before the close of the current taxable year, it is determined, as the result of further discovery, development, or operation, that the remaining units are materially greater or less than the units previously estimated. The revised estimate shall be used for the current taxable year and subsequent taxable years until it is determined that another revision is required.

G. A taxpayer that leases an ore or mineral deposit and retains a royalty interest in the ore or mineral deposit may subtract the ratable portion of related deferred exploration expenses as computed under subsection (C).

H. If a taxpayer abandons an ore or mineral interest, the taxpayer may subtract the related unamortized deferred exploration expenses in the taxable year of abandonment. For purposes of this subsection, a taxpayer has abandoned an ore or mineral interest during the taxable year if all of the following conditions exist:

1. The taxpayer has discontinued all operations and activities with respect to the ore or mineral interest.
2. The taxpayer has no intention of exploring, developing, or otherwise using the ore or mineral interest in the future.
3. The taxpayer has no intention of selling, exchanging, or otherwise disposing of the ore or mineral interest.

I. A taxpayer that sells property for which exploration expenses were incurred shall report the difference between the federal adjusted basis of the property and the Arizona adjusted basis of the property in the year of the sale. If the Arizona adjusted basis exceeds the federal adjusted basis, a subtraction from income for the excess is required. If the federal adjusted basis exceeds the Arizona adjusted basis, an addition to income for the excess is required. The Arizona adjusted basis of the property is computed as follows:

1. The federal adjusted basis, plus
2. The exploration expenses added to income under A.R.S. § 43-1121, minus
3. The subtraction from income for the federal exploration expense recapture under A.R.S. § 43-1122, minus
4. The total subtractions from income for deferred exploration expenses allowed under this Section.

J. A taxpayer shall not include the amount of mine exploration expenses that were not deferred under A.R.S. § 43-1121 in computing the subtraction from income for the recapture of mine exploration expenses under A.R.S. § 43-1122.

K. Under A.R.S. § 43-1122, a taxpayer may elect to subtract a ratable portion of deferred exploration expenses related to oil, gas, or geothermal resources. A taxpayer shall make the election and compute the subtraction in the same manner as the election related to ore and mineral property.

~~**R15-2D-306. Amortization of Property Used for Atmospheric and Water Pollution Control - General Rule**~~

~~**A.** General rule~~

~~1. Every taxpayer is entitled by election to a deduction pertaining to the amortization of the adjusted basis for determining gain of any device, machinery, or equipment for the collection at the source of atmospheric and water pollutants and contaminants. Amortization is to be based on a period of 60 months. The taxpayer with respect to such property may elect to begin the 60-month amortization period with the month following the month in which such property was completed or acquired. The date on which or the month within which such property is completed or acquired is to be determined on the facts in the particular case.~~

~~2. An amortization deduction shall not be allowed relative to such property for any taxable year until such property has been certified by the Arizona State Department of Health Services.~~

~~3. Generally, the amortization deduction relative to each month of the 60-month period that falls within the taxable year is an amount equal to the adjusted basis of the property at the end of such month divided by the number of months, including the particular month for which the deduction is computed, remaining in the 60-month period. The adjusted basis of the property at the end of any month shall be computed without regard to the amortization deduction with respect to such property for such month. The total amortization deduction pertaining to such property for a particular taxable year is the sum of the amortization deductions allowable relative to such property for each month of the 60-month period that falls within such taxable year. The amortization deduction relative to such property taken for any month is in lieu of the deduction for depreciation that would otherwise be allowable pertaining to such property for such month.~~

~~**B.** Election of amortization~~

~~1. General rule. An election by the taxpayer to take amortization deductions pertaining to such property and to begin the 60-month amortization period either: with the month following the month in which such property was completed or acquired or with the taxable year in which the certification required by subsection (D) is made, whichever is later, the election shall be made by a statement to that effect in the return of the taxpayer for the taxable year in which falls the 1st month of the 60-month amortization period so elected.~~

~~2. Election not made in prescribed manner. If the statement of election is not made by the taxpayer as prescribed in subsection (B)(1) of this rule, it may in the discretion of the Department of Revenue and for good cause shown be made in such manner and form and within such time as may be approved by the Department of Revenue.~~

~~3. Other requirements and considerations. No method of making such election other than those prescribed in this regulation is permitted. Any statement of election should contain a description clearly identifying each piece of property for which an amortization deduction is claimed. A taxpayer that does not elect to take amortization deductions relative to such property in the manner prescribed in this regulation shall not be entitled to amortization deductions with regard to such property.~~

~~**C.** Election to discontinue amortization~~

~~1. If a taxpayer has elected to take amortization deductions regarding such property, it may after such election and prior to the expiration of the 60-month amortization period, discontinue the amortization deductions relative to such property for the remainder of the 60-month period. An election to discontinue the amortization deductions shall be made by an appropriate statement in the taxpayer's income tax return for the taxable year of discontinuance specifying the month as of the beginning of which the taxpayer elects to discontinue such deductions. If the taxpayer elects to discontinue the amortization deductions regarding such property, it shall not be entitled to any further amortization deductions with regard to such property.~~

~~2. A taxpayer that elects to discontinue amortization deductions regarding such property is entitled to a deduction for depreciation regarding the property if such property is depreciable. The deduction for depreciation shall begin with the 1st month when the amortization deduction is not applicable and shall be computed on the adjusted basis of the property as of the beginning of such month.~~

~~**D.** Certification requirements by the Arizona State Department of Health Services~~

~~1. When applying for certification of atmospheric and water pollution control devices, the prescribed application forms are to be mailed to the certifying authority. If the certifying authority determines that the equipment meets the requirements of the law, it will so certify and return 2 copies of the notice of certification of device to the applicant. The applicant is to attach the approved notice of certification of device form to the tax return for the 1st taxable year that he claims a deduction for amortization of atmospheric and water pollution control devices and retain the duplicate copy for his files.~~

~~Application forms may be obtained from the Arizona State Department of Health Services.~~

~~2. Property eligible for certification. Property used for the collection at source of atmospheric and water pollutants and contaminants means any device, machinery, or equipment used for such purpose, the acquisition of which occurred after December 31, 1967, and much of the construction, reconstruction, erection, or installation as occurred after such date as certified by Arizona State Department of Health but does not include any land or buildings thereon.~~

~~3. Time for filing applications. Applications for certification of acquired atmospheric and water pollution control devices must be filed within 6 months after such acquisition. However, when such devices are constructed, such applications may be filed at any time within 6 months before or 6 months after the completion of the devices.~~

R15-2D-306. Amortization of Property Used for Atmospheric and Water Pollution Control

A. A taxpayer may elect to amortize, over a 60-month period, the adjusted basis of any device, machinery, or equipment that is certified by the Arizona Department of Environmental Quality as property that collects and controls atmospheric and water pollutants and contaminants at their source. The amortization subtractions allowed for the 60-month period are in lieu of the federal depreciation and amortization related to the pollution control property. The related federal depreciation and amortization deducted in computing federal taxable income is an addition to income under A.R.S. § 43-1121. The adjusted basis for purposes of amortization is the basis for determining depreciation under Internal Revenue Code § 167 on the date the pollution control property is placed in service. The adjusted basis does not include land or buildings.

B. A taxpayer that elects to amortize pollution control property shall include a statement in the original or amended return for the taxable year of election. The taxpayer shall identify in the statement each piece of property subject to the election, the month the property is placed in service, the adjusted basis of the property, and the date of certification by the Arizona Department of Environmental Quality.

C. The amortization period is 60 consecutive months beginning with the month the property is placed in service. If the property is disposed of or retired from service before the end of the 60-month period, the amortization period ends with the month of disposition or retirement. The monthly amortization allowable is computed by dividing the adjusted basis of the property at the beginning of the amortization period by 60. The total amortization subtraction for a particular taxable year is the sum of the amortization for each month of the amortization period that falls within the taxable year.

D. A taxpayer may elect to discontinue the amortization election before the end of the 60-month amortization period.

1. A taxpayer shall include a statement in the original or amended return for the taxable year that the election to discontinue amortization is effective. The taxpayer shall identify in the statement each piece of property for which the election to discontinue amortization applies and the last month of amortization.
2. Generally, a taxpayer is not required to make the addition to income referred to in subsection (A) for the months following the election to discontinue amortization. However, an addition to income is required for the federal depreciation or amortization that exceeds the adjusted basis not previously recovered through depreciation or amortization. For example, a taxpayer elects to discontinue amortization after 48 months. If the property had an adjusted basis of $100,000 at the beginning of the amortization period, the adjusted basis remaining to be recovered is $20,000 ($100,000 minus the previous amortization of $80,000). If federal depreciation for the property is $10,000 per year for 10 years, an addition to income of $10,000 per year is required beginning with the third taxable year following the election to discontinue amortization.

~~**R15-2D-307. Amortization of Child Care Facilities**~~

~~**A.** The following definitions apply for amortization of child care facilities:~~
1. ~~"Child care facility" means a facility as defined under A.R.S. § 36-881.~~
2. ~~"Property" means property of a character subject to depreciation that is specifically used as an integral part of the child care facility.~~
3. ~~"Employee" means any person employed by a taxpayer who, as a separate entity or in conjunction with a group of entities, operates a child care facility.~~
4. ~~"Primarily" means that at least eighty percent (80%) of the children continuously attending the facility are the dependent children of employees.~~

~~**B.** The employer shall use the following formula to determine the eligibility of child care facility property for purposes of the amortization period:~~
1. ~~Compute the total sum of the employee children in attendance for all days in the tax reporting period.~~
2. ~~Divide the sum in subsection (B)(1) by the sum of the total daily attendance for all days in the tax reporting period.~~
3. ~~The fraction that is derived must be equal to or greater than .80 for the tax reporting period in order to qualify for the 24-month amortization treatment.~~

~~**C.** If the 24-month amortization period is elected for property or expenditures, the taxpayer must attach to his return, for the period for which the deduction is 1st elected, a written statement setting forth the following information:~~
1. ~~For each item of property, or for each combined item of property:~~
   a. ~~A clear description of the property;~~
   b. ~~The date of expenditure of the period during which the expenditures were made for the property;~~
   c. ~~The date the property was placed in service;~~
   d. ~~The amount of the expenditure; and~~
   e. ~~The annual amortization deduction claimed with respect to the property.~~
2. ~~If the 24-month amortization period is elected for property that was previously under amortization pursuant to § 188 or § 167 of the Internal Revenue Code, the taxpayer shall submit the information as required in subsection (C)(1) plus specifically set out the amount of the amortization previously taken under the Internal Revenue Code and the remaining unamortized amounts with respect to each item of property of expenditure.~~

~~**D.** The taxpayer shall treat as a separate item of property additions to or improvements to an existing item of amortized property except the taxpayer may treat 2 or more items of property as a single item of property if the items are placed in service within the same month.~~

~~**E.** A taxpayer may take deductions for depreciation of property in lieu of amortization deductions when the amortization election is terminated.~~
1. ~~The amortization election made with respect to the item of property is terminated as of the earliest date on which:~~
   a. ~~The specific use of an item of property in connection with the operation of a child care facility is discontinued.~~
   b. ~~The child care facility no longer meets applicable requirements set forth in this rule.~~
2. ~~Any subsequent deduction claimed for depreciation shall be computed on the adjusted basis of the property as of the termination date.~~

R15-2D-307. Amortization of Child Care Facilities

A. The following definitions apply for purposes of amortization of child care facilities under A.R.S. § 43-1130 and this Section:
1. "Child care facility" means a facility as defined under A.R.S. § 36-881.
2. "Employee" means any person employed by a taxpayer that owns a child care facility.
3. "Property" means a child care facility and its related equipment of a character subject to depreciation.

B. For purposes of qualifying for the 24-month amortization period under A.R.S. § 43-1130(B), a child care facility is considered to be primarily for the children of employees of the taxpayer if the required ratio is at least 80% for the taxable year during which the property is placed in service. The taxpayer shall maintain a required ratio of at least 80% for the subsequent taxable years that include part of the 24-month amortization period.

1. "Required ratio" means:
   a. The total daily attendance of employee children for the taxable year, divided by
   b. The total daily attendance of all children for the taxable year.
2. For purposes of computing the required ratio, the employees of all joint owners of a child care facility are considered to be employees of each of the joint owners.

C. To elect either the 24-month or the 60-month amortization period, a taxpayer shall attach to the income tax return for the taxable year during which the property is placed in service a written statement that contains all of the following information:
1. A clear description of the property.
2. The date of expenditure or the period during which the expenditures were made for the property.
3. The date the property was placed in service.
4. The amount of the expenditure.
5. The amortization period elected.
6. The annual amortization deduction claimed with respect to the property.

D. A taxpayer may make an election under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year that the property is placed in service.

E. A taxpayer may revoke an election made under this Section at any time before the expiration of the period for filing a claim for credit or refund for the taxable year that the property is placed in service. A taxpayer that revokes an election made under this Section shall attach a statement to an amended income tax return for the taxable year that the election was made. The taxpayer shall identify in the statement the property for which the revocation is effective.

F. The amortization period begins with the month the property is placed in service. A taxpayer shall compute the monthly amortization allowable by dividing the cost of the property by the number of months in the amortization period. The total amortization subtraction for a particular taxable year is the sum of the amortization for each month of the amortization period that falls within the taxable year.
1. If the amortization election is terminated as provided under subsection (H), the taxpayer shall prorate the amortization for the month during which the termination occurs, based on the ratio of the number of days in the month that are before the termination date to the total number of days in the month.
2. If a taxpayer qualified for the 24-month amortization in the preceding taxable year and fails to meet the 80% requirement under subsection (B) in the current taxable year, the last month of the preceding taxable year is the final month of amortization.

G. A taxpayer shall treat additions or improvements to an existing item of amortized property as a separate item of property. A taxpayer may treat 2 or more items of property as a single item of property if the items are placed in service within the same month.

H. The amortization election made with respect to an item of property is terminated as of the earliest date on which either of the following occurs:
1. The specific use of the item of property in connection with the operation of a child care facility is discontinued.
2. The child care facility no longer meets applicable requirements in this Section.

I. Under A.R.S. § 43-1121, a taxpayer that elects to amortize child care facility property shall add to Arizona gross income the related federal depreciation or amortization deducted under Internal Revenue Code § 167 or 188. If the Arizona amortization election is terminated, the taxpayer may recover the remaining unamortized cost of the property by reducing the addition to income required under A.R.S. § 43-1121.
1. The amount of the reduction for the taxable year of termination is the amount of the related federal depreciation and amortization allocable to the portion of the taxable year after the termination date.
2. The amount of the reduction for taxable years subsequent to the taxable year of termination is the amount of the related federal depreciation and amortization.
3. The taxpayer may reduce the addition to income in the taxable year of termination and subsequent taxable years until the cumulative reductions equal the unamortized cost of the property.

ARTICLE 10. CREDITS

R15-2D-1001. Environmental Technology Facility Tax Credit

A. A taxpayer claiming a tax credit for a qualified environmental technology facility under A.R.S. § 43-1169 shall retain records as required by A.R.S. § 42-1105. In addition, a taxpayer shall retain the following records to substantiate the tax credit:
1. A copy of the completed application packet submitted to the Arizona Department of Commerce.
2. The certificate of qualification issued by the Arizona Department of Commerce.
3. A copy of the memorandum of understanding entered into with the Arizona Department of Commerce.
4. A copy of each of the environmental technology annual qualification reports filed with the Arizona Department of Commerce.
5. A schedule showing the amount of credit claimed for each taxable year and the amount used for each taxable year.

6. The source documents that support the amount and date of capital expenditures made in constructing a qualified environmental technology facility.

B. A taxpayer shall retain the records specified in subsection (A) for the period in which the Department may issue a deficiency assessment for any taxable year that the taxpayer claims a credit or a carryover credit. A taxpayer may retain source documents in a machine-sensible format or through microfilm or microfiche, if the information is retrievable on request by Department personnel.

C. In addition to the recapture of previously used credits required by subsections (G) and (H) of A.R.S. § 43-1169, a taxpayer shall reduce the amount of any unused carryover credit related to amounts spent to construct a qualified environmental technology facility as follows:

1. If, before the facility is placed in service, the taxpayer abandons construction or changes plans in a manner that no longer qualifies as an environmental technology manufacturing, producing, or processing facility under A.R.S. § 41-1514.02, the total unused carryover credit is reduced to zero.
2. If, within five years after being placed in service, the facility ceases for any reason to operate as an environmental technology manufacturing, producing, or processing facility as described in A.R.S. § 41-1514.02, the total unused carryover credit is reduced by the applicable percentage in A.R.S. § 43-1169(H).

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE AND USE TAX SECTION

PREAMBLE

1. Sections Affected **Rulemaking Action**

R15-5-158	New Section
R15-5-2344	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 42-1005 and 42-5003

Implementing statutes: A.R.S. §§ 42-5061, 42-5155, and 42-5159

3. The effective date of the rules:

October 4, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 5 A.A.R. 3277, September 24, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 1073, March 24, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Ernest Powell, Supervisor

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-Mail: powelle@revenue.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

The rules provide guidance in the application of transaction privilege tax and use tax to sales or purchases of postage stamps. The Department is adding two new rules that make it clear that the sale or purchase of postage stamps for the purpose of transporting mail is not taxable under either transaction privilege tax or use tax. However, sales or purchases of postage stamps for any reason other than transporting mail remain taxable.

7. Reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. The addition of these rules will benefit the public by making it clear when the sale or purchase of postage stamps is taxable. These rules only provide guidance in the application of the statute; the statute imposes the tax and establishes any deductions. The Department will incur the costs associated with the rulemaking process. Taxpayers are not expected to incur any expense in the addition of these rules.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

In the Notice of Proposed Rulemaking the title of Article 23 was mistakenly underlined. The title of the Article is not changing; therefore, the underlining has been removed.

11. A summary of the principal comments and the agency response to them:

The Department did not receive any written or verbal comments on the rule action after the publication of the rulemaking in the Notice of Proposed Rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was the rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 5. DEPARTMENT OF REVENUETRANSACTION PRIVILEGE AND USE TAX SECTION
ARTICLE 1. RETAIL CLASSIFICATION

Section
R15-5-158. Postage Stamps

ARTICLE 23. USE TAX

Section
R15-5-2344. Postage Stamps

ARTICLE 1. RETAIL CLASSIFICATION

R15-5-158. Postage Stamps

A. A retailer's gross receipts from the sale of postage stamps are not included in the tax base under the retail classification if the stamps are sold for the purpose of transporting mail.

B. A retailer's gross receipts from the sale of postage stamps are included in the tax base under the retail classification if the stamps are sold for any purpose other than transporting mail.

C. The Department shall presume that a postage stamp is sold for a purpose other than transporting mail if the postage stamp is sold for at least 50% more than its face value. A retailer may overcome the presumption; however, the burden of proof will remain on the retailer.

D. A retailer's gross receipts from the sale of cancelled postage stamps are included in the tax base under the retail classification.

ARTICLE 23. USE TAX

R15-5-2344. Postage Stamps

A. The purchase of postage stamps is not subject to use tax if the stamps are purchased for the purpose of transporting mail.

B. The purchase of postage stamps is subject to use tax if the stamps are purchased for any purpose other than transporting mail.

C. The Department shall presume that a postage stamp is purchased for a purpose other than transporting mail if the postage stamp is purchased for at least 50% more than its face value. A purchaser may overcome the presumption; however, the burden of proof will remain on the purchaser.

D. The purchase of cancelled postage stamps is subject to use tax.

NOTICE OF FINAL RULEMAKING

TITLE 15. REVENUE

CHAPTER 12. DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT COMMISSION

PREAMBLE

1. Sections Affected **Rulemaking Action**

R15-12-101	Amend
R15-12-103	Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 42-1005 and 42-17002

Implementing statutes: A.R.S. §§ 42-17001 through 42-17003, and 42-17051

3. The effective date of the rules:

October 4, 2000

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1809, May 19, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 2296, June 23, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Ernest Powell, Supervisor

Address: Tax Research & Analysis Section
Arizona Department of Revenue
1600 West Monroe
Phoenix, Arizona 85007

Telephone: (602) 542-4672

Fax: (602) 542-4680

E-Mail: powelle@revenue.state.az.us

6. An explanation of the rule, including the agency's reasons for initiating the rule:

These rules deal with the general provisions of the Property Tax Oversight Commission. As a result of the 5-year review of Title 15, Chapter 12, the recodification of A.R.S. Title 42 and other legislative changes the Department is amending the rules to update statutory references, remove obsolete language and conform to current rulemaking guidelines.

7. Reference to any study that the agency relied on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

It is expected that the benefits of the rules will be greater than the costs. The amendment of these rules will benefit the political subdivisions that deal with the Property Tax Oversight Commission and the public by making the rules more accurate as well as clearer and easier to understand. The Department will incur the costs associated with the rulemaking process. The political subdivisions and the public are not expected to incur any expense in the amendment of these rules other than the cost of obtaining copies.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Based on the review performed by staff to the Governor's Regulatory Review Council, the Department added the underlined language in R15-12-101(3). This change simply provides a statutory reference within the rule; the change is not substantial.

11. A summary of the principal comments and the agency response to them:

The Department did not receive any written or verbal comments on the rule action after the publication of the rule-making in the Notice of Proposed Rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was the rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 15. REVENUE

CHAPTER 12. DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Sections
R15-12-101. Definitions
R15-12-103. Quorum

ARTICLE 1. GENERAL PROVISIONS

R15-12-101. Definitions

Unless the context requires otherwise, the following definitions shall apply:

1. "Commission" means the Property Tax Oversight Commission as established by ~~A.R.S. § 42-306~~ A.R.S. § 42-17002.
2. "Excess collections" means ~~sums~~ the amount collected during the previous fiscal year in excess of the ~~sum of the~~ previous fiscal year's maximum allowable primary property tax levy ~~and the amount which could have been collected for escaped property for taxes levied in the previous fiscal year.~~
3. "Excess expenditures" means the amount under A.R.S. § 42-17051(C) that is certified by the Auditor General's office.
4. "Political subdivision" means counties, cities including charter cities, towns, and community college districts.
5. "Quorum" means a majority of the members of the Commission.

R15-12-103. Quorum

~~A quorum~~ The Commission shall ~~be required~~ have a quorum for making orders and decisions or transacting other official business, as delineated in ~~A.R.S. § 42-306~~ A.R.S. § 42-17003.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 9. DEPARTMENT OF ADMINISTRATION
SCHOOL BUSES

PREAMBLE

1. Sections Affected	**Rulemaking Action**
Article 2	New Article
R17-9-201	New Section
R17-9-202	New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-900

Implementing statute: A.R.S. § 15-349

3. The effective date of the rules:

October 4, 2000

4. List of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 479, January 28, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 2371, June 30, 2000

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name:	Jeanne Hann
Address:	1400 West Washington St., Ste. 270 Phoenix, Arizona 85007
Telephone:	(602) 542-2006
Fax:	(602) 542-1486

6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:

In 1993, the legislature directed that school districts in certain metropolitan areas develop and implement a plan to increase the use of alternative fuels in school district-owned vehicles (See A.R.S. § 15-349). These rules establish minimum standards for converting a school bus manufactured to operate on only gasoline or diesel fuel to one that operates, in whole or in part, on compressed natural gas and for inspecting and maintaining a school bus with a compressed natural gas fuel system.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

California Energy Commission, Safe School Bus Clean Fuel Efficiency Demonstration Program, May 1999, available from the address listed in item 5 or at www.energy.ca.gov/afvs/schoolbus.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

School districts in certain metropolitan areas can comply with the legislative requirement that they increase the use of alternative fuels in school district-owned vehicles by purchasing new school buses manufactured to operate on alternative fuels or by converting existing school buses to use of alternative fuels. These rules update the standards for conversion of school buses to use of alternative fuels and their subsequent maintenance.

The new rules, which replace that at A.A.C. R17-4-611, impose no additional requirements on businesses that convert school buses to use of alternative fuels or the Department. Any increased or decreased costs to school districts from the use of alternative fuels in school district-owned vehicles result from the legislative directive in A.R.S. § 15-349 rather than these rules. The Department will incur the cost of this rulemaking and distribution of the final rule to school districts.

The primary benefit of these rules is protection of the children who ride school buses and the public. The rules will ensure that those who convert school buses to use of alternative fuels adhere to up-to-date standards.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Minor word choice and formatting changes were made between the proposed and final rules.

11. A summary of the principal comments and the agency response to them:

No comments were received regarding the rules.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

NFPA 52, Compressed Natural Gas (CNG) Vehicular Fuel Systems Code, (1998), available from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, (800) 344-3555, www.nfpa.org, incorporated at R17-9-201(D)(2).

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rule follows:

TITLE 17. TRANSPORTATION

CHAPTER 9. DEPARTMENT OF ADMINISTRATION
SCHOOL BUSES

ARTICLE 2. MINIMUM STANDARDS FOR SCHOOL BUSES OPERATED ON ALTERNATIVE FUEL

Sections

ARTICLE 2. MINIMUM STANDARDS FOR SCHOOL BUSES OPERATED ON ALTERNATIVE FUEL

R17-9-201. Minimum Standards for Compressed Natural Gas Fuel Systems

A. In addition to the definitions in A.A.C. R17-9-101, in this Article, unless otherwise specified:

"AGA" means the American Gas Association.

"ANSI" means the American National Standards Institute.

"Angle of departure" means the area above an imaginary line that extends from the bottom outside edge of the rear bumper on a vehicle to the point at which a tire on the vehicle's rear drive axle touches the ground.

"Appurtenance" means an item connected to an opening of a natural-gas pressure vessel to make the natural-gas pressure vessel gas-tight. This includes pressure relief devices, shutoff, backflow, excess-flow, and internal valves, liquid-level and pressure gauges, and plugs.

"Approved" means acceptable to the Department.

"ASE" means National Institute of Automotive Service Excellence.

"Bracket" means rubber-lined, hoop and cradle mounting hardware supplied or approved by a pressure-vessel manufacturer to hold a natural-gas pressure vessel in a rack.

"CNG" means compressed natural gas, a combustible mixture of hydro-carbon gases and vapors, principally methane, that is reduced in volume by pressure for use as a vehicular fuel.

"Fuel-distribution assembly" means a device that regulates the flow of fuel from a natural-gas pressure vessel to a vehicle engine.

"Fuel line" means a pipe, tubing, or hose, and all related fittings through which natural gas passes on a vehicle.

"Installer" means a person who converts a school bus from the use of gasoline to the use of CNG by attaching a natural-gas fuel system to the school bus after the school bus is manufactured.

"Listed" means included in a publication of an approved organization that is concerned with product evaluation, conducts periodic inspection of equipment or material, and includes equipment or material in the approved organization's publication only if the equipment or material complies with appropriate standards or performs in a specified manner.

"NFPA" means the National Fire Protection Association, which is located at 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, and which is accessible at (617) 770-3000 and www.nfpa.org.

"NGV-1" means specific standards set by the American National Standards Institute and American Gas Association for the refueling connection device of a natural-gas vehicle.

"NGV-2" means specific standards set by the American National Standards Institute and American Gas Association for a vehicle-on-board natural-gas pressure vessel.

"Natural gas" means a combustible mixture of hydrocarbon gases and vapors, principally methane.

"Natural-gas fuel system" means a group of items including a pressure vessel and all attached valves, piping, and appurtenances that form a network for distributing natural gas to a vehicle engine.

"Operating pressure" means the internal force that a manufacturer intends for a natural-gas pressure vessel to achieve during normal operation of the vehicle to which the natural-gas pressure vessel is attached.

"Out-of-service" means not compliant with these rules, NFPA 52, or manufacturer's instructions for installation, maintenance, or repair.

"Owner" means a private business, school, or school district that owns a school bus.

"PSI" means pound per square inch.

"Pressure-relief device" means a mechanism that is installed in a natural-gas pressure vessel or integrated with a valve, that is operated by temperature, pressure, or both, and that releases the CNG in the natural-gas pressure vessel in specific emergency conditions. A pressure-relief device for a U.S. Department of Transportation or Canada Transport natural-gas pressure vessel also includes a mechanism capable of protecting a partially charged natural-gas pressure vessel.

"Pressure vessel" means a cylinder that is part of a natural-gas fuel system and that is constructed, inspected, and maintained in accordance with U.S. Department of Transportation or Canada Transport regulations or ANSI/AGA NGV2, Basic Requirements for Compressed Natural Gas Vehicle (CNGV) Fuel Containers, or CSA B51, Boiler, Pressure Vessel and Pressure Piping Code.

"Pressure-vessel valve" means a mechanical device connected directly to a natural-gas pressure vessel opening that regulates the flow of CNG from the natural-gas pressure vessel to the vehicle engine.

"Rack" means a metal structure that surrounds a natural-gas pressure vessel mounted on a vehicle and is secured to the vehicle frame by a method capable of withstanding a static up, down, left, right, forward, or backward force of 8 times the weight of the fully pressurized natural-gas pressure vessel.

"UL" means the Underwriters' Laboratory, Inc.

B. Applicability and enforcement date of this Section

1. This Section applies to school buses that are manufactured to use only gasoline or diesel fuel and are converted to use CNG, in whole or in part.
2. The Department shall enforce this Section beginning 180 days after it is filed with the Office of the Secretary of State. After the beginning enforcement date, a school bus that is manufactured to use only gasoline or diesel fuel and is converted to use CNG, in whole or in part, shall meet the requirements of this Section when the school bus is introduced into Arizona or when the school bus is converted to natural-gas power. A school bus introduced into Arizona and powered in whole or in part by CNG before the beginning enforcement date of this Section shall meet the requirements of this Section or those at A.A.C. R17-4-611.
3. After the beginning enforcement date of this Section, the Department shall not approve a school bus manufactured to use only gasoline or diesel fuel and converted to use CNG, in whole or in part, unless the natural-gas fuel system meets the requirements of this Section.

C. Insurance

1. An owner shall not contract with an installer unless the installer has insurance coverage provided by a comprehensive general liability broad form insurance policy that is approved by the Department. The insurance policy shall include coverage for liability resulting from:
   a. Completed installation operations,
   b. Harm that arises on the installer's premises, and
   c. Breach of contract by the installer.
2. In addition to the liability coverage described in subsection (C)(1), an owner shall ensure that either:
   a. The installer has insurance coverage for liability resulting from harm that arises from subcontracted work performed by an independent contractor, or
   b. An independent contractor who performs work for the installer under an agreement has an insurance policy that provides coverage for liability resulting from harm caused by the independent contractor's work.
3. An owner shall not contract with an installer unless the installer has an insurance policy that provides at least $1 million liability coverage per occurrence both for bodily injury and for property damage.
4. An owner shall not contract with an installer unless the issuer of the installer's insurance policies described in subsections (C)(1) through (C)(3) names the Department as an additional insured on each policy and keeps the Department informed of any change in the status of each policy.
5. An owner shall obtain the Department's approval of the installer's insurance policy by submitting proof of the insurance described in subsections (C)(1) through (C)(3) to the Department before entering a contractual agreement with the installer for the installation of a natural-gas fuel system on a school bus.
6. If an owner acts as an installer, the owner shall maintain the insurance required by this Section.
7. The Department shall approve an installer's insurance policy, proof of which is submitted by an owner in accordance with subsection (C)(5), if the policy conforms to the requirements in subsections (C)(1) through (C)(3). The Department shall send written notice of its decision to approve or disapprove the installer's insurance policy to the owner within 15 days from receipt of the proof of insurance.

D. General requirements for installing a natural-gas fuel system

1. Converting a school bus to use of CNG, whether in whole or in part, is not an alteration as defined in R17-9-101.
2. Unless specifically provided otherwise in this Section, when installing a natural-gas fuel system, an installer shall use parts and equipment and perform work in a manner that meets or exceeds the standards of NFPA 52, Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems, 1995 (and no later editions or amendments), Quincy, MA, which is incorporated by this reference and on file with the Department and the Office of the Secretary of State.
3. An installer shall use only UL-listed or AGA-approved carburetor equipment when installing a natural-gas fuel system on a school bus.
4. An installer shall meet or exceed the recommended guidelines provided by the manufacturers of all parts of a natural-gas fuel system when installing the natural-gas fuel system on a school bus.

5. An installer shall ensure that installation of a natural-gas fuel system on a school bus is performed by an individual who has proof of training provided by the manufacturer of the natural-gas fuel system or ASE alternative fuels certification.
6. If a school bus is converted from the use of gasoline or diesel fuel to the dedicated use of CNG, the installer shall remove the gasoline or diesel-fuel tank and accompanying gasoline or diesel-fuel system parts from the school bus.

E. Natural-gas pressure vessel: An installer shall use only a natural-gas pressure vessel that is certified by its manufacturer as meeting or exceeding the NGV2 standards and as being U.S. Department of Transportation or ANSI listed. An installer shall use the natural-gas pressure vessel manufacturer's recommended bracket.

F. Installing a natural-gas pressure vessel

1. An installer shall securely attach a rack to the frame of a school bus in the following manner:
   a. By drilling no holes in the school bus frame that exceed the manufacturer's requirements; and
   b. By using no welding on and applying no heat to the school bus frame.
2. When installing a natural-gas fuel system on a school bus, an installer shall locate the natural-gas pressure vessel and its appurtenances on the vehicle frame as follows:
   a. Below the driver's or passengers' compartment;
   b. So no part protrudes:
      i. In front of the front axle,
      ii. Beyond the outside face of the rear bumper, or
      iii. Beyond the sides of the school bus;
   c. Inside a rack; and
   d. So the minimum clearance between the road and the lowest part of the natural-gas pressure vessel and its rack on a school bus loaded to its gross vehicle weight rating, is:
      i. No fewer than 7 inches (17.5 mm) for a school bus with a wheel base fewer than or equal to 127 inches (323 mm); or
      ii. No fewer than 9 inches (22.5 mm) for a school bus with a wheel base greater than 127 inches (323 mm).
3. If the natural-gas pressure vessel and its appurtenances are located behind the rear axle of the school bus, in addition to the requirements in subsection (F)(3), an installer shall locate the natural-gas pressure vessel as follows:
   a. Below the floor line, and
   b. Above the school bus' angle of departure.

G. Protecting a natural-gas pressure vessel. To protect a natural-gas pressure vessel and its appurtenances from damage, an installer shall:

1. Surround the natural-gas pressure vessel with a stone guard on all sides that are not protected by the natural barriers of the vehicle. The stone guard shall not be attached to the natural-gas pressure vessel. If the stone guard protects a valve, it shall be made of at least 16-gauge steel. If the stone guard does not protect a valve, it shall be made of at least 3/16-in. mesh with openings no greater than 1 in.;
2. Place a resilient, non-absorbent gasket between the natural-gas pressure vessel and its brackets in a manner that prevents the brackets from directly contacting the natural-gas pressure vessel;
3. Ensure that the weight of the natural-gas pressure vessel is not supported, in whole or in part, by an appurtenance; and
4. Place a shield between, but not attached to, the natural-gas pressure vessel and the vehicle exhaust system if the natural-gas pressure vessel or the fuel lines are located fewer than 8 inches from the exhaust system. The shield shall be constructed of at least 18-gauge metal.

H. Safety and check valves: An installer shall equip a natural-gas fuel system with:

1. Either an automatic fuel supply shut-off valve that is placed between the pressure vessel fuel-pressure regulator and the fuel distribution assembly and activated by engine vacuum or oil pressure, or an electronic fuel injector; and
2. Either a manual or automatically controlled shut-off valve that enables the natural-gas pressure vessel to be isolated from the remainder of the natural-gas fuel system. If a manual shut-off valve is used, it shall:
   a. Have no more than 90° rotation from the opened to the closed position;
   b. Have a red valve handle;
   c. Be placed in an accessible location; and
   d. Have "ESV" printed on the school bus at the access location to the manual shut-off valve, in 2-in. to 4-in., unshaded, red letters.

I. Installation of fuel lines. An installer shall:

1. Use fuel lines constructed of seamless stainless steel that has been tested and certified by the manufacturer to an operating pressure of 3600 PSI with a 4: 1 safety factor;
2. Mount and brace fuel lines to the vehicle frame in a manner that minimizes vibration;
3. Secure fuel lines to the vehicle frame at least every 24 inches with rubber-lined fasteners;
4. Protect fuel lines that pass through any structural member with rubber grommets, bulkhead fittings, or both;
5. Cause fuel lines that run to the engine to follow the main frame channel; and

6. Install an access door that is at least 70 square inches if access to the fill receptacle and fuel pressure gauge is through the school bus body. The words "CNG Fill" shall be printed on the school bus body, immediately above the access door, in 2-in. to 4-in., unshaded letters.

J. Installation of Venting System. An installer shall ensure that in addition to meeting the requirements in NFPA 52, all vent exits are aimed toward the ground.

R17-9-202. Inspection and Maintenance of Compressed Natural Gas Fuel Systems

A. This Section applies to all school buses that are powered, in whole or in part, by CNG and are introduced into Arizona after the beginning enforcement date of these rules.

B. An owner shall not use a school bus equipped with a natural-gas fuel system to transport passengers until the natural-gas fuel system is inspected and approved by the Department. An owner shall notify the Department when the owner obtains a school bus that needs to be inspected for compliance with these rules.

C. After the initial inspection conducted by the Department, an owner shall ensure that a school bus equipped with a natural-gas fuel system is inspected annually and under the following special circumstances:

1. When the school bus is involved in an accident;
2. When the natural-gas pressure vessel may have been damaged;
3. When natural gas is smelled;
4. When there is an unexpected loss of gas pressure, rattling, or other indication of looseness; or
5. When the natural-gas pressure vessel is changed.

D. An owner shall ensure that an annual or special-circumstances inspection is conducted by the Department or an individual who has proof of training provided by the manufacturer of the natural-gas fuel system or ASE alternative-fuel certification.

E. An owner shall ensure that every inspection of a school bus equipped with a natural-gas fuel system assesses whether the natural-gas fuel system meets the safety standards in A.A.C. Title 17, Chapter 9, and NFPA 52. This assessment shall include:

1. Leak-testing the natural-gas fuel system in compliance with NFPA 52 guidelines;
2. Verifying that the pressure vessel is designed for storage of CNG;
3. Verifying that the service life of the natural-gas pressure vessel has not expired;
4. Verifying that the natural-gas pressure vessel is certified by its manufacturer as meeting or exceeding the NGV2 standards and as being U.S. Department of Transportation or ANSI listed;
5. Verifying that all parts of the natural-gas fuel system are properly listed or approved; and
6. Verifying that all parts of the natural-gas fuel system are installed in accordance with the manufacturer's instructions.

F. An owner shall ensure that an individual who conducts an inspection of a school bus equipped with a natural-gas fuel system completes a Compressed Natural Gas Safety Inspection Form, which is available from the Department, and certifies that the school bus meets all safety standards in A.A.C. Title 17, Chapter 9, and NFPA 52.

G. If it is necessary to condemn a natural-gas pressure vessel, the owner shall:

1. Return the condemned natural-gas pressure vessel to its manufacturer; and
2. Obtain a certificate from the manufacturer that states ownership of the natural-gas pressure vessel is transferred from the owner to the manufacturer.

H. An owner shall maintain each completed Compressed Natural Gas Safety Inspection Form in a separate file for each school bus for the service life of the school bus. If a school bus is transferred from 1 owner to another, the 1st owner shall transfer the completed inspection forms to the 2nd owner.

I. An owner shall make the inspection forms maintained under subsection (H) available for review by the Department.