

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2369

AN ACT

REPEALING TITLE 3, CHAPTER 18, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-1650.04; AMENDING SECTIONS 28-304, 28-6308, 28-6313 AND 28-6353, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-6356, 28-6357 AND 28-6358, ARIZONA REVISED STATUTES; AMENDING SECTION 37-312, ARIZONA REVISED STATUTES; REPEALING SECTION 37-316, ARIZONA REVISED STATUTES; AMENDING SECTION 37-1302, ARIZONA REVISED STATUTES; REPEALING SECTION 41-151.02, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1279.03, ARIZONA REVISED STATUTES; REPEALING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 341, SECTION 4; AMENDING SECTION 41-2501, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 214, SECTION 2 AND CHAPTER 312, SECTION 7; REPEALING SECTION 41-3022.18, ARIZONA REVISED STATUTES; AMENDING SECTIONS 45-469, 45-472, 45-483, 45-618, 49-202.01 AND 49-247, ARIZONA REVISED STATUTES; REPEALING SECTION 49-248, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-281 AND 49-282, ARIZONA REVISED STATUTES; REPEALING SECTIONS 49-289.04 AND 49-289.05, ARIZONA REVISED STATUTES; RELATING TO STATE BOARDS AND COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Title 3, chapter 18, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 15, chapter 13, article 2, Arizona Revised Statutes,
5 is amended by adding section 15-1650.04, to read:

6 15-1650.04. Contract lobbyist; prohibition

7 NOTWITHSTANDING ANY OTHER LAW, THE ARIZONA BOARD OF REGENTS OR A
8 UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS MAY NOT
9 USE THE STATE GENERAL FUND APPROPRIATION FOR CONTRACTS WITH INDIVIDUALS OR
10 ENTITIES FOR LOBBYING SERVICES.

11 Sec. 3. Section 28-304, Arizona Revised Statutes, is amended to
12 read:

13 28-304. Powers and duties of the board; transportation
14 facilities

15 A. The board shall:

16 1. Develop and adopt a statewide transportation policy statement.
17 The policy statement shall be adopted as described in section 28-306.

18 2. Adopt a long-range statewide transportation plan. The plan
19 shall be adopted as described in section 28-307.

20 3. Adopt uniform transportation planning practices and performance
21 based planning processes for use by the department. The practices and
22 processes shall be developed as described in sections 28-502 and 28-503.

23 4. Adopt transportation system performance measures and factors and
24 data collection standards to be used by the department. The performance
25 measures, factors and standards shall be developed as described in
26 sections 28-504 and 28-505.

27 B. With respect to highways, the board shall:

28 1. Establish a complete system of state highway routes.

29 2. Determine which state highway routes or portions of the routes
30 are accepted into the state highway system and which state highway routes
31 to improve.

32 3. Establish, open, relocate or alter a portion of a state route or
33 state highway.

34 4. Vacate or abandon a portion of a state route or state highway as
35 prescribed in section 28-7209.

36 5. Sell board funding obligations to the state treasurer as
37 provided in section 28-7678.

38 C. The board shall:

39 1. Establish policies to guide the development or modification of
40 the five year transportation facilities construction program that are
41 consistent with the principles of performance based planning developed
42 pursuant to article 7 of this chapter. The percentage of department
43 discretionary monies allocated to the region in the regional
44 transportation plan approved pursuant to chapter 17, article 1 of this
45 title shall not increase or decrease unless the board, in cooperation with

1 the regional planning agency, agrees to change the percentage of the
2 discretionary monies.

3 2. Award all construction contracts for transportation facilities.

4 3. Monitor the status of these construction projects.

5 ~~D. Consistent with the board's responsibilities, the board shall:~~

6 ~~1. Consider the citizens transportation oversight committee's~~
7 ~~recommendations on the five year construction program for the regional~~
8 ~~transportation plan pursuant to chapter 17 of this title.~~

9 ~~2. Respond to any complaint and approve, disapprove or modify~~
10 ~~recommendations regarding a complaint forwarded to it by the citizens~~
11 ~~transportation oversight committee within ninety days after the citizens~~
12 ~~transportation oversight committee forwards a complaint to the board.~~

13 ~~E. D.~~ D. The board shall determine priority program planning with
14 respect to transportation facilities using the performance based methods
15 developed pursuant to article 7 of this chapter.

16 ~~F. E.~~ E. With respect to transportation facilities other than
17 highways, the board shall establish, open, relocate, alter, vacate or
18 abandon all or portions of the facilities.

19 ~~G. F.~~ F. With respect to aeronautics, the board shall perform the
20 functions prescribed in chapter 25 of this title.

21 ~~H. G.~~ G. The board shall not spend any monies, adopt any rules or
22 implement any policies or programs to convert signs to the metric system
23 or to require the use of the metric system with respect to designing or
24 preparing plans, specifications, estimates or other documents for any
25 highway project before the conversion or use is required by federal law,
26 except that the board may:

27 1. Spend monies and require the use of the metric system with
28 respect to designing or preparing plans, specifications, estimates or
29 other documents for a highway project that is awarded before October 1,
30 1997 and that is exclusively metric from its inception.

31 2. Prepare for conversion to and use of the metric system not more
32 than six months before the conversion or use is required by federal law.

33 Sec. 4. Section 28-6308, Arizona Revised Statutes, is amended to
34 read:

35 28-6308. Regional planning agency transportation policy
36 committee; regional transportation plan; plan
37 review process; committee termination

38 A. The regional planning agency in the county shall establish a
39 transportation policy committee consisting of twenty-three members as
40 follows:

41 1. Seventeen members of the regional planning agency, including ~~the~~
42 ~~chairperson of the citizens transportation oversight committee,~~ one member
43 of the state transportation board who represents the county, one member of
44 the county board of supervisors and one member representing Indian
45 communities in the county.

1 2. Six members who represent regionwide business interests, one of
2 whom must represent transit interests, one of whom must represent freight
3 interests and one of whom must represent construction interests. The
4 president of the senate and the speaker of the house of representatives
5 shall each appoint three members to the committee pursuant to this
6 paragraph. Members who are appointed pursuant to this paragraph serve
7 six-year terms. The chairman of the regional planning agency may submit
8 names to the president of the senate and the speaker of the house of
9 representatives for consideration for appointment to the transportation
10 policy committee.

11 B. Through the regional planning agency, the transportation policy
12 committee shall:

13 1. By a majority vote of the members, recommend approval of a
14 twenty year comprehensive, performance based, multimodal and coordinated
15 regional transportation plan in the county, including transportation
16 corridors by priority and a schedule indicating the dates that
17 construction will commence for projects contained in the plan.

18 2. Develop the plan in cooperation with the regional public
19 transportation authority in the county and the department of
20 transportation and in consultation with the county board of supervisors,
21 Indian communities and cities and towns in the county.

22 3. Submit the plan for review by the regional public transportation
23 authority in the county, the state board of transportation, the county
24 board of supervisors, Indian communities and cities and towns in the
25 county at the alternatives stage of the plan and the final draft stage of
26 the plan. After reviewing the plan, the regional public transportation
27 authority in the county, the county board of supervisors and the state
28 board of transportation, by majority vote of the members of each entity
29 within thirty days after receiving the plan, shall submit a written
30 recommendation to the transportation policy committee that the plan be
31 approved, modified or disapproved. Within thirty days after receiving the
32 plan, Indian communities and cities and towns in the county may submit a
33 written recommendation to the transportation policy committee that the
34 plan be approved, modified or disapproved.

35 4. Consider plan modifications proposed by any of the entities as
36 prescribed in paragraph 3 of this subsection.

37 5. By majority vote, approve, disapprove or further modify each
38 proposed plan modification.

39 6. Provide a written response to the regional public transportation
40 authority, the state board of transportation, the county board of
41 supervisors and the entity that submitted the proposed modification within
42 thirty days after the vote on the proposed modification explaining the
43 affirmation, rejection or further modification of each proposed
44 modification.

1 7. Recommend the plan to the regional planning agency for approval
2 for an air quality conformity analysis.

3 C. The regional transportation plan:

4 1. Shall include the following transportation mode classifications
5 with a revenue allocation to each classification consistent with section
6 42-6105, subsection D:

7 (a) Freeways and other routes in the state highway system.

8 (b) Major arterial streets and intersection improvements.

9 (c) Public transportation systems.

10 2. Shall provide a suggested construction schedule for the
11 transportation projects contained in the plan.

12 3. May be annually updated to introduce new controlled access
13 highways, related grade separations and transportation projects or to
14 modify the existing plan.

15 4. Shall be developed to meet federal air quality requirements
16 established for the region in which it is located.

17 D. Transportation excise tax revenues that are distributed pursuant
18 to section 42-6105, subsection D shall not be redistributed or used for
19 other transportation modes. Except as provided by section 28-6353,
20 subsections D, E and F, transportation excise tax revenues that are
21 dedicated in the plan to a specific project or transportation system may
22 only be redistributed to or otherwise used for another project within the
23 same transportation mode if approved by a majority vote of the
24 transportation policy committee.

25 E. The committee established pursuant to this section ends on July
26 1, 2024 pursuant to section 41-3103.

27 Sec. 5. Section 28-6313, Arizona Revised Statutes, is amended to
28 read:

29 28-6313. Performance audits of proposed transportation
30 projects and systems

31 A. Beginning in 2010 and every fifth year thereafter, the auditor
32 general shall contract with a nationally recognized independent auditor
33 with expertise in evaluating multimodal transportation systems and in
34 regional transportation planning to conduct a performance audit, as
35 defined in section 41-1278, of the regional transportation plan and
36 projects scheduled for funding during the next five years.

37 B. With respect to light rail systems, the audit shall consider the
38 criteria used by the federal transit administration pursuant to 49 United
39 States Code section 5309(e)(1)(B) and the interrelationship among the
40 criteria to provide federal funding for light rail systems. For light
41 rail systems, the audit shall also consider:

42 1. Service levels.

43 2. Capital costs.

44 3. Operation and maintenance costs.

45 4. Transit ridership.

1 5. Farebox revenues.
2 C. The audit shall:
3 1. Examine the regional transportation plan and projects scheduled
4 for funding within each transportation mode based on the performance
5 factors established in section 28-505, subsection A, in the context of the
6 transportation system.
7 2. Review past expenditures of the regional transportation plan and
8 examine the performance of the system in relieving congestion and
9 improving mobility.
10 3. Make recommendations regarding whether further implementation of
11 a project or transportation system is warranted, warranted with
12 modifications or not warranted.
13 D. The auditor general or the auditors contracted to conduct the
14 audit shall periodically update the transportation policy committee
15 regarding the progress of the audit.
16 E. Within forty-five days after the release of the audit, the
17 regional public transportation authority, ~~the citizens transportation~~
18 ~~oversight committee~~, the state transportation board and the county board
19 of supervisors, by a majority vote of each entity, shall submit written
20 recommendations to the transportation policy committee that the findings
21 are agreed to or disagreed with and the recommendations should be
22 implemented, ~~BE~~ implemented with modification or not be implemented.
23 F. Within forty-five days after the audit's release, the regional
24 planning agency shall hold a public hearing on the audit findings and
25 recommendations.
26 G. The auditor general shall distribute copies of the audit to:
27 1. The regional planning agency.
28 2. The transportation policy committee.
29 ~~3. The citizens transportation oversight committee.~~
30 ~~4.~~ 3. The regional public transportation authority in the county.
31 ~~5.~~ 4. The county board of supervisors.
32 ~~6.~~ 5. The state transportation board.
33 ~~7.~~ 6. The governor, secretary of state, president of the senate
34 and speaker of the house of representatives.
35 ~~8.~~ 7. The Arizona state library, archives and public records.
36 ~~9.~~ 8. Any other person who requests a copy pursuant to title 39,
37 CHAPTER 1, article 2.
38 H. The state transportation board, regional planning agency,
39 regional public transportation authority and county board of supervisors
40 shall cooperate with and submit to the auditor general and the auditors
41 contracted to conduct the audit information necessary to conduct the
42 audits under this section.
43 I. The cost incurred by the auditor general in contracting with
44 independent auditors for conducting performance audits under subsection A
45 of this section shall be paid from revenues of the county transportation

1 excise tax under section 42-6105. When due, the payments have priority
2 over any other distribution authorized by section 42-6105. The auditor
3 general shall deposit the payments in the audit services revolving fund
4 established by section 41-1279.06.

5 Sec. 6. Section 28-6353, Arizona Revised Statutes, is amended to
6 read:

7 28-6353. Regional transportation plan and project
8 enhancements and changes

9 A. The regional planning agency in the county shall approve any
10 change in the regional transportation plan and the projects funded in the
11 regional transportation plan that affect the planning agency's
12 transportation improvement program, including project priorities.

13 B. Requests for changes to transportation projects funded in the
14 regional transportation plan that would materially increase costs shall be
15 submitted to the regional planning agency for approval and submitted by
16 the regional planning agency to the board for approval.

17 C. If a local authority requests an enhancement to a transportation
18 project funded pursuant to the regional transportation plan, the local
19 authority shall pay all costs associated with the enhancement.

20 D. The process prescribed in subsection E of this section is
21 required if:

22 1. An audit finding pursuant to section 28-6313 recommends that a
23 project or system in the regional transportation plan is not warranted or
24 requires a modification that is a major amendment as defined in section
25 28-6301.

26 2. The transportation policy committee recommends to the regional
27 planning agency a modification of the regional transportation plan that is
28 a major amendment as defined in section 28-6301.

29 E. A major amendment requires the following:

30 1. Consideration by the transportation policy committee of
31 alternatives in the same modal category that will relieve congestion and
32 improve mobility in the same general corridor addressed by the originally
33 planned project or system.

34 2. If a reasonable option is identified as an alternative for the
35 originally planned project or system, the transportation policy committee
36 shall submit the proposed amendment for review by the regional public
37 transportation authority in the county, the state board of transportation,
38 the county board of supervisors, Indian communities, ~~AND~~ cities and towns
39 in the county ~~and the citizens transportation oversight committee~~. After
40 reviewing the proposed amendment, the board of directors of the regional
41 public transportation authority, the state board of transportation and the
42 county board of supervisors, by a majority vote of the members of each
43 board within thirty days after receiving the proposed amendment, shall
44 submit a written recommendation to the transportation policy committee
45 that the proposed amendment be approved, modified or disapproved. Within

1 thirty days after receiving the amendment, ~~the citizens transportation~~
2 ~~oversight committee and~~ the Indian communities, AND cities and towns may
3 also submit written recommendations to the transportation policy committee
4 that the proposed amendment be approved, modified or disapproved.

5 3. If no reasonable option for an alternative to the originally
6 planned project or system is identified, the transportation policy
7 committee shall submit an amendment to delete the original project for
8 review by the regional public transportation authority, the state board of
9 transportation, the county board of supervisors, Indian communities, AND
10 cities and towns in the county ~~and the citizens transportation oversight~~
11 ~~committee~~. After reviewing the proposed amendment the board of directors
12 of the regional public transportation authority, the state board of
13 transportation and the county board of supervisors, by a majority vote of
14 the members of each board within thirty days after receiving the proposed
15 amendment, shall submit a written recommendation to the transportation
16 policy committee that the proposed amendment be approved, modified or
17 disapproved. Within thirty days after receiving the proposed amendment,
18 ~~the citizens transportation oversight committee and~~ Indian
19 communities, AND cities and towns in the county may also submit written
20 recommendations to the transportation policy committee that the proposed
21 amendment be approved, modified or disapproved.

22 4. The transportation policy committee must consider any written
23 recommendations submitted by any of the reviewing entities as prescribed
24 by paragraph 2 or 3 of this subsection.

25 5. The transportation policy committee shall recommend approval,
26 disapproval or modification of the proposed amendment to the regional
27 planning agency for consideration.

28 F. The affirmative vote of seventeen members of the transportation
29 policy committee is required to approve and proceed with either of the
30 following:

31 1. Recommendation of a major amendment to the regional planning
32 agency that fails to receive approval of either the regional public
33 transportation authority in the county, the state board of transportation
34 or the county board of supervisors as prescribed in this section.

35 2. A transportation project or system that is found to be
36 unwarranted by an audit as prescribed in this section.

37 Sec. 7. Repeal

38 Sections 28-6356, 28-6357 and 28-6358, Arizona Revised Statutes, are
39 repealed.

40 Sec. 8. Section 37-312, Arizona Revised Statutes, is amended to
41 read:

42 37-312. Nominating and classifying trust land as suitable for
43 conservation purposes

44 A. On the commissioner's initiative, on petition as provided by
45 subsection C of this section or as provided by section 37-332, the

1 commissioner may nominate certain trust lands as being under consideration
2 for classification as trust lands suitable for conservation purposes. The
3 commissioner shall not nominate trust lands as being under consideration
4 for classification as trust lands suitable for conservation purposes
5 unless the trust lands are eligible for classification under this section
6 and are located within:

7 1. One mile of the corporate boundaries of an incorporated city or
8 town having a population of less than ten thousand persons ~~according to~~
9 ~~the most recent United States decennial census.~~

10 2. Three miles of the corporate boundaries of an incorporated city
11 or town having a population of ten thousand persons or more ~~according to~~
12 ~~the most recent United States decennial census.~~

13 3. Ten miles of the boundaries that are established in paragraph 1
14 or 2 of this subsection and that are located within counties with a
15 population greater than five hundred thousand persons ~~according to the~~
16 ~~most recent United States decennial census~~ and are adjacent to lands that
17 are eligible for conservation and share with them a specific physical
18 characteristic such as a reach of a river, a mountain slope or an
19 archaeological feature.

20 B. In addition to the lands identified in subsection A, paragraphs
21 1 through 3 of this section, the following lands may be nominated for
22 reclassification by the commissioner:

23 1. Those lands within the Tortolita mountain park in Pinal county
24 located within T10S, R12E and T10S, R13E.

25 2. Those lands in the vicinity of the Superstition mountains in
26 Pinal county located within T1N, R9E; T1N, R10E; T1S, R9E; and T1S, R10E.

27 3. Those lands in the vicinity of the San Tan mountains in Pinal
28 county located within T3S, R7E, section 10, the northwest quarter of the
29 southeast quarter and the south half of the southeast quarter; section 15,
30 the north half and southeast quarter.

31 4. The following lands located in Coconino county:

32 (a) T19N, R5E, section 3.

33 (b) T19N, R6E, sections 5 and 6.

34 (c) T20N, R5E, sections 2, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28,
35 30, 32, 34 and 36.

36 (d) T20N, R6E, sections 4, 5, 6, 8, 10, 14, 17, 18, 20, 22, 26, 28,
37 30, 32 and 34.

38 (e) T21N, R6E, sections 21, 22, 28, 31, 32 and 33.

39 C. The commissioner shall receive a petition to nominate trust
40 lands as being under consideration for classification as trust lands
41 suitable for conservation purposes from:

42 1. A state agency that leases the land or intends to lease or
43 purchase the land.

44 2. The board of supervisors of the county in which the land is
45 located.

1 3. The governing body of a city or town if the land is located
2 within:
3 (a) The corporate boundaries of the city or town.
4 (b) One mile outside the corporate boundaries and the city or town
5 has a population of less than ten thousand persons.
6 (c) Three miles outside the corporate boundaries and the city or
7 town has a population of ten thousand persons or more.
8 4. Ten or more private individuals who:
9 (a) Reside in the county in which the land is located.
10 (b) Have the financial capability to lease or purchase the land.
11 5. A nonprofit corporation or trust, the purpose or powers of which
12 include conservation of natural, scenic, open space or other conservation
13 values.
14 6. The current lessee of the land.
15 7. A business or corporation that is legally empowered to own or
16 manage real property in this state and that intends to lease or purchase
17 the land.
18 D. A petitioner who requests the commissioner to reclassify the
19 land pursuant to this article solely or partially on grounds that the land
20 contains cultural resources worthy of conservation shall provide, on the
21 commissioner's request, a report on the results of a cultural resources
22 survey of the petitioned land for the commissioner's consideration before
23 determining if the reclassification is in the best interest of the trust.
24 E. Unless the commissioner nominates the trust lands under section
25 37-332, a petitioner shall post a bond or other security sufficient to
26 cover the costs of the planning, notice, advertisement and public hearing
27 as required by this article and as determined by the commissioner. The
28 bond or security is forfeit to this state if the commissioner reclassifies
29 the land pursuant to this article.
30 F. The commissioner shall not nominate or classify trust land as
31 suitable for conservation purposes if a development plan was approved for
32 the land pursuant to article 5.1 of this chapter before July 26, 1996.
33 The commissioner may nominate and classify trust land as suitable for
34 conservation purposes in an area within a development plan approved after
35 July 26, 1996 if appropriate conservation purposes are incorporated within
36 the development plan prepared for the commissioner's approval. In
37 nominating and classifying trust land as suitable for conservation
38 purposes under this subsection, the commissioner shall follow the
39 procedures for requesting local government zoning pursuant to section
40 37-334, subsection E.
41 G. Unless the commissioner nominates the trust lands under section
42 37-332, after nominating the trust lands under subsection A or B of this
43 section, the commissioner shall:
44 1. Mail notice of intent to classify the lands as trust lands
45 suitable for conservation purposes to the beneficiary or beneficiaries for

1 whom the lands are held in trust, existing lessees, local planning
2 authorities, the appropriate regional planning authorities and owners of
3 private land that consists of forty or more acres and that is located
4 within three hundred feet of the trust land. The notice shall include the
5 date, time and place of the public hearing to be held pursuant to
6 subsection H of this section and a request for written comments on the
7 proposed classification within thirty days after the date of notice.

8 2. Within thirty days after giving the notice under paragraph 1 of
9 this subsection:

10 (a) Publish the notice stating a date, time and place of a public
11 hearing for six publications in a newspaper of general circulation in the
12 county in which the designated lands are located.

13 (b) Mail the notice to any person who has requested notice of any
14 classification under this article.

15 (c) Mail the notice to the Arizona game and fish department, the
16 Arizona department of agriculture, the Arizona state parks board, the
17 Arizona department of transportation and any other affected state agency.

18 H. Within sixty days after the last date of publication of notice
19 under subsection G of this section, the commissioner or the commissioner's
20 designee shall conduct a public hearing in a location in this state as
21 close as conveniently possible to the trust land to receive and record
22 oral and written testimony concerning the proposed classification.

23 I. In determining whether reclassification is in the best interest
24 of the trust, the commissioner shall:

25 1. Consult with the governing body of each city or town in which
26 the land proposed for reclassification is located or to which the land is
27 contiguous, the county board of supervisors of each county in which the
28 land is located if the land is not located within the boundaries of a city
29 or town and the local planning and zoning authorities, including the
30 affected regional planning authorities.

31 ~~2. Consider recommendations of the conservation advisory committee.~~

32 ~~3.~~ 2. Consider all evidence and testimony that are submitted at
33 the hearing that was held pursuant to:

34 (a) Subsection H of this section if the commissioner nominated the
35 trust lands under this section.

36 (b) Section 37-332, subsections B, C and D if the commissioner
37 nominated the trust lands under section 32-332.

38 ~~4.~~ 3. Consider the physical and economic impacts that the
39 reclassification would have on other lands owned or controlled by the
40 current lessee and the physical and economic impacts on the local
41 community.

42 ~~5.~~ 4. Consider the existence of any holding lease on the lands.

43 ~~6.~~ 5. Consider the existence of any planning permit issued by the
44 commissioner for the lands pursuant to article 5.1 of this chapter.

1 ~~7-~~ 6. Consider the amount of progress on any development plans
2 being completed for the lands pursuant to article 5.1 of this chapter.

3 ~~8-~~ 7. Evaluate the mineral potential of the land.

4 J. The commissioner shall determine whether the reclassification is
5 in the best interest of the trust and, in making the determination, shall
6 state in writing the reasons why the classification is or is not in the
7 best interests of the trust.

8 K. If the commissioner reclassifies the trust land as suitable for
9 conservation purposes, the commissioner shall adopt a plan to allow
10 existing and conservation uses to be coordinated in a manner that will
11 protect both existing uses and conservation and open space values. If the
12 reclassified trust land is unleased or the petitioner is the lessee
13 pursuant to subsection C, paragraph 6 of this section, the commissioner
14 may require a plan from the petitioners describing how the property is to
15 be managed. In adopting the plan, the commissioner shall consult with:

16 ~~1. The conservation advisory committee.~~

17 ~~2-~~ 1. The governing body of the city or town if the land is
18 located in a city or town.

19 ~~3-~~ 2. The county board of supervisors if the land is not located
20 in a city or town.

21 ~~4-~~ 3. Existing lessees of the trust land, local and regional
22 planning authorities and owners of private land who provided written
23 comments pursuant to subsection G, paragraph 1 of this section.

24 ~~5-~~ 4. Any other person or entity that the commissioner considers
25 to be necessary.

26 L. The classification of state land as suitable for conservation
27 does not affect the designation or use of adjacent federal, state or
28 private land.

29 M. A person who is adversely affected by the commissioner's
30 decision to reclassify land as suitable for conservation purposes may
31 appeal the decision to the board of appeals pursuant to section 37-215.

32 N. On classifying trust lands suitable for conservation purposes,
33 existing leases shall not be canceled or modified as a result of any
34 actions taken pursuant to this article, and renewals of existing leases
35 shall be pursuant to section 37-291.

36 Sec. 9. Repeal

37 Section ~~37-316~~, Arizona Revised Statutes, is repealed.

38 Sec. 10. Section 37-1302, Arizona Revised Statutes, is amended to
39 read:

40 37-1302. Powers and duties of state forester; rules;
41 legislative presentation; acceptance of federal
42 law

43 A. The state forester is designated as the agent of the state of
44 Arizona and shall administer this chapter. The state forester shall:

- 1 1. Exercise and perform all powers and duties vested in or imposed
2 on the Arizona department of forestry and fire management.
- 3 2. Adopt rules necessary to discharge the powers and duties of the
4 Arizona department of forestry and fire management, including rules that
5 create efficiencies, protect the public health and safety and prescribe
6 budgetary obligations.
- 7 3. Subject to title 41, chapter 4, article 4, employ, determine the
8 terms and conditions of employment of and prescribe the duties and powers
9 of administrative, professional, technical, secretarial, clerical and
10 other persons as may be necessary in the performance of the Arizona
11 department of forestry and fire management's duties. The compensation of
12 department employees shall be as determined pursuant to section 38-611.
- 13 4. Contract for the services of outside advisors, consultants and
14 aides as may be reasonably necessary.
- 15 5. Perform all management and administrative functions assigned or
16 delegated to this state by the United States relating to forestry and
17 financial assistance and grants relating to forestry.
- 18 6. Identify sources of information relating to forest management,
19 including wildfire suppression and recovery and administrative and
20 judicial appeals and litigation with respect to timber sales and forest
21 thinning projects in this state, and develop procedures for compiling and
22 transferring that information to the state forester.
- 23 7. Take necessary action to maximize state fire assistance grants,
24 including establishing timelines for using grant monies and reallocating
25 lapsed grant monies to other projects.
- 26 8. Conduct education and outreach in forest communities by
27 explaining the wildfire threat to private property caused by lack of
28 timber harvesting and thinning.
- 29 9. Monitor forestry projects and wildfire activities.
- 30 10. Assist in the development of the forestry products industry in
31 this state.
- 32 11. Intervene on behalf of this state and its citizens in
33 administrative and judicial appeals and litigation that challenge
34 governmental efforts supported by the state forester if the state forester
35 determines that intervention is in the best interests of this state.
- 36 12. Annually develop and implement a comprehensive plan for the
37 deployment of state, county, municipal, fire district, volunteer fire
38 association and private fire service provider contract resources to
39 wildfire suppression activities. The wildfire deployment plan shall take
40 into account anticipated fire conditions and fire severity and may include
41 prepositioning resources as necessary. The state forester shall consult
42 with federal land management firefighting agencies, state and county
43 emergency agencies, municipal fire departments, fire districts, statewide
44 fire district and statewide fire chiefs associations, volunteer fire
45 departments and private fire contractors in the development of a

1 comprehensive wildfire deployment plan, the implementation of standards
2 for training and certification for all classes of wildland fire personnel
3 and the implementation of standards for wildland fire apparatus and
4 equipment that are deployed under cooperative agreements with the state
5 forester.

6 13. Provide necessary oversight to ensure standardized training and
7 certification for all classifications of wildfire firefighters to be
8 deployed, through cooperated agreement with the state forester, to any
9 federal or state wildfire incident.

10 14. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR SAFEGUARDING
11 LIFE AND PROPERTY FROM WILDLAND FIRES AND FIRE HAZARDS, PREVENTING
12 WILDLAND FIRES AND ALLEVIATING FIRE HAZARDS.

13 15. DEVELOP RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE STORAGE,
14 SALE, DISTRIBUTION AND USE OF DANGEROUS CHEMICALS, COMBUSTIBLES, FLAMMABLE
15 LIQUIDS, EXPLOSIVES AND RADIOACTIVE MATERIALS IN WILDLAND-URBAN INTERFACE
16 AREAS.

17 16. CONSULT WITH THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF
18 EMERGENCY AND MILITARY AFFAIRS AND LOCAL GOVERNMENTS REGARDING THE
19 ESTABLISHMENT OF FIRE EVACUATION ROUTES AND COMMUNITY ALERT SYSTEMS.

20 17. MAKE RECOMMENDATIONS FOR MINIMUM STANDARDS FOR THE CREATION OF
21 DEFENSIBLE SPACES IN AND AROUND WILDLAND-URBAN INTERFACE AREAS AS
22 AUTHORIZED BY EXISTING COUNTY AND MUNICIPAL LAWS AND ORDINANCES.

23 B. During the first regular session of each legislature, the state
24 forester shall present information to the legislative committees with
25 jurisdiction over forestry issues. The state forester shall collaborate
26 with, and invite the participation of, relevant state, federal and local
27 governmental officers and agencies. A written report is not required, but
28 the presentation shall include information concerning:

29 1. Forestry management, including the current conditions of the
30 forests in this state on federal, state and private property as affected
31 by federal, state and local public policies, climatic conditions, wildfire
32 hazards, pest infestations, overgrowth and overgrowth control policies and
33 methods and the effects of current federal policy on forest management and
34 impacts on forest land management.

35 2. The wildland-urban interface, including the effects of county
36 and municipal zoning policies and wildfire hazards on public and private
37 property.

38 3. Wildfire emergency management and all hazard response issues,
39 including:

40 (a) Intergovernmental and interagency primacy, cooperation,
41 coordination, roles and training of federal, state and local forestry,
42 firefighting and law enforcement agencies.

43 (b) Channels and methods of communicating emergency information to
44 the public.

1 (c) The roles of governmental and nongovernmental disaster relief
2 agencies and organizations.

3 (d) The level of federal, state and local emergency funding.

4 C. The state forester may:

5 1. Furnish technical advice to the people of this state on forestry
6 and land management matters.

7 2. Do all other acts necessary to take advantage of and carry out
8 the provisions of the act of Congress described in subsection D of this
9 section.

10 D. This state accepts the provisions of the cooperative forestry
11 assistance act of 1978 (P.L. 95-313; 92 Stat. 365; 16 United States Code
12 chapter 41) providing for federal forestry assistance programs to states.

13 Sec. 11. Repeal

14 Section 41-151.02, Arizona Revised Statutes, is repealed.

15 Sec. 12. Section 41-1279.03, Arizona Revised Statutes, is amended
16 to read:

17 41-1279.03. Powers and duties

18 A. The auditor general shall:

19 1. Prepare an audit plan for approval by the committee and report
20 to the committee the results of each audit and investigation and other
21 reviews conducted by the auditor general.

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

36 3. Perform procedural reviews for all state agencies at times
37 determined by the auditor general. These reviews may include evaluation
38 of administrative and accounting internal controls and reports on these
39 reviews.

40 4. Perform special research requests, special audits and related
41 assignments as designated by the committee and conduct performance audits,
42 special audits, special research requests and investigations of any state
43 agency, whether created by the constitution or otherwise, as may be
44 requested by the committee.

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

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

7 (a) Reviews past expenditures and future planned expenditures of
8 the transportation excise revenues and determines the impact of the
9 expenditures in solving transportation problems within the county and, for
10 a transportation excise tax in effect in a county as provided in section
11 42-6107, determines whether the expenditures of the transportation excise
12 revenues comply with section 28-6392, subsection B.

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

18 ~~If the parameters of the performance audit are set by the citizens~~
19 ~~transportation oversight committee, the auditor general shall also present~~
20 ~~the report to the citizens transportation oversight committee.~~

21 (c) Reviews, determines, reports and makes recommendations to the
22 speaker of the house of representatives and the president of the senate
23 whether the distribution of highway user revenues complies with title 28,
24 chapter 18, article 2. ~~If the parameters of the performance audit are set~~
25 ~~by the citizens transportation oversight committee, the auditor general~~
26 ~~shall also present the report to the citizens transportation oversight~~
27 ~~committee.~~

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

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

37 9. ~~Beginning on July 1, 2001,~~ Establish a school-wide audit team in
38 the office of the auditor general to conduct performance audits and
39 monitor school districts to determine the percentage of every dollar spent
40 in the classroom by a school district. The performance audits shall
41 determine whether school districts that receive monies from the Arizona
42 structured English immersion fund established by section 15-756.04 and the
43 statewide compensatory instruction fund established by section 15-756.11
44 are in compliance with title 15, chapter 7, article 3.1. The auditor
45 general shall determine, through random selection, the school districts to

1 be audited each year, subject to review by the joint legislative audit
2 committee. A school district that is subject to an audit pursuant to this
3 paragraph shall notify the auditor general in writing as to whether the
4 school district agrees or disagrees with the findings and recommendations
5 of the audit and whether the school district will implement the findings
6 and recommendations, implement modifications to the findings and
7 recommendations or refuse to implement the findings and recommendations.
8 The school district shall submit to the auditor general a written status
9 report on the implementation of the audit findings and recommendations
10 every six months for two years after an audit conducted pursuant to this
11 paragraph. The auditor general shall review the school district's
12 progress toward implementing the findings and recommendations of the audit
13 every six months after receipt of the district's status report for two
14 years. The auditor general may review a school district's progress beyond
15 this two-year period for recommendations that have not yet been
16 implemented by the school district. The auditor general shall provide a
17 status report of these reviews to the joint legislative audit committee.
18 The school district shall participate in any hearing scheduled during this
19 review period by the joint legislative audit committee or by any other
20 legislative committee designated by the joint legislative audit committee.

21 10. Annually review per diem compensation and reimbursement of
22 expenses for employees of the state and members of a state board,
23 commission, council or advisory committee by judgmentally selecting
24 samples and evaluating the propriety of per diem compensation and expense
25 reimbursements.

26 B. The auditor general may:

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

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

31 C. If approved by the committee the auditor general may charge a
32 reasonable fee for the cost of performing audits or providing accounting
33 services for auditing federal funds, special audits or special services
34 requested by political subdivisions of the state. Monies collected
35 pursuant to this subsection shall be deposited in the audit services
36 revolving fund.

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

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

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

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

8 Sec. 13. Repeal

9 Section 41-2501, Arizona Revised Statutes, as amended by Laws 2016,
10 chapter 341, section 4, is repealed.

11 Sec. 14. Section 41-2501, Arizona Revised Statutes, as amended by
12 Laws 2016, chapter 214, section 2 and chapter 312, section 7, is amended
13 to read:

14 41-2501. Applicability

15 A. This chapter applies only to procurements initiated after
16 January 1, 1985 unless the parties agree to its application to
17 procurements initiated before that date.

18 B. This chapter applies to every expenditure of public monies,
19 including federal assistance monies except as otherwise specified in
20 section 41-2637, by this state, acting through a state governmental unit
21 as defined in this chapter, under any contract, except that this chapter
22 does not apply to either grants as defined in this chapter, or contracts
23 between this state and its political subdivisions or other governments,
24 except as provided in chapter 24 of this title and in article 10 of this
25 chapter. This chapter also applies to the disposal of state materials.
26 This chapter and rules adopted under this chapter do not prevent any state
27 governmental unit or political subdivision from complying with the terms
28 of any grant, gift, bequest or cooperative agreement.

29 C. All political subdivisions and other local public agencies of
30 this state may adopt all or any part of this chapter and the rules adopted
31 pursuant to this chapter.

32 D. Notwithstanding any other law, sections 41-2517 and 41-2546
33 apply to any agency as defined in section 41-1001, including the office of
34 the governor.

35 E. The Arizona board of regents and the legislative and judicial
36 branches of state government are not subject to this chapter except as
37 prescribed in subsection F of this section.

38 F. The Arizona board of regents and the judicial branch shall adopt
39 rules prescribing procurement policies and procedures for themselves and
40 institutions under their jurisdiction. The rules must be substantially
41 equivalent to the policies and procedures prescribed in this chapter.

42 G. The Arizona state lottery commission is exempt from this chapter
43 for procurement relating to the design and operation of the lottery or
44 purchase of lottery equipment, tickets and related materials. The
45 executive director of the Arizona state lottery commission shall adopt

1 rules substantially equivalent to the policies and procedures in this
2 chapter for procurement relating to the design and operation of the
3 lottery or purchase of lottery equipment, tickets or related materials.
4 All other procurement shall be as prescribed by this chapter.

5 H. The Arizona health care cost containment system administration
6 is exempt from this chapter for provider contracts pursuant to section
7 36-2904, subsection A and contracts for goods and services, including
8 program contractor contracts pursuant to title 36, chapter 29, articles 2
9 and 3 and contracts with regional behavioral health authorities pursuant
10 to title 36, chapter 34. All other procurement, including contracts for
11 the statewide administrator of the program pursuant to section 36-2903,
12 subsection B, shall be as prescribed by this chapter.

13 ~~I. Arizona industries for the blind is exempt from this chapter for~~
14 ~~purchases of finished goods from members of national industries for the~~
15 ~~blind and for purchases of raw materials for use in the manufacture of~~
16 ~~products for sale pursuant to section 41-1972. All other procurement~~
17 ~~shall be as prescribed by this chapter.~~

18 ~~I.~~ I. Arizona correctional industries is exempt from this chapter
19 for purchases of raw materials, components and supplies that are used in
20 the manufacture or production of goods or services for sale entered into
21 pursuant to section 41-1622. All other procurement shall be as prescribed
22 by this chapter.

23 ~~K.~~ J. The state transportation board and the director of the
24 department of transportation are exempt from this chapter other than
25 section 41-2586 for the procurement of construction or reconstruction,
26 including engineering services, of transportation facilities or highway
27 facilities and any other services that are directly related to land
28 titles, appraisals, real property acquisition, relocation, property
29 management or building facility design and construction for highway
30 development and that are required pursuant to title 28, chapter 20.

31 ~~L.~~ K. The Arizona highways magazine is exempt from this chapter
32 for contracts for the production, promotion, distribution and sale of the
33 magazine and related products and for contracts for sole source creative
34 works entered into pursuant to section 28-7314, subsection A, paragraph 5.
35 All other procurement shall be as prescribed by this chapter.

36 ~~M.~~ L. The secretary of state is exempt from this chapter for
37 contracts entered into pursuant to section 41-1012 to publish and sell the
38 administrative code. All other procurement shall be as prescribed by this
39 chapter.

40 ~~N.~~ M. This chapter is not applicable to contracts for professional
41 witnesses if the purpose of such contracts is to provide for professional
42 services or testimony relating to an existing or probable judicial
43 proceeding in which this state is or may become a party or to contract for
44 special investigative services for law enforcement purposes.

1 ~~Q.~~ N. The head of any state governmental unit, in relation to any
2 contract exempted by this section from this chapter, has the same
3 authority to adopt rules, procedures or policies as is delegated to the
4 director pursuant to this chapter.

5 ~~P.~~ O. Agreements negotiated by legal counsel representing this
6 state in settlement of litigation or threatened litigation are exempt from
7 this chapter.

8 ~~Q.~~ P. This chapter is not applicable to contracts entered into by
9 the department of economic security:

10 1. With a provider licensed or certified by an agency of this state
11 to provide child day care services.

12 2. With area agencies on aging created pursuant to the older
13 Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code
14 sections 3001 through 3058ff).

15 3. For services pursuant to title 36, chapter 29, article 2.

16 4. With an eligible entity as defined by Public Law 105-285,
17 section 673(1)(A)(i), as amended, for designated community services block
18 grant program monies and any other monies given to the eligible entity
19 that accomplishes the purpose of Public Law 105-285, section 672.

20 ~~R.~~ Q. The Arizona health care cost containment system may not
21 require that persons with whom it contracts follow this chapter for the
22 purposes of subcontracts entered into for the provision of the following:

23 1. Mental health services pursuant to section 36-189, subsection B.

24 2. Services for the seriously mentally ill pursuant to title 36,
25 chapter 5, article 10.

26 3. Drug and alcohol services pursuant to section 36-141.

27 ~~S.~~ R. The department of health services may not require that
28 persons with whom it contracts follow this chapter for the purpose of
29 subcontracts entered into for the provision of domestic violence services
30 pursuant to title 36, chapter 30, article 1.

31 ~~T.~~ S. The department of health services is exempt from this
32 chapter for contracts for services of physicians at the Arizona state
33 hospital.

34 ~~U.~~ T. Contracts for goods and services approved by the board of
35 trustees of the public safety personnel retirement system are exempt from
36 this chapter.

37 ~~V.~~ U. The Arizona department of agriculture is exempt from this
38 chapter with respect to contracts for private labor and equipment to
39 effect cotton or cotton stubble plow-up pursuant to rules adopted under
40 title 3, chapter 2, article 1.

41 ~~W.~~ V. The Arizona state parks board is exempt from this chapter
42 for purchases of guest supplies and items for resale such as food, linens,
43 gift items, sundries, furniture, china, glassware and utensils for the
44 facilities located in the Tonto natural bridge state park.

1 ~~X~~ W. The Arizona state parks board is exempt from this chapter
2 for the purchase, production, promotion, distribution and sale of
3 publications, souvenirs and sundry items obtained and produced for resale.

4 ~~Y~~ X. The Arizona state schools for the deaf and the blind are
5 exempt from this chapter for the purchase of textbooks and when purchasing
6 products through a cooperative that is organized and operates in
7 accordance with state law if such products are not available on a
8 statewide contract and are related to the operation of the schools or are
9 products for which special discounts are offered for educational
10 institutions.

11 ~~Z~~ Y. Expenditures of monies in the morale, welfare and
12 recreational fund established by section 26-153 are exempt from this
13 chapter.

14 ~~AA~~ Z. Notwithstanding section 41-2534, the director of the state
15 department of corrections may contract with local medical providers in
16 counties with a population of less than four hundred thousand persons for
17 the following purposes:

18 1. To acquire hospital and professional medical services for
19 inmates who are incarcerated in state department of corrections facilities
20 that are located in those counties.

21 2. To ensure the availability of emergency medical services to
22 inmates in all counties by contracting with the closest medical facility
23 that offers emergency treatment and stabilization.

24 ~~BB~~ AA. The department of environmental quality is exempt from
25 this chapter for contracting for procurements relating to the water
26 quality assurance revolving fund program established pursuant to title 49,
27 chapter 2, article 5. The department shall engage in a source selection
28 process that is similar to the procedures prescribed by this chapter. The
29 department may contract for remedial actions with a single selection
30 process. The exclusive remedy for disputes or claims relating to
31 contracting pursuant to this subsection is as prescribed by article 9 of
32 this chapter and the rules adopted pursuant to that article. All other
33 procurement by the department shall be as prescribed by this chapter.

34 ~~CC~~ BB. The motor vehicle division of the department of
35 transportation is exempt from this chapter for third-party authorizations
36 pursuant to title 28, chapter 13, only if all of the following conditions
37 exist:

38 1. The division does not pay any public monies to an authorized
39 third party.

40 2. Exclusivity is not granted to an authorized third party.

41 3. The director has complied with the requirements prescribed in
42 title 28, chapter 13 in selecting an authorized third party.

43 ~~DD~~ CC. This section does not exempt third-party authorizations
44 pursuant to title 28, chapter 13 from any other applicable law.

1 ~~EE.~~ DD. The state forester is exempt from this chapter for
2 purchases and contracts relating to wildland fire suppression and
3 pre-positioning equipment resources and for other activities related to
4 combating wildland fires and other unplanned risk activities, including
5 fire, flood, earthquake, wind and hazardous material responses. All other
6 procurement by the state forester shall be as prescribed by this chapter.

7 ~~FF.~~ EE. The cotton research and protection council is exempt from
8 this chapter for procurements.

9 ~~GG. Expenditures of monies in the Arizona agricultural protection~~
10 ~~fund established by section 3-3304 are exempt from this chapter.~~

11 ~~HH.~~ FF. The Arizona commerce authority is exempt from this
12 chapter, except article 10 for the purpose of cooperative purchases. The
13 authority shall adopt policies, procedures and practices, in consultation
14 with the department of administration, that are similar to and based on
15 the policies and procedures prescribed by this chapter for the purpose of
16 increased public confidence, fair and equitable treatment of all persons
17 engaged in the process and fostering broad competition while accomplishing
18 flexibility to achieve the authority's statutory requirements. The
19 authority shall make its policies, procedures and practices available to
20 the public. The authority may exempt specific expenditures from the
21 policies, procedures and practices.

22 ~~II.~~ GG. The Arizona exposition and state fair board is exempt from
23 this chapter for contracts for professional entertainment.

24 ~~JJ.~~ HH. This chapter does not apply to the purchase of water, gas
25 or electric utilities.

26 ~~KK.~~ II. This chapter does not apply to professional
27 certifications, professional memberships and conference registrations.

28 ~~LL.~~ JJ. The department of gaming is exempt from this chapter for
29 problem gambling treatment services contracts with licensed behavioral
30 health professionals.

31 ~~MM.~~ KK. This chapter does not apply to contracts for credit
32 reporting services.

33 ~~NN.~~ LL. This chapter does not apply to contracts entered into by
34 the department of child safety:

35 1. With a provider of family foster care pursuant to section 8-503.

36 2. With an eligible entity as defined by Public Law 105-285,
37 section 673(1)(A)(i), as amended, for designated community services block
38 grant program monies and any other monies given to the eligible entity
39 that accomplishes the purpose of Public Law 105-285, section 672.

40 ~~OO.~~ MM. This chapter does not apply to contracts entered into by
41 the department of economic security with a financial institution to serve
42 as a program manager and depository under section 46-903.

43 Sec. 15. Repeal

44 Section ~~41-3022.18~~, Arizona Revised Statutes, is repealed.

1 Sec. 16. Section 45-469, Arizona Revised Statutes, is amended to
2 read:

3 45-469. Right to retire irrigation grandfathered right for
4 non-irrigation use; development plan approval;
5 amendment of plan; approval of plan prior to
6 retirement; amount withdrawn; service area
7 determined; restoration of retired irrigation
8 grandfathered right

9 A. Except as provided in section 45-480, subsection F and
10 subsection P of this section, except as provided in subsection I of this
11 section, a person who owns land ~~which~~ THAT is legally entitled to be
12 irrigated with groundwater pursuant to an irrigation grandfathered right
13 and ~~which~~ THAT is located within an active management area and outside of
14 the exterior boundaries of the service area of a city, town or private
15 water company has the right to retire such land from irrigation in
16 anticipation of a future non-irrigation use and shall not forfeit or
17 abandon the right to withdraw from or receive for such land the amount of
18 groundwater calculated pursuant to subsection F of this section for a
19 non-irrigation use if all of the following apply:

20 1. The land is held in the same ownership.

21 2. A development plan for the proposed non-irrigation use exists
22 and is approved by the director within a reasonable time before or after
23 the land is retired.

24 3. Either one of the following applies:

25 (a) The land has never been designated by the director as protected
26 farmland pursuant to section 45-483, subsection A.

27 (b) The director designated the land as protected farmland pursuant
28 to section 45-483, subsection A, the director subsequently revoked the
29 designation pursuant to section 45-483, subsection C, paragraph 1 and the
30 director determined at the time the designation was revoked that the
31 ~~agricultural or~~ conservation easement in the land was terminated because a
32 partial or full condemnation of the land made farming impracticable.

33 B. Except as provided in subsection P of this section, the director
34 shall approve the development plan required by subsection A of this
35 section if it appears that the land:

36 1. Has been or will be retired for the bona fide purpose of
37 conserving or using water for a non-irrigation use ~~which~~ THAT would
38 otherwise continue to be used for irrigation of such land.

39 2. Has not been sold or taken out of production primarily because
40 it would have been uneconomical to continue to withdraw water for
41 irrigation.

42 C. The director shall not investigate the legality, other than
43 pursuant to this chapter, feasibility or other factors involved in the
44 proposed development plan and shall not disapprove a development plan on
45 such grounds.

1 D. A development plan may be amended and the director shall approve
2 amendments if the criteria of this section are met.

3 E. A person proposing to retire irrigated land ~~which~~ THAT is
4 located inside or outside of an active management area may apply to the
5 director for approval of a proposed development plan prior to the
6 retirement of such land.

7 F. The amount of groundwater ~~which~~ THAT may be withdrawn or
8 received annually per acre pursuant to this section is the lesser of:

9 1. The current maximum amount of groundwater ~~which~~ THAT may be used
10 pursuant to the irrigation grandfathered right for the acre at the time it
11 is retired, as calculated pursuant to section 45-465, subsection B.

12 2. Three acre-feet multiplied by the water duty acres in the farm
13 in which the acre to which the right is appurtenant is located divided by
14 the number of irrigation acres in the farm.

15 G. The right to withdraw or receive groundwater pursuant to this
16 section is a non-irrigation grandfathered right associated with retired
17 irrigated land, or a type 1 non-irrigation grandfathered right as
18 described in section 45-463.

19 H. Whether the land to which an irrigation grandfathered right is
20 appurtenant is within the exterior boundaries of the service area of a
21 city, town or private water company shall be determined as of the date the
22 development plan is filed with the director.

23 I. A city or town in an initial active management area that holds a
24 certificate of irrigation grandfathered right for acres of land that were
25 acquired before January 1, 1989 in another initial active management area,
26 and a groundwater replenishment district established under title 48,
27 chapter 27 that purchases any of that land from the city or town, has the
28 right, subject to subsections J, K, L and M of this section, to retire the
29 land in anticipation of a future non-irrigation use and withdraw from any
30 location on the land groundwater for non-irrigation use on the land or for
31 transportation to another initial active management area for the purpose
32 of demonstrating and providing an assured water supply if all of the
33 following apply:

34 1. Before January 1, 1989, the city or town filed with the director
35 a development plan pursuant to this section for all or a portion of the
36 land.

37 2. Any withdrawals pursuant to this subsection from a new well, as
38 defined in section 45-591, will comply with the rules adopted pursuant to
39 section 45-598, subsection A to prevent unreasonably increasing damage to
40 surrounding land or other water users from the concentration of wells.

41 3. Any withdrawals for transportation to another initial active
42 management area for the purpose of demonstrating and providing an assured
43 water supply are made from a depth to one thousand two hundred feet at the
44 site or sites of the withdrawals, except that the wells may be drilled to
45 any depth.

1 J. The amount of groundwater that may be withdrawn and used
2 annually pursuant to subsection I of this section shall be determined
3 pursuant to subsection F of this section. The maximum amount of such
4 groundwater that may be included by the director in determining whether to
5 designate or redesignate the city or town as having an assured water
6 supply pursuant to section 45-576 equals one hundred times the total
7 amount that may be withdrawn annually from the land.

8 K. A city or town that is eligible for a type 1 non-irrigation
9 grandfathered right under subsection I of this section may:

10 1. Before retiring the land under subsection I of this section,
11 substitute for the acres of land described in subsection I of this section
12 the same number of acres owned by the city or town to which irrigation
13 grandfathered rights are appurtenant and located in the same subbasin as
14 the acres described in subsection I of this section.

15 2. At any time, elect to convert a type 1 non-irrigation
16 grandfathered right appurtenant to land in the same subbasin and acquired
17 by the city or town before January 1, 1989 under subsection A of this
18 section to a type 1 non-irrigation grandfathered right under subsection I
19 of this section.

20 L. In determining whether to designate or redesignate the city or
21 town as having an assured water supply pursuant to section 45-576, based
22 in whole or in part on groundwater transported from the active management
23 area under subsection I of this section, the director shall include the
24 amount of groundwater that may be included under subsection J of this
25 section and can be withdrawn from a depth to one thousand two hundred feet
26 at the site or sites of the proposed withdrawals at a rate that, when
27 added to the existing rate of withdrawals in the area, is not expected to
28 cause the groundwater table at the site or sites of the proposed
29 withdrawals to decline more than an average of ten feet per year during
30 the one hundred year evaluation period.

31 M. In any designation or redesignation of an assured water supply
32 pursuant to section 45-576, the projected use of the groundwater that is
33 demonstrated to be available for assured water supply purposes under
34 subsection L of this section is deemed to be consistent with achieving the
35 management goal for the active management area. In any such designation
36 or redesignation, the director shall determine whether the projected use
37 is consistent with the management plan for the active management area by
38 determining whether the projected use is consistent with the management
39 plan of the active management area in which the city or town to be
40 designated or redesignated is located.

41 N. Subsections A, B and H of this section do not apply to type 1
42 non-irrigation grandfathered rights acquired under subsection I of this
43 section.

1 0. The director may restore retired irrigation grandfathered rights
2 to land that was retired from irrigation under this section according to
3 the following conditions and procedures:

4 1. Title to the retired land has reverted involuntarily, or
5 voluntarily in lieu of foreclosure or forfeiture, from the person who
6 retired it from irrigation, or a successor in title, to a previous owner.

7 2. The current owner of the retired land must apply to the director
8 in writing stating:

9 (a) The history of the original retirement from irrigation under
10 this section.

11 (b) The circumstances regarding the reversion of title to the
12 current owner.

13 (c) Why restoring the irrigation grandfathered rights is necessary.

14 3. The director shall enter the application in the registry under
15 section 45-479 and review the application. An administrative hearing
16 shall be held in the active management area in which the use is located on
17 whether to restore the irrigation grandfathered rights to the land.

18 4. The director must find that restoring the irrigation
19 grandfathered rights:

20 (a) Will not adversely impact the management of the active
21 management area.

22 (b) Is necessary to prevent unreasonable hardship to the current
23 owner of the retired land.

24 5. If the director decides to restore the retired irrigation
25 grandfathered rights to the land:

26 (a) The retired irrigation land regains its original irrigation
27 grandfathered rights, with the debits and credits in its flexibility
28 account at the time of retirement.

29 (b) The type 1 non-irrigation grandfathered right under this
30 section is terminated.

31 (c) The development plan required by this section is terminated for
32 purposes of this section.

33 P. Beginning January 1 of the calendar year following the year in
34 which a groundwater replenishment district is required to submit its
35 preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1,
36 the director shall withhold approval of a development plan that is
37 submitted under this section by a person who seeks to obtain a
38 non-irrigation grandfathered right associated with retired irrigated land
39 located in the district unless at the time the plan is submitted:

40 1. The director has determined that the district's plan for
41 operation is consistent with achieving the management goal, according to
42 section 45-576.03, subsection E, and the designation has not expired.

43 2. The master replenishment account, as established in section
44 45-858.01, does not have a debit balance in an amount in excess of the
45 amount allowed under section 45-576.01, subsection A, paragraph 3.

1 Q. Section 45-114, subsections A and B govern administrative
2 proceedings, rehearing or review and judicial review of final decisions of
3 the director under this section.

4 Sec. 17. Section 45-472, Arizona Revised Statutes, is amended to
5 read:

6 45-472. Conveyance of irrigation grandfathered right; within
7 service area; outside service area; change to
8 non-irrigation grandfathered right; forfeiture of
9 right to convey to non-irrigation use; definition

10 A. The owner of an irrigation grandfathered right may convey the
11 right only with the land to which the right is appurtenant.

12 B. If the land to which an irrigation grandfathered right is
13 appurtenant is within the exterior boundaries of the service area of a
14 city, town or private water company:

15 1. The irrigation grandfathered right may be conveyed only for an
16 irrigation use, except for expanded animal industry use or as provided in
17 paragraphs 2 and 3 of this subsection. If an irrigation grandfathered
18 right is conveyed for an irrigation or expanded animal industry use, the
19 full amount of the right is conveyed. The amount of groundwater conveyed
20 pursuant to the right:

21 (a) For an irrigation use may be withdrawn from the land to which
22 the right is appurtenant or any other land and may be used only on the
23 land to which the right is appurtenant or on contiguous irrigation acres
24 under common ownership within the service area of the city, town or
25 private water company subject to the provisions of articles 8 and 8.1 of
26 this chapter relating to transportation of groundwater. For purposes of
27 this subdivision, irrigation acres ~~which~~ THAT are separated by a road,
28 highway, easement or right-of-way from the land to which the irrigation
29 grandfathered right is appurtenant are deemed to be contiguous.

30 (b) For an expanded animal industry use may be withdrawn by the new
31 owner of the right only from the land to which the right is appurtenant
32 and used on that land or on any other land, subject to the provisions of
33 articles 8 and 8.1 of this chapter relating to transportation of
34 groundwater. If the groundwater was delivered by an irrigation district
35 to the previous owner of the right, the irrigation district may continue
36 to deliver groundwater to the new owner pursuant to the right. If any
37 portion of the amount of groundwater conveyed is withdrawn by the new
38 owner and used on other land, no additional groundwater may be withdrawn
39 for use on the land to which the right is appurtenant.

40 2. The irrigation grandfathered right may be conveyed to an
41 industry engaged in the generation of electrical energy for the purpose of
42 electrical energy generation, except that, if the facility for the
43 generation of electrical energy is not subject to title 40, chapter 2,
44 article 6.2, the conveyance is subject to the approval of:

1 (a) The appropriate city or town, if the irrigation grandfathered
2 right to be conveyed is appurtenant to land within the exterior boundaries
3 of the service area of a city or town.

4 (b) The director, if the irrigation grandfathered right to be
5 conveyed is appurtenant to land within the corporate limits of a city or
6 town and within the exterior boundaries of the service area of a private
7 water company.

8 3. If an irrigation grandfathered right is conveyed for a
9 non-irrigation use pursuant to paragraph 2 of this subsection, the amount
10 of the right that is conveyed is the lesser of:

11 (a) The current maximum amount of groundwater ~~which~~ THAT may be
12 used pursuant to the right, as calculated pursuant to section 45-465,
13 subsection B.

14 (b) Three acre-feet per year multiplied by the number of water duty
15 acres in the farm in which the acre to which the right is appurtenant is
16 located divided by the number of irrigation acres in the farm.

17 4. The new owner of an irrigation grandfathered right conveyed
18 pursuant to paragraph 2 of this subsection may withdraw the amount of
19 groundwater conveyed pursuant to that right, as determined in paragraph 3
20 of this subsection, only from the land to which the right is appurtenant
21 and use the groundwater on that land, but may not use the groundwater on
22 other land, except that, if the groundwater was delivered by an irrigation
23 district to the previous owner of the right, the irrigation district may
24 continue to deliver groundwater to the new owner pursuant to the right for
25 use on the land to which the right is appurtenant.

26 5. All withdrawal or use of groundwater pursuant to this subsection
27 is subject to subsection H of this section.

28 C. If the land to which an irrigation grandfathered right is
29 appurtenant is included within the exterior boundaries of the service area
30 of a city, town or private water company subsequent to the date of the
31 designation of an active management area, the owner of the right may, with
32 the approval of the director and consistent with the provisions of this
33 chapter, convey the grandfathered right for a non-irrigation use, other
34 than an expanded animal industry use, on the land to which the right is
35 appurtenant, upon a showing that adequate water service is unavailable at
36 rates comparable to rates charged similar classes of water users within
37 such service area. The amount of the right conveyed is determined
38 pursuant to subsection B, paragraph 3 of this section. All withdrawal or
39 use of groundwater pursuant to this subsection is subject to subsection H
40 of this section.

41 D. If the land to which an irrigation grandfathered right is
42 appurtenant is outside of the exterior boundaries of the service area of a
43 city, town or private water company:

44 1. The irrigation grandfathered right may be conveyed for an
45 irrigation use or a non-irrigation use. If an irrigation grandfathered

1 right is conveyed for an irrigation or an expanded animal industry use,
2 the full amount of the right is conveyed. If an irrigation grandfathered
3 right is conveyed for a non-irrigation use, other than an expanded animal
4 industry use, the amount of the right that is conveyed is the lesser of:

5 (a) The current maximum amount of groundwater ~~which~~ THAT may be
6 used pursuant to the right as calculated pursuant to section 45-465,
7 subsection B.

8 (b) Three acre-feet per year multiplied by the number of water duty
9 acres in the farm in which the acre to which the right is appurtenant is
10 located and divided by the number of irrigation acres in the farm.

11 2. The amount of groundwater conveyed pursuant to the right for a
12 non-irrigation use, as determined in paragraph 1 of this subsection, may
13 be withdrawn by the new owner of the right only from the land to which the
14 right is appurtenant and used on that land or on any other land, subject
15 to section 45-473.01 and to the provisions of articles 8 and 8.1 of this
16 chapter relating to transportation of groundwater, except that, if the
17 groundwater was delivered by an irrigation district to the previous owner
18 of the right, the irrigation district may continue to deliver groundwater
19 to the new owner pursuant to the right. If any portion of the amount of
20 groundwater conveyed is withdrawn by the new owner and used on other land,
21 no additional groundwater may be withdrawn for use on the land to which
22 the right is appurtenant, except that, if the new owner is an industry, it
23 may withdraw a portion of the amount of groundwater conveyed for use on
24 other land and withdraw the remainder of the amount of groundwater
25 conveyed for municipal and industrial use on the land to which the right
26 is appurtenant for purposes directly related to the industry's industrial
27 operation.

28 3. The amount of groundwater conveyed pursuant to the right for an
29 irrigation use, as determined in paragraph 1 of this subsection, may be
30 withdrawn from the land to which the right is appurtenant or from any
31 other land and may be used only on the land to which the right is
32 appurtenant or on contiguous irrigation acres under common ownership,
33 subject to the provisions of articles 8 and 8.1 of this chapter relating
34 to transportation of groundwater. For purposes of this paragraph,
35 irrigation acres that are separated by a road, highway, easement or
36 right-of-way from the land to which the irrigation grandfathered right is
37 appurtenant are deemed to be contiguous.

38 4. All withdrawal or use of groundwater pursuant to this subsection
39 is subject to subsection H of this section.

40 E. If an irrigation grandfathered right is conveyed for a
41 non-irrigation use, the new owner's right to withdraw or receive
42 groundwater is a non-irrigation grandfathered right associated with
43 retired irrigated land, or a type 1 non-irrigation grandfathered right.
44 All subsequent conveyances of that right are governed by section 45-473.

1 F. The amount of a type 1 non-irrigation grandfathered right shall
2 be determined at the time it is established and shall remain fixed at that
3 amount.

4 G. An irrigation grandfathered right may not be conveyed for a
5 non-irrigation use if one of the following applies:

6 1. The irrigation grandfathered right has not been retired in
7 anticipation of a future non-irrigation use and has not been exercised for
8 five consecutive years.

9 2. The land to which the irrigation grandfathered right is
10 appurtenant was previously designated by the director as protected
11 farmland pursuant to section 45-483, subsection A. This paragraph shall
12 not apply to land that was designated by the director as protected
13 farmland if the director revoked the designation pursuant to section
14 45-483, subsection C, paragraph 1 and the director determined at that time
15 that the ~~agricultural or~~ conservation easement in the land was terminated
16 because a partial or full condemnation of the land made farming
17 impracticable.

18 H. A person who owns a type 1 non-irrigation grandfathered right
19 under this section shall not withdraw or use groundwater pursuant to the
20 portion of the type 1 non-irrigation grandfathered right that is
21 appurtenant to land ~~which~~ THAT the owner may irrigate with effluent
22 pursuant to section 45-452, subsection J.

23 I. For the purposes of this section, "land to which the right is
24 appurtenant" means the acre or group of contiguous acres conveyed with an
25 irrigation grandfathered right.

26 Sec. 18. Section 45-483, Arizona Revised Statutes, is amended to
27 read:

28 45-483. Designation of protected farmland; notice; revocation
29 of designation; irrigation water duty; assured
30 water supply credit for extinguishment of
31 irrigation grandfathered right prohibited

32 A. A person who owns land within an active management area that is
33 legally entitled to be irrigated with groundwater pursuant to an
34 irrigation grandfathered right may apply to the director for designation
35 of the land as protected farmland. On receipt of an application, the
36 director shall grant the application and designate the land identified in
37 the application as protected farmland if the director determines that the
38 land is subject to ~~an agricultural easement established pursuant to~~
39 ~~title 3, chapter 18, article 1, or~~ a conservation easement that prohibits
40 the development of the land for nonagricultural uses pursuant to the
41 federal farmland protection program established by Public Law
42 104-127, (110 Stat. 888).

43 B. A person who owns land that has been designated by the director
44 as protected farmland pursuant to subsection A of this section shall
45 notify the director in writing if the ~~agricultural or~~ conservation

1 easement in the land terminates. The notice shall be given within thirty
2 days after the termination of the easement and shall specify the reason
3 for the termination.

4 C. After the director designates land as protected farmland
5 pursuant to subsection A of this section, the director shall revoke the
6 designation if either of the following ~~apply~~ APPLIES:

7 1. The ~~agricultural or~~ conservation easement in the land has
8 terminated. If the director revokes a designation of protected farmland
9 under this paragraph, the director shall determine at that time whether
10 the ~~agricultural or~~ conservation easement terminated because a partial or
11 full condemnation of the land made farming impracticable. The director
12 shall give written notice of the revocation and of the director's
13 determination of whether the easement terminated because a partial or full
14 condemnation of the land made farming impracticable to the owner at the
15 owner's last address on file with the department.

16 2. The owner of the land has requested the director to revoke the
17 designation and the ~~agricultural or~~ conservation easement in the land has
18 not terminated.

19 D. Notwithstanding any other law, if the director designates land
20 as protected farmland pursuant to subsection A of this section, the
21 irrigation water duty for the land shall be the irrigation water duty in
22 effect for the land under the applicable management plan when the
23 application for designation was filed, including any subsequent
24 adjustments to that water duty as a result of an application for
25 administrative review filed with the director pursuant to section 45-575,
26 subsection A. If the director revokes the designation of protected
27 farmland pursuant to subsection C of this section, the irrigation water
28 duty for the land shall be the irrigation water duty established for the
29 land in the applicable management plan pursuant to section 45-566, 45-567
30 or 45-568.

31 E. Notwithstanding any other law or rule, the director shall not
32 establish or grant an assured water supply credit for the extinguishment
33 of an irrigation grandfathered right under the rules adopted by the
34 director pursuant to section 45-576, subsection H if the land to which the
35 irrigation grandfathered right is appurtenant was previously designated by
36 the director as protected farmland pursuant to subsection A of this
37 section. This subsection shall not apply to land that was designated by
38 the director as protected farmland if the director revoked the designation
39 pursuant to subsection C, paragraph 1 of this section and the director
40 determined at that time that the ~~agricultural or~~ conservation easement in
41 the land was terminated because a partial or full condemnation of the land
42 made farming impracticable.

43 F. Section 45-114, subsections A and B govern administrative
44 proceedings, rehearing or review and judicial review of final decisions of
45 the director under this section.

1 Sec. 19. Section 45-618, Arizona Revised Statutes, is amended to
2 read:

3 45-618. Arizona water quality fund

4 A. An Arizona water quality fund is established for agency
5 participation in activities related to title 49, chapter 2, article 5 and
6 coordination of data bases necessary for those activities. The director
7 shall administer the fund.

8 B. The Arizona water quality fund ~~consist~~ CONSISTS of monies from
9 legislative appropriations, grants, contributions and transfers from other
10 public agencies.

11 C. On notice from the director, the state treasurer shall invest
12 and divest monies in the fund as provided by section 35-313 and monies
13 earned from investment shall be credited to the fund.

14 D. Monies in the fund are exempt from lapsing under section 35-190.

15 E. Before December 31 of each year, the director shall submit to
16 the speaker of the house of representatives, ~~AND~~ AND the president of the
17 senate ~~and the advisory board established by section 49-289.04~~ a written
18 report describing the activities of the department for the preceding
19 fiscal year relating to expenditures from the fund. The report shall
20 include an accounting for expenditures from the fund and how the monies
21 were used to perform duties in cooperation with the department of
22 environmental quality pursuant to title 49, chapter 2, article 5. The
23 report shall address the department of water ~~resources~~ RESOURCES' sharing
24 and management of data with the department of environmental quality, well
25 inspection activities conducted pursuant to this fund, measures to
26 remediate wells pursuant to section 45-605, duties performed pursuant to
27 agreements with the department of environmental quality and the status of
28 other departmental participation in water quality assurance revolving fund
29 activities.

30 Sec. 20. Section 49-202.01, Arizona Revised Statutes, is amended to
31 read:

32 49-202.01. Surface water quality general grazing permit; best
33 management practices for grazing activities;
34 definition

35 A. As part of the duties established pursuant to section 49-203,
36 subsection A, paragraph 3, the director shall implement a surface water
37 quality general grazing permit consisting of voluntary best management
38 practices for grazing activities. ~~The implementation shall begin within~~
39 ~~one hundred eighty days after rule adoption by the agricultural best~~
40 ~~management practices advisory committee established pursuant to section~~
41 ~~49-248.~~

42 B. The terms and conditions of the surface water quality general
43 grazing permit shall be voluntary best management practices ~~which~~ THAT
44 have been determined by the committee to be the most practical and

1 effective means of reducing or preventing the nonpoint source discharge of
2 pollutants into navigable waters by grazing activities.

3 C. In adopting voluntary grazing best management practices, the
4 committee shall consider:

5 1. The availability and effectiveness of alternative technologies.

6 2. The economic and social impacts of alternative technologies on
7 grazing and associated industries.

8 3. The institutional considerations of alternative technologies.

9 4. The potential nature and severity of discharges from grazing
10 activities and their effect on navigable waters.

11 D. For THE purposes of this section, "grazing activities" means the
12 feeding of all classes of domestic ruminant and nonruminant animals ~~upon~~
13 ON grasses, forbs and shrubs in Arizona watersheds.

14 Sec. 21. Section 49-247, Arizona Revised Statutes, is amended to
15 read:

16 49-247. Agricultural general permits; best management
17 practices for regulated agricultural activities

18 A. The director shall adopt by rule, pursuant to the requirements
19 of this section, agricultural general permits consisting of best
20 management practices for regulated agricultural activities. Agricultural
21 general permits are not subject to section 49-245 or 49-246. Except as
22 provided in subsection G of this section, a person is not required to
23 obtain an individual permit for a regulated agricultural activity.

24 B. The terms and conditions of agricultural general permits adopted
25 pursuant to this section shall be agricultural best management practices
26 which have been determined by the director to be the most practical and
27 effective means of reducing or preventing the discharge of pollutants by
28 regulated agricultural activities. Agricultural best management practices
29 may vary within the state, according to regional and hydrogeologic
30 conditions. The director may waive the use of best management practices
31 in a designated region if the director determines that existing regulated
32 agricultural activities will not cause or contribute to a violation of the
33 adopted water quality standards.

34 C. The director shall adopt, by rule, agricultural best management
35 practices, ~~and in doing so shall consider any recommendation of the~~
36 ~~agricultural best management practices advisory committee established~~
37 ~~under section 49-248.~~

38 D. In adopting agricultural best management practices, the director
39 shall consider:

40 1. The availability, the effectiveness and the economic and
41 institutional considerations of alternative technologies.

42 2. The potential nature and severity of discharges from regulated
43 agricultural activities and their effect on public health and the
44 environment.

1 E. In adopting best management practices for regulated agricultural
2 activities, the director shall require the application of all economically
3 feasible best management practices which have been determined by the
4 director to be the most practical and effective means of reducing or
5 preventing the discharge of pollutants by regulated agricultural
6 activities but shall not require application of more stringent practices
7 if such a requirement would result in cessation of the regulated activity.

8 F. Compliance with best management practices adopted pursuant to
9 this section constitutes compliance with this article.

10 G. If the director, after providing a person with notice and an
11 opportunity for a hearing, determines that the person has violated the
12 applicable best management practices, the director may revoke the
13 agricultural general permit for that person and require that the person
14 obtain a permit pursuant to section 49-241.

15 H. The director may periodically reexamine, evaluate and propose
16 any modification to or waiver of agricultural best management practices
17 necessary to meet the requirements of this article ~~after considering any~~
18 ~~recommendation submitted by the advisory committee established under~~
19 ~~section 49-248.~~

20 Sec. 22. Repeal

21 Section 49-248, Arizona Revised Statutes, is repealed.

22 Sec. 23. Section 49-281, Arizona Revised Statutes, is amended to
23 read:

24 49-281. Definitions

25 In this article, unless the context otherwise requires:

26 1. "Applicant" means any individual, employee, officer, managing
27 body, trust, firm, joint stock company, consortium, public or private
28 corporation, including a government corporation, partnership or
29 association, this state, a political subdivision of this state, or a
30 commission of the United States government or a federal facility, an
31 interstate body or any other entity that applies for a settlement under
32 either section 49-292.01 or 49-292.02.

33 2. "Community" means the broad spectrum of persons determined by
34 the director to be within an existing or proposed site placed on the
35 registry pursuant to section 49-287.01.

36 3. "Community involvement area" means the geographical area that is
37 within a site placed on the registry pursuant to section 49-287.01 and
38 additional geographic areas as found appropriate in the director's
39 discretion.

40 4. "Dispose" means the deposit, injection, dumping, spilling,
41 leaking or placing of any pollutant into or on any land or water so that
42 the pollutant or any constituent of the pollutant may enter the
43 environment or be discharged into any waters, including aquifers.

44 5. "Eligible party" means a person who enters into a written
45 agreement with the director to implement and complete a remedial

1 investigation and feasibility study with respect to a site or portion of a
2 site that was on the annual priority list on May 1, 1997 or any other
3 person who incurs costs for a remedial action that is in substantial
4 compliance with section 49-282.06 as determined by the director.

5 6. "Facility" means any land, building, installation, structure,
6 equipment, device, conveyance, area, source, activity or practice.

7 7. "Fund" means the water quality assurance revolving fund
8 established by section 49-282.

9 8. "Hazardous substance" has the same meaning prescribed in section
10 49-201 but does not include petroleum as defined in section 49-1001,
11 except to the extent that a constituent of petroleum is subject to ~~the~~
12 ~~provisions of~~ section 49-283.02.

13 9. "Nonrecoverable costs" means any costs incurred by the director
14 after June 30, 1997:

15 (a) That consist of salaries and benefits paid to state employees,
16 including direct and indirect costs, except as specifically provided in
17 section 49-282.05, section 49-285, subsection B, section 49-285.01,
18 section 49-287.01, section 49-287.06, subsection H and section 49-287.07
19 and for epidemiological studies conducted by the department of health
20 services.

21 (b) For activities conducted pursuant to section 49-287.02.

22 (c) For water monitoring activities conducted pursuant to section
23 49-225.

24 (d) For well inspections, but not other remedial actions, to
25 determine whether vertical cross-contamination is resulting from a well
26 pursuant to section 45-605 or 49-282.04.

27 ~~(e) For the advisory board established by section 49-289.04.~~

28 ~~(f)~~ (e) For ~~rule making~~ RULEMAKING.

29 10. "Orphan shares" means the shares of the cost of a remedial
30 action that are allocated to an identified person who is determined to be
31 a responsible party and that are not paid or otherwise satisfied by that
32 responsible party due to any of the following:

33 (a) The party cannot be located or no longer exists.

34 (b) The party has entered into a qualified business settlement
35 pursuant to this article.

36 (c) The party has entered into a settlement pursuant to this
37 article for an amount that is less than its allocated share.

38 (d) The director has determined that the share allocated to the
39 party is uncollectible.

40 11. "Release" means any spilling, leaking, pumping, pouring,
41 emitting, emptying, discharging, injecting, escaping, leaching, dumping or
42 disposing into the environment but excludes:

43 (a) Any release ~~which~~ THAT results in exposure to persons solely
44 within a workplace, with respect to a claim ~~which~~ THAT such persons may
45 assert against the employer of such persons.

1 (b) Emissions from the engine exhaust of any motor vehicle, rolling
2 stock, aircraft, vessel or pipeline pumping station engine.

3 (c) Release of source, by-product or special nuclear material, as
4 those terms are defined in section 30-651, resulting from the operation of
5 a production or utilization facility as defined in the atomic energy act
6 of 1954 (68 Stat. 919; 42 United States Code sections 2011 through 2297),
7 which is subject to the regulatory authority of the United States nuclear
8 regulatory commission as specified in that act, and the agreement, dated
9 March 30, 1967, entered into between the governor of this state and the
10 United States atomic energy commission pursuant to section 30-656 and
11 section 274 of the atomic energy act of 1954, as amended.

12 (d) The normal application of fertilizer.

13 12. "Remedial actions" means those actions that are reasonable,
14 necessary, cost-effective and technically feasible in the event of the
15 release or threat of release of hazardous substances into the environment,
16 such actions as may be necessary to investigate, monitor, assess and
17 evaluate such release or threat of release, actions of remediation,
18 removal or disposal of hazardous substances or taking such other actions
19 as may be necessary to prevent, minimize or mitigate damage to the public
20 health or welfare or to the environment ~~which~~ THAT may otherwise result
21 from a release or threat of release of a hazardous substance. Remedial
22 actions include the use of biostimulation with indigenous microbes and
23 bioaugmentation using microbes that are nonpathogenic, that are
24 nonopportunistic and that are naturally occurring. Remedial actions may
25 include community information and participation costs and providing an
26 alternative drinking water supply.

27 13. "Remedy" means a remedial action selected in a record of
28 decision issued pursuant to section 49-287.04.

29 14. "Site" means the geographical areal extent of contamination.

30 15. "Vertical cross-contamination" means the vertical migration of
31 released hazardous substances in groundwater through a well from an
32 aquifer or aquifer layer to another aquifer or aquifer layer.

33 Sec. 24. Section 49-282, Arizona Revised Statutes, is amended to
34 read:

35 49-282. Water quality assurance revolving fund

36 A. A water quality assurance revolving fund is established to be
37 administered by the director. The fund consists of monies from the
38 following sources:

39 1. Monies appropriated by the legislature.

40 2. Fertilizer license fees allocated under section 3-272,
41 subsection B, paragraph 2.

42 3. Pesticide registration fees allocated under section 3-351,
43 subsection D, paragraph 2.

44 4. The tax on water use pursuant to section 42-5302.

45 5. Water quality assurance fees collected under section 45-616.

1 6. Industrial discharge registration fees collected under section
2 49-209.

3 7. Manifest resubmittal fees collected under section 49-922.01.

4 8. Hazardous waste facility registration fees collected under
5 section 49-929.

6 9. Hazardous waste resource recovery facility registration fees
7 collected under section 49-930.

8 10. Monies recovered from responsible parties as remedial action
9 costs.

10 11. Monies received as costs for a review of remedial actions at
11 the request of a person other than the state.

12 12. Monies received from the collection of corporate income taxes
13 under title 43, chapter 11, article 2 as prescribed by subsection B of
14 this section.

15 13. Prospective purchaser agreement fees collected under section
16 49-285.01.

17 B. The water quality assurance revolving fund shall be assured of
18 an annual funding amount of eighteen million dollars. ~~Beginning July 1,~~
19 ~~1999, as soon as practicable~~ At the beginning of each fiscal year, the
20 state treasurer shall transfer the sum of fifteen million dollars to the
21 water quality assurance revolving fund from the corporate income tax as
22 collected pursuant to title 43, chapter 11, article 2. As custodian of
23 the fund, the director shall certify to the governor, the state treasurer,
24 the president of the senate and the speaker of the house of
25 representatives at the end of that fiscal year the amount of monies
26 deposited in the water quality assurance revolving fund pursuant to
27 subsection A, paragraphs 1 through 9 of this section. At the end of the
28 fiscal year the state treasurer shall adjust the fifteen million dollar
29 transfer of corporate income tax so that, when combined with monies
30 deposited in the fund during that fiscal year pursuant to subsection A,
31 paragraphs 1 through 9 of this section, the fund receives eighteen million
32 dollars each fiscal year. This adjustment shall occur as part of the
33 year-end book closing process for that fiscal year. If sufficient monies
34 from the corporate income tax are not available to make any necessary
35 upward adjustments as part of the year-end book closing, the state
36 treasurer shall transfer the monies necessary to achieve the eighteen
37 million dollar funding level from the transaction privilege and severance
38 tax clearing account pursuant to section 42-5029, subsection D,
39 paragraph 4, to the water quality assurance revolving fund. Any transfers
40 prescribed by this subsection shall not be deducted from the net proceeds
41 distributed pursuant to section 43-206.

42 C. At the beginning of each fiscal year, the director of
43 environmental quality shall contract with the department of water
44 resources for the transfer of up to eight hundred thousand dollars from
45 the water quality assurance revolving fund to the Arizona water quality

1 fund established by section 45-618 for support services for the water
2 quality assurance revolving fund program. The support services provided
3 for the water quality assurance revolving fund program shall be determined
4 by the director of water resources in consultation with the director of
5 environmental quality.

6 D. Monies in the fund are exempt from lapsing under section 35-190.
7 Interest earned on monies in the fund shall be credited to the fund.

8 E. Monies from the water quality assurance revolving fund shall be
9 used for the following purposes:

10 1. To provide state matching monies or to meet such other
11 obligations as are prescribed by section 104 of CERCLA.

12 2. For all reasonable and necessary costs to implement this
13 article, including:

14 (a) Taking remedial actions.

15 (b) Conducting investigations of an area to determine if a release
16 or a threatened release of a hazardous substance exists.

17 (c) Conducting remedial investigations, feasibility studies, health
18 effect studies and risk assessments.

19 (d) Identifying and investigating potentially responsible parties
20 and allocating liability among the responsible parties.

21 (e) Funding orphan shares.

22 (f) Participating in the allocation process, administrative appeals
23 and court actions.

24 (g) Funding the community advisory boards and other community
25 involvement activities ~~and the water quality assurance revolving fund~~
26 ~~advisory board.~~

27 (h) Remediating pollutants if necessary to remediate a hazardous
28 substance.

29 3. For the reasonable and necessary costs of monitoring, assessing,
30 identifying, locating and evaluating the degradation, destruction, loss of
31 or threat to the waters of the state resulting from a release of a
32 hazardous substance to the environment.

33 4. For the reasonable and necessary costs of administering the
34 fund.

35 5. For the reasonable and necessary costs of administering the
36 industrial discharge registration program under section 49-209.

37 6. For the costs of the water quality monitoring program described
38 in section 49-225.

39 7. For compliance monitoring, investigation and enforcement
40 activities pertaining to generating, transporting, treating, storing and
41 disposing of hazardous waste. The amount to be used pursuant to chapter 5
42 of this title is limited to the amount received in the prior fiscal year
43 from the hazardous waste facility registration fee.

44 8. For emergency response use as prescribed in section 49-282.02.

1 9. For all reasonable and necessary costs of the preparation and
2 execution of prospective purchaser agreements.

3 10. For all reasonable and necessary costs of the voluntary
4 remediation program.

5 11. To reimburse a political subdivision of this state for its
6 reasonable, necessary and cost-effective remedial action costs incurred in
7 response to a release or threat of a release of a hazardous substance or
8 pollutants that presents an immediate and substantial endangerment to the
9 public health or the environment. The political subdivision is not
10 eligible for reimbursement until it has taken all reasonable efforts to
11 obtain reimbursement from the responsible party and the federal
12 government. No more than two hundred fifty thousand dollars may be spent
13 from the fund for this purpose in any fiscal year.

14 12. For all reasonable and necessary costs incurred by the
15 department pursuant to section 49-282.04 and the department of water
16 resources pursuant to section 45-605 for well inspections, remedial
17 actions and review and approval of well construction necessary to prevent
18 vertical cross-contamination. The director of environmental quality and
19 the director of water resources shall enter into an agreement for the
20 transfer of these costs.

21 13. For actions that are taken pursuant to section 49-282.03 before
22 the selection of a remedy.

23 14. For the reasonable and necessary costs of the conveyance, use
24 or discharge of water remediated as part of a remedy under this article.

25 15. For the reasonable and necessary costs incurred by the
26 department of health services at the request of the director of
27 environmental quality to assess and evaluate the effect of a release or
28 threatened release of hazardous substances to the public health or welfare
29 and the environment. The director of environmental quality and the
30 director of the department of health services shall enter into an
31 agreement for the transfer of these costs. The assessment and evaluation
32 by the department of health services may include:

33 (a) Performing health effect studies and risk assessments.

34 (b) Evaluating and calculating cleanup standards.

35 (c) Assisting in communicating health and risk issues to the
36 public.

37 16. For the reasonable and necessary costs incurred by the
38 department of law to provide legal services at the request of the director
39 of environmental quality.

40 17. For the reasonable and necessary costs of contracting for the
41 goods and services to enable the director to implement this article.

42 18. For remediation demonstration projects that use bioremediation
43 or other alternative technologies. The department may not use more than
44 five hundred thousand dollars in a fiscal year pursuant to this paragraph.

1 F. Any political subdivision of this state ~~which~~ THAT uses, used or
2 may use waters of the state for drinking water purposes or any state
3 agency, regardless of whether the political subdivision or state agency is
4 a responsible party, may apply to the director for monies from the fund to
5 be used for remedial action. An application to the fund for remedial
6 action costs shall not be treated as an admission that a political
7 subdivision or an agency of the state is a responsible party, but a
8 political subdivision or a state agency that is a responsible party is
9 liable for remedial action costs in the same manner, including
10 reimbursement of the fund, as any other responsible party. The political
11 subdivision shall commit a local matching amount at least equal to the
12 amount sought from the fund.

13 G. The director of environmental quality shall prepare and submit a
14 budget for the water quality assurance revolving fund program and the
15 director of water resources shall prepare and submit a budget for the
16 Arizona water quality fund with the departments' budgets that are required
17 pursuant to section 35-111. The committees on appropriations of the house
18 of representatives and the senate shall review the water quality assurance
19 revolving fund budget and the Arizona water quality fund budget to ensure
20 that the departments' expenditures are made in accordance with the
21 legislature's intent and that the departments are making adequate progress
22 toward accomplishing that intent.

23 Sec. 25. Repeal

24 Sections 49-289.04 and 49-289.05, Arizona Revised Statutes, are
25 repealed.