

THE
ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL
1998

ARIZONA LEGISLATIVE COUNCIL

MICHAEL E. BRAUN
DIRECTOR

**THE
ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL
1998**

**THE ARIZONA LEGISLATIVE COUNCIL
STATE CAPITOL BUILDING**

**THIS MANUAL WAS PREPARED UNDER THE AUTHORITY OF:
THE ARIZONA LEGISLATIVE COUNCIL**

**MICHAEL E. BRAUN
DIRECTOR
ARIZONA LEGISLATIVE COUNCIL**

**COMPILED BY:
J. CAVENEE SMITH
COUNCIL ATTORNEY**

**A LIMITED NUMBER OF COPIES OF THIS MANUAL IS AVAILABLE FOR PURCHASE AT \$3.00 FROM THE
ARIZONA LEGISLATIVE COUNCIL - SUITE 100, LEGISLATIVE SERVICES WING, STATE CAPITOL -
PHOENIX, ARIZONA
85007**

**THE
ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL
1998**

GENERAL TABLE OF CONTENTS

	Page
SCOPE AND USE OF MANUAL	1
THE DRAFTING PROCESS	2
A BILL AND ITS PARTS	5
MEASURES OTHER THAN BILLS	18
COMMON BILL PROVISIONS	24
GENERAL INSTRUCTIONS AS TO FORM AND STYLE	63
AMENDMENTS	86
APPENDIX A - SAMPLES	93
APPENDIX B - RULES AND DEADLINES	133
APPENDIX C - BILL DRAFT CHECKLIST	135
APPENDIX D - BIBLIOGRAPHY	136
INDEX	137

**SCOPE AND USE OF
THE ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL**

The Arizona Legislative Bill Drafting Manual is the manual of form and style to be used in the preparation of bills and other legislative proposals. It is based on generally accepted drafting principles and conventions. However, the samples used in this manual should not be copied without careful consideration of their appropriateness for a particular legislative proposal.

ACTS

No. I
To Locate the Capital of the Territory of Arizona Permanently
at the City of Phoenix, in the County of Maricopa.

AN ACT

*Be it enacted by Legislative Assembly of the Territory of
of Arizona:*

SECTION I. That on and after the fourth day of Februarv, in the year of our Lord, Eighteen Hundred and Eighty-Nine, the permanent seat of Government and Capital of this Territory shall be, and the same is, hereby located and established at the City of Phoenix, in the County of Maricopa.

SEC. 2. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

SEC. 3. This Act shall take effect and be in force fom and after its passage..

Approved January 26, i889.

CHAPTER 1
THE DRAFTING PROCESS

- 1.1 Bill Requests
- 1.2 Drafting Requirements
- 1.3 Confidential Nature of Records
- 1.4 Bill Request and Bill Introduction Deadlines

CHAPTER 1

THE DRAFTING PROCESS

1.1 BILL REQUESTS

Proposed legislation is drafted by legislative council. All proposed legislation must first be submitted to the Arizona legislative council staff as a bill request. The legislative council is not allowed to create a file or draft legislation without the specific authorization of a legislator in the form of a bill request. However, a legislator is not obligated to introduce the legislation and may cancel the request or find another sponsor.

A legislator-elect who is not currently serving in the legislature may submit a bill request after that person's election is certified by the secretary of state. Others, including private citizens, must obtain authorization from a legislator to use the legislator's name before giving instructions to the legislative council. If another person makes a request on behalf of a sponsoring legislator, written authorization is necessary only if the sponsor has previously indicated this requirement to the legislative council.

The legislative council staff is available on a year-round basis to assist legislators, legislative staff and state agencies in the preparation of proposed legislation.

1.2 DRAFTING REQUIREMENTS

The bill drafting process begins with the drafter obtaining the facts, policy and objectives for a legislative proposal from either the legislator who is sponsoring the bill or from the legislator's authorized agent. The drafter then converts the sponsor's request into proper form, style and legal terminology and fits the proposal into the framework of existing statutory law. The drafter reviews pertinent provisions of the Arizona Constitution, the United States Constitution, court decisions, existing statutes, the Arizona Revised Statutes *Internal Reference Manual*, the *Annual Report on Defects in the Arizona Revised Statutes and State Constitution*, Sutherland, *Statutes and Statutory Construction* and other relevant sources and advises the legislator of and makes adjustments for any known problems or conflicts.

The legislative council staff delivers a bill in draft form to the sponsor for review. The final review and decision-making process as to the contents of a bill rest with the legislator. The legislative council prepares the bill for introduction only when it is specifically requested to do so by the sponsor or the sponsor's authorized agent. The final introduction set, according to current procedure, contains a signature sheet required by House and Senate rules and the prescribed number of copies of the bill, memorial or resolution. Note: The drafter may make further revisions only when the sponsor returns this introduction set to the legislative council.

1.3 CONFIDENTIAL NATURE OF RECORDS

Rule 20 of the rules of the Arizona legislative council requires that records and files of the council office be maintained on a confidential basis. Employees of the council may not discuss or disclose the existence or substance of a request of any person on file in the office with anyone other than the council staff, the person making the request or the sponsor's authorized agent unless the request for a bill or research stipulates that the request and results need not be held confidential and may be disclosed to others.

1.4 BILL REQUEST AND BILL INTRODUCTION DEADLINES

Current limitations regarding bill requests and bill introduction are found in Appendix B.

CHAPTER 2
A BILL AND ITS PARTS

- 2.1 Appropriate Use of a Bill
- 2.2 Statutory Law and Session Law
- 2.3 Sample Bill
- 2.4 Reference Title
- 2.5 Introducing Body and Legislative Session Designation
- 2.6 Bill Number and Sponsor
- 2.7 Bill Title
- 2.8 Enacting Clause
- 2.9 Bill Section Numbering and Section Headings
- 2.10 The Body of the Bill
- 2.11 Germaneness

CHAPTER 2

A BILL AND ITS PARTS

2.1 APPROPRIATE USE OF A BILL

A bill is the appropriate vehicle for proposing a change in statutory law and session law and is the most numerous of legislative measures. Its proper use encompasses every conceivable subject and is limited only by state and federal constitutional standards. Typical bills are those that:

- C Establish governmental agencies and programs.
- C Prescribe the powers and duties of state agencies and of individual officers and employees.
- C Define crimes and classify punishments for actions that are prohibited as public offenses.
- C Appropriate monies for capital outlay and operating expenditures.
- C Determine licensing and regulatory standards for professions and occupations.
- C Prescribe qualifications, the term of office and the compensation of public officers.
- C Provide for the imposition, collection and distribution of tax monies.

2.2 STATUTORY LAW AND SESSION LAW

All enactments of a legislative session are termed “session law” and are published periodically during the session and compiled in a bound session law volume after the session adjourns. An enactment may amend or repeal codified law, enact new codified law, enact laws of an explanatory or temporary nature or include a combination of these actions.

Statutory law is a law that is of an indefinite duration or application. For this reason it is sometimes referred to as “permanent” law. Statutory law is codified in the Arizona Revised Statutes in an appropriate title, chapter and article.

Enacted provisions that have only a temporary application are not codified in Arizona Revised Statutes. Temporary laws could be used, for example, to establish a study committee or provide a temporary exemption from or suspension of statutory law. In the West Publishing Company edition of the Arizona Revised Statutes, temporary laws are usually published in small type at the beginning of the article that relates to its subject for the purpose of making a historical record of provisions relating to the statutory law.

Note:

C The terms “temporary law” and “session law” are sometimes used interchangeably. However, as explained above, session law is actually a comprehensive compilation of all enactments, both permanent and temporary.

C Although a law may appear to be temporary by nature, there is no automatic termination or repeal unless the termination or repeal is enacted by the legislature. Likewise, the fact that a law is not codified in Arizona Revised Statutes does not mean that it has no continuing effect. The termination of a law must be stated by the law’s terms or by a separate repeal. Otherwise the law is subject to any continuing application that can be derived from its terms.

C The fact that a law is temporary in nature and not codified in Arizona Revised Statutes does not mean that it is subordinate to statutory law. Any law that is enacted by the legislature has the same status as any other enacted law and may be enforced and applied according to its terms regardless of whether it has permanent or temporary effect.

C While temporary law may contain a cross-reference to statutory law, a statutory section may never refer to temporary law.

2.3 SAMPLE BILL

The following sample uses a nonexistent statutory section to illustrate the bill format used by the legislative council to draft legislation:

(2.4) REFERENCE TITLE: charitable solicitations; limitation; enforcement; appropriation

(2.5) State of Arizona
(Introducing House)
Forty-second Legislature
First Regular Session
1995

_. B. ____

(2.6) Introduced by _____

AN ACT

(2.7) AMENDING SECTION 50-123, ARIZONA REVISED STATUTES; AMENDING TITLE 50, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 50-124; REPEALING SECTION 50-129, ARIZONA REVISED STATUTES; REPEALING LAWS 1953, CHAPTER 10, SECTION 3; MAKING AN APPROPRIATION; RELATING TO CHARITABLE SOLICITATIONS.

(2.8) Be it enacted by the Legislature of the State of Arizona:

(2.9) Section 1. Section 50-123, Arizona Revised Statutes, is amended to read:

(2.10) 50-123. Charitable solicitations by telephone; limitation
A charity shall not use the telephone to solicit donations on ~~Sunday~~ THE WEEKEND and between ~~10:00~~ 6:00 p. m. and 9:00 a. m.

Sec. 2. Title 50, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 50-124, to read:

50-124. Hearing officers
THE DIRECTOR SHALL USE HEARING OFFICERS TO ENFORCE THIS ARTICLE.

Sec. 3. Repeal
Section 50-129, Arizona Revised Statutes, is repealed.

Sec. 4. Repeal
Laws 1953, chapter 10, section 3 is repealed.

Sec. 5. Appropriation; purpose
The sum of \$45,653 is appropriated from the state general fund to the department of charitable solicitations in fiscal year 19__ - 19__ to hire hearing officers as required by this act.

2.4 REFERENCE TITLE

In the upper right-hand corner of each bill, resolution and memorial is the reference title, commonly referred to as the short title. It is used to give a brief idea of the nature of the bill and to aid in indexing, but it is not part of the substantive law of the bill. The reference title is limited to five or fewer words. Words and phrases used in the reference title are separated by a semicolon. Only proper nouns are capitalized. Do not begin a reference title with a number.

Note: Only use identical reference titles if identical bills are drafted and add a period to the end of one of the reference titles to distinguish that bill from the other.

C Pursuant to council rule 22, the legislative council has determined that the reference title must be an accurate and inclusive description of the contents of the measure and shall not reflect political, promotional or advocacy considerations. Legislative council staff shall make the final determination of the contents of the reference title of each measure that is introduced. (Adopted 11/7/96.)

2.5 INTRODUCING BODY AND LEGISLATIVE SESSION DESIGNATION

The words in the upper left portion designate the legislative body, session of the legislature and year in which the bill is presented. This information is automatically formatted by bill drafting computer formatting.

2.6 BILL NUMBER AND SPONSOR

The letters "S.B. ____" or "H.B. ____" and the phrase "Introduced by _____" indicate the legislative body in which the bill will be introduced and the name or names of the sponsor or cosponsors. On introduction, the blanks are filled in by House or Senate staff who assign a number to the bill and enter the name or names of the sponsor or cosponsors.

Note: Bills that are requested by a state agency for introduction in the House of Representatives must include language similar to the following above the "Introduced by" line: "Agency Sponsor: State board of pharmacy (Prefiling Required)".

2.7 BILL TITLE

Constitutional Requirements

A title is a constitutional requirement of every bill and has a significant legal effect. The Arizona supreme court has ruled that a title need not be a complete description or index of the substantive law in the bill, but it must not be deceptive or misleading. While the title need not be a synopsis of the bill's contents, it must state the subject of the legislation with sufficient clarity to enable persons reading the title to know what to expect in the body of the

act. See White v. Kaibab Road Improvement District, 113 Ariz. 209, 550 P.2d 80 (1976); Hoyle v. Superior Court, 161 Ariz. 224, 778 P.2d 259 (1989).

The courts will not invalidate a bill merely because a better title might have been devised if the title fairly states the subject of the legislation to give notice. See In re Lewkowitz, 70 Ariz. 325, 220 P.2d 229 (1950).

Order of Title

The bill title is completely capitalized and begins with the phrase "AN ACT". This is followed immediately by:

CA listing of all changes to the A.R.S. (i.e., amendments, repeals and additions to statutory sections). The order of the list usually follows the order that these amendments, repeals and additions appear in the bill itself, but the drafter may group statutory changes according to treatment (i.e., all amended sections would be listed in the bill title together as would all repealed sections and all added sections). Note: Delayed repeals of statutory sections are included in the listing of statutory changes.

C A listing of amendments to or repeals of previously enacted temporary laws. This includes delayed repeals of previously enacted temporary laws. Note: New temporary law is not listed in the bill title unless the temporary law is the only provision in the bill.

C "BLENDING MULTIPLE ENACTMENTS", if applicable. This phrase is only used if the bill combines a statute having multiple versions and makes no substantive changes to the previously enacted language.

C "MAKING AN APPROPRIATION" if the bill contains an appropriation. Note: If a bill has as its sole purpose the appropriation of monies, it should state that the bill is making an appropriation, name the agency receiving the appropriation and briefly state the purpose of the appropriation. For example, "MAKING AN APPROPRIATION TO THE DEPARTMENT OF LAW FOR THE PRESERVATION OF RECORDS."

C "RELATING TO ...". This should be a single phrase containing a general statement of the single subject of the bill (art. IV, part 2, § 13, Constitution of Arizona). Since this is a statement of a subject, do not use a verb. (Use "RELATING TO SCHOOL BOARD ELECTIONS" rather than "RELATING TO ELECTION OF SCHOOL BOARDS".) There is no limit to the length of the "relating to" clause except that it should be a single, briefly comprehensive statement. As a last resort, the article heading where the statutory changes are located may suggest an appropriate "relating to" clause. If the bill contains only temporary law, the clause may begin with "RELATING TO", "PROVIDING FOR", "ESTABLISHING" or any other appropriate phrase.

C "PROVIDING FOR CONDITIONAL ENACTMENT" if the bill contains any conditional enactments. A discussion of conditional enactments is found in § 4.5.

ö ö ö

Each phrase in the bill title is separated by a semicolon. The bill title ends with a period.

Title Format

If a bill amends, repeals or adds statutory text, the title must contain the following appropriate phrases:

C AMENDING SECTION(S) _____, ARIZONA REVISED STATUTES

C AMENDING TITLE ____, ARIZONA REVISED STATUTES, BY ADDING CHAPTER _____

C AMENDING TITLE ____, CHAPTER ____, ARIZONA REVISED STATUTES, BY ADDING ARTICLE _____

C AMENDING TITLE ____, CHAPTER ____, ARTICLE ____, ARIZONA REVISED STATUTES, BY ADDING SECTION _____

C REPEALING SECTION(S) _____, ARIZONA REVISED STATUTES

C PROVIDING FOR THE DELAYED REPEAL OF SECTION _____, ARIZONA REVISED STATUTES

C REPEALING TITLE ____, CHAPTER ____, ARIZONA REVISED STATUTES

C REPEALING TITLE ____, CHAPTER ____, ARTICLE ____, ARIZONA REVISED STATUTES

If a bill amends or repeals previously enacted temporary law the title must contain the following appropriate phrases, using the session law citation:

C AMENDING LAWS ____, CHAPTER ____, SECTION ____

C REPEALING LAWS ____, CHAPTER ____, SECTION ____

If a specific version of a statute is repealed cite that version as follows:

C AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1996, CHAPTER 386, SECTION 4

Note: Refer to a special session as, for example, "LAWS 1996, NINTH SPECIAL SESSION, CHAPTER 5, SECTION 17".

2.8 ENACTING CLAUSE

The enacting clause is placed immediately after the title, and the text is prescribed by the state constitution. Since it is the formal expression of legislative enactment a bill without an enacting clause is invalid.

Article IV, part 2, § 24, Constitution of Arizona, provides:

*The enacting clause of every bill enacted by the Legislature shall be as follows:
"Be it enacted by the Legislature of the State of Arizona," or when the Initiative is used:
"Be it enacted by the People of the State of Arizona".*

2.9 BILL SECTION NUMBERING AND SECTION HEADINGS

All bills are divided into sections even if there is only one section. The first bill section is numbered as "Section 1." Subsequent bill sections are numbered with the abbreviation "Sec. ___."

2.10 THE BODY OF THE BILL

The body of a bill contains the substance of the enactment. It is where statutory law and temporary law are amended, added or repealed.

Order

The body of the bill may contain any of the following in this order:

C Changes to the A.R.S. in an order that corresponds to the numerical sequence of the statutes. Note: The drafter may also group a numerically related series of repeals to statutory law in one bill section.

C Treatment of temporary law.

C An intent clause, if necessary. (See § 4.17.)

C A short title. (See § 4.30.)

C An appropriation. (See § 4.2.)

C A section or sections relating to the effective date of the bill or specific sections of the bill. (See § 4.11.)

C A conditional enactment. (See § 4.5.)

C An emergency clause (see § 4.11) or a requirements for enactment section. (See § 4.15.)

Section headings

Sections of statutory law have section headings that consist of a statutory section number and a descriptive section heading that is underscored. Except in the Uniform Commercial Code (title 47) section headings of the A.R.S. do not constitute part of the law and may be changed without showing the added material in upper case or the deleted material as stricken material. (See A.R.S. § 1-212.) However, it has been held that where an ambiguity exists the section heading may be used to aid in the interpretation of the statute. State v. Barnett, 142 Ariz. 592, 691 P.2d 683 (1984). It is important that the drafter revise the section heading to reflect any changes in statutory text.

Sections of temporary law have section headings that consist of the bill section number and descriptive section heading that is underscored.

Amending statutory or temporary law

When amending an existing statutory or temporary law, the drafter must follow the constitutional provision relating to legislation. Article IV, part 2, § 14, Constitution of Arizona, provides:

No act or section thereof shall be revised or amended by mere reference to the title of such act, but the act or section as amended shall be set forth and published at full length.

This requires that a bill contain the entire section of law if any change is made to that law even if the change appears in only one subsection or paragraph.

Note: It is essential that the correct version of a statute be amended. When preparing a bill the drafter must check the pocket parts of the A.R.S. and the *List of Sections Affected* to see that the latest version of the statute is used. Checking the *List of Sections Affected* is particularly important during a legislative session to see if the section has been amended in an act with an emergency clause or a requirements for enactment clause. Because such an act is effective on the signature of the governor, the drafter must use the version of the section as amended in the emergency act in any later legislation.

Legislative Council rule 24 requires that when amending existing text new language appears in UPPER CASE. Stricken language appears in ~~lower case with a line through it~~. If new language is replacing stricken language, it appears after the stricken language. (See Appendix B.)

The following illustrates how amendments to statutory law are introduced into the body of a bill:

Section 1. Section 32-1908, Arizona Revised Statutes, is amended to read:
32-1908. Scope of chapter
A. The provisions of this chapter regarding the sale . . .

C The following illustrates how amendments to temporary law are introduced into the body of a bill:

Sec. 2. Laws 1994, chapter 213, section 3 is amended to read:
Sec. 3. Study committee; membership; duties
A. A study committee is . . .

Adding new statutory law or temporary law sections

If a bill adds a new statutory section the text of the entire section is shown in UPPER CASE. The section heading appears in lower case. If a bill adds a new temporary law section the text of the entire section is shown in lower case.

C The following illustrates how a new statutory section is introduced into the body of a bill:

Sec. 4. Title 32, chapter 14, article 2, Arizona Revised Statutes, is amended by adding section 32-1430, to read:
32-1430. Scope of practice
A. A PHYSICIAN WHO PRACTICES MEDICINE IN THIS STATE SHALL . . .

C New statutory sections that are part of a new statutory article are introduced as follows:

Sec. 9. Title 32, chapter 4, Arizona Revised Statutes, is amended by adding article 5, to read:
ARTICLE 5. FEES
32-3601. Definitions
IN THIS ARTICLE . . .

Ö Ö Ö

C New statutory sections that are part of a new statutory chapter are introduced as follows:

Sec. 4. Title 32, Arizona Revised Statutes, is amended by adding chapter 35, to read:

CHAPTER 35

HOME HEALTH CARE WORKERS

ARTICLE 1. GENERAL PROVISIONS

32- 3601. Definitions

IN THIS CHAPTER. . .

C New temporary law is introduced as follows:

Sec. 14. Committee on care; membership; duties

A. The committee on care. . .

Repeals

The language of repealed statutory law or temporary law is not set out in the body of the bill. If all of the sections in an article are repealed and are not replaced by new sections the article itself should be repealed instead of the individual sections.

The repeal of a statute does not revive any predecessor statute. The repeal also does not affect any right accrued at the time of the repeal. (See § 1-252, A.R.S.)

Note: With regard to the repeal of existing statutes, be aware of § 1-249, A.R.S., that provides:

No action or proceeding commenced before a repealing act takes effect, and no right accrued is affected by the repealing act, but proceedings therein shall conform to the new act so far as applicable.

Internal references

When amending or repealing statutory law, the drafter must determine whether these changes are inconsistent with existing law. This is necessary since a later valid act supersedes all previous acts that conflict with it regardless of whether there has been an express repeal. If the proposed measure would result in a substantive or technical conflict with statutory law, the drafter must amend or repeal existing law. The drafter can find a statute's cross-references in the *Internal Reference Manual*, which is updated each year by the Arizona legislative council.

Technical changes

When the drafter is making a substantive change to a law the drafter may also make a nonsubstantive (technical) change to that law. The drafter can find a list of the most significant technical problems in existing statutory law in Recommended Statute Improvements, which is a part of the *Annual Report on Defects in the Arizona Revised Statutes and State Constitution* and which is updated each year by the Arizona legislative council. The drafter is also free to make less significant technical changes that are not listed in that document.

Note:

C Optional technical changes should not overshadow the substantive change in a section unless the drafter includes a memo with the bill draft to explain where the technical changes are found. Otherwise, a simple substantive change may be lost among many technical changes.

C The drafter must amend a statute to make technical changes if they are necessary to conform the statute to changes made in another section of the same bill.

2.11 GERMANENESS

Article IV, part 2, § 13, Constitution of Arizona, requires that the subjects in any one bill be "germane" to a single subject and prescribes general requirements concerning the title of a bill in these words:

Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.

This provision is generally liberally construed, but it is important to check that the bill does not comprise more than a single subject and any related matters. Generally courts have found that if there is any reasonable basis for grouping the various matters and if a deception would not be perpetrated by the combination an act will be sustained.

The drafter must be aware that liberal interpretation can be taken too far. In State v. Sutton, 115 Ariz. 417, 565 P.2d 1278 (1977), the court said that such provisions "*will not be interpreted so foolishly liberally as to render the constitutional provision nugatory.*" A bill title that states, for example, "RELATING TO _____ AND _____" is an indication that the bill may not be germane.

ö ö ö

The peculiar facts of each case will be the basis for any court determination. In In re Miller, 29 Ariz. 582, 244 P. 376 (1926), the court stated:

The term "subject"... is to be given a broad and extended meaning, so as to allow the Legislature full scope to include in one act all matters having a logical or natural connection.... To constitute duplicity of subject, an act must embrace two or more dissimilar and discordant subjects, that by no fair intendment can be considered as having a legitimate connection with or relation to each other.

The same case supplies reasons for the one subject limitation:

Its adoption was brought about by the legislative practice of including in the same bill wholly unrelated provisions, of enacting laws under false and misleading titles, and of incorporating in meritorious bills provisions not deserving of general favor and which, standing alone, could not command necessary support to pass them.

In each house of the legislature the committee on rules is charged with considering the constitutionality and proper form of bills and the reasonable germaneness of amendments. The senate and the house of representatives have adopted a rule regarding the germaneness of amendments in addition to the constitutional requirements. This rule states in part:

A bill including any amendments shall be presumed to contain one subject if:

- 1. The resulting bill has one general purpose and all other matters contained therein are related to that purpose or necessary to effectuate the purpose.*
- 2. The resulting bill is a major revision of a program or agency and each of the provisions relates to the revision.*
- 3. The bill offers only technical or conforming changes to the statutes.*
- 4. The bill is an omnibus taxation or appropriation measure and each provision relates to the same general purpose of the bill.*
- 5. The bill is a result of a strike everything after the enacting clause amendment and substitutes material designed to accomplish only one purpose.*

CHAPTER 3

MEASURES OTHER THAN BILLS

- 3.1 Memorials and Resolutions
- 3.2 Initiatives and Referendums

CHAPTER 3

MEASURES OTHER THAN BILLS

3.1 MEMORIALS AND RESOLUTIONS

Bills are the most common legislative measures that come before the legislature. Other common forms of legislation are memorials and resolutions. These are used to accomplish legislative purposes, described below, where a bill would not be appropriate. Likewise, memorials and resolutions have their own particular purposes, and they should not be confused or combined. A memorial should not be used when a resolution is more appropriate, and *vice versa*.

Memorials

A memorial allows the legislature to petition, plea, beseech or pray that a recipient (1) acknowledge stated facts (contained in one or more clauses, introduced by the word “whereas”) and (2) act in a manner consistent with the request. It implies that the “memorialist”, i.e., the legislature, lacks authority to act directly on the subject. Accordingly, memorials are used to petition Congress, the President of the United States, other federal agencies and officers and other states to do things that the Arizona legislature has no jurisdiction to do itself. It is merely a request and has no official standing or effect.

A memorial is always a request or proposal. Do not use a memorial to express condolences or congratulations.

Memorials may be presented for the consideration of only one house (simple) or of both houses (concurrent). A memorial may not be “joint”.

Resolutions

A resolution is a declaration or a legislative expression of opinion, will, intent or “resolve” in matters within the legislature’s legal purview. Three types of resolutions are used in this state:

C A simple resolution is processed only through the introducing body and may express an opinion, appoint a committee, express regret on the death of a former legislator or other prominent person, request the return of a bill from the other house of the legislature for a stated purpose, recognize meritorious service or commemorate a special event. A simple resolution is not signed by the governor.

C A joint resolution is processed through both houses and is signed by the governor. It is used to provide for temporary measures having the effect of law (e.g., a contract or other official action). Since the governor signs joint resolutions, they are not used for any purpose in amending either the Arizona or United States Constitutions. Constitutional amendments are the exclusive purview of the legislature and the people.

C A concurrent resolution is processed through both houses but is not signed by the governor. It may provide for the following:

- C Submittal of a referendum to the voters.
- C Legislative action involving the process of amending the U. S. or the Arizona Constitution.

Titles

Titles prepared for memorials and resolutions are different from the titles prepared for regular bills. A memorial or resolution title may take the following form:

**A MEMORIAL
URGING THE PRESIDENT OF THE UNITED STATES TO . . .**

—————
**A RESOLUTION
DESIGNATING OCTOBER 3, 1996 AS . . .**

The drafter may refer to the guide on the following page to determine the proper vehicle to use for a particular purpose.

Is the measure merely a petition or request that someone else do something?

Yes . . . Memorial

No, the measure is an official statement or action . . . Resolution

Does the sponsor want the memorial to be passed by both houses of the legislature?

Is it a statement or action of a single house of the legislature?

No . . . Simple memorial

Single house . . . Simple resolution

Yes . . . Concurrent memorial

Entire legislature or state . . . concurrent or joint resolution.

If a specific form is prescribed for the process (e.g., ARS § 37-620.01), use it.

If the governor is excluded from the process (e.g., constitutional amendments & referendum measures) . . . concurrent resolution.

If the measure is in the nature of a legal document that could be enforceable against the "state" (e.g., an agreement or contract) . . . joint resolution, signed by the governor

If the measure is an expression of opinion, commemoration, congratulations or sentiment . . . concurrent resolution

3.2 INITIATIVES AND REFERENDUMS

Constitutional requirements

The powers of initiative and referendum are set forth in article IV, part 1, § 1, Constitution of Arizona, that states in part:

[T]he people reserve the power to propose laws and amendments to the Constitution and to enact or reject such laws and amendments at the polls, independently of the Legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any Act, or item, section, or part of any Act, of the Legislature.

Article IV, part 1, § 1 (6), Constitution of Arizona, prohibits the legislature from amending or repealing initiated or referred measures that receive a majority vote of the qualified electors. The phrase "majority of qualified electors" means the majority of those eligible to vote, not those actually voting. See Adams v. Bolin, 74 Ariz. 269, 247 P.2d 617 (1952). Of all the initiative and referendum statutes that have been voted on by the people since 1914, none has received a majority vote of the voters eligible to vote since that provision has been in the Arizona Constitution. Thus the legislature has the power to amend or repeal any initiative or referendum statute presently in force.

Initiatives

Under the constitution ten percent of the qualified electors have the right to propose any legislative measure and fifteen percent of the qualified electors have the right to propose any amendment to the Constitution of Arizona. The number of qualified electors is equal to the total number of votes cast for all candidates for governor at the general election preceding the filing of the initiative petition. Article IV, part 1, §1(7), Constitution of Arizona.

A person who wants to distribute an initiative petition may obtain the required information as to form and style of the petition and attachments from the office of the secretary of state. Before distributing the petition, the sponsors must file notice of their intention to distribute the petition with the secretary of state.

An initiative petition that qualifies by having sufficient signatures as prescribed by the constitution is placed on the ballot and becomes law when approved by a majority of the votes cast and on proclamation of the governor.

Referendums

There are two types of referendums. The first occurs by petition of the voters and the second by action of the legislature.

A measure that is enacted by the legislature is not operative for a period of ninety days after the adjournment of the session (unless it is enacted under special circumstances that allow it to be effective immediately). During this ninety-day period five percent of the qualified electors may file a petition with the secretary of state to have the measure referred to the people for approval or rejection. The number of qualified electors required is calculated by determining the total number of votes cast for all candidates for governor at the general election preceding the filing of the referendum. The measure is approved by a majority of those voting.

Note: The following enactments are not subject to referendum by the people because they become effective immediately on the governor's signature:

1. An emergency measure that is passed by a "supermajority" vote of the legislature.
2. An act for the "support and maintenance" of the agencies of state government and state institutions.
3. An act increasing state revenues through new or increased taxes or assessments.

The legislature may order that an act be referred as a referendum to the people at the polls before it can become effective. Under article V, § 7, Constitution of Arizona, measures that are referred to the voters for approval are exempt from veto of the governor. Referendum measures are included among the sample concurrent resolutions. Examples of conditional enactment clauses for bills accompanying referendums are included in § 4.5 of this manual.

Amendments to the constitution may be proposed in either house of the legislature. If passed by a majority of the members of each house, they are submitted as a referendum to a vote of the people for approval. If the amendments are approved by the voters, they become part of the constitution. The vehicle for a proposed amendment to our state constitution is a concurrent resolution, samples of which are included in this manual.

Note: Concurrent Resolutions containing measures to be referred by the legislature to the voters have two titles -- one for the resolution itself and one in the body of the resolution for the measure being referred.

CHAPTER 4
COMMON BILL PROVISIONS

- 4.1 Appointments by the Governor; Consent of Senate
- 4.2 Appropriations
- 4.3 Committees
- 4.4 Compensation for State Officers and Employees
- 4.5 Conditional Enactments or Repeals; Referendum as Condition of Enactment
- 4.6 Conforming Legislation
- 4.7 Definitions
- 4.8 Delayed Repeal Provisions
- 4.9 Delegation of Legislative Regulatory Power
- 4.10 Deputy Officers of State and County Agencies; Powers
- 4.11 Effective Date and Time of Statutes
- 4.12 “The Effective Date of This Section”; Use of
- 4.13 Funds and the Receipt and Disposition of Monies
- 4.14 Heading Change
- 4.15 Increases in State Revenues; Supermajority Vote Required (“Prop. 108”)
- 4.16 Judicial Review
- 4.17 Legislative Intent Sections
- 4.18 Liberal Interpretation Sections
- 4.19 Licensure, Certification and Registration
- 4.20 Nonseverability and Severability Clauses
- 4.21 “Notwithstanding” Clauses
- 4.22 Open Meetings
- 4.23 Penalties; Civil and Criminal
- 4.24 Population
- 4.25 Procurement Code; Exemption
- 4.26 Quorum; Joint Authority of Board or Commission Members
- 4.27 References to Nonstatutory Entities
- 4.28 Rules
- 4.29 Saving Clauses
- 4.30 Short Title
- 4.31 Statutory Boards, Commissions, Committees and Councils
- 4.32 Sunrise Legislation
- 4.33 Sunset Legislation
- 4.34 Tax Measures; Required Statement of Objectives
- 4.35 Transfer of Cost of Program From Political Subdivision to State
- 4.36 Transfer of Personnel, Equipment and Monies
- 4.37 Transferring and Renumbering Statutory Sections
- 4.38 Vacancy Savings

CHAPTER 4

COMMON BILL PROVISIONS

The following are only examples and must be modified to fit the requirements of the specific legislation:

4.1 APPOINTMENTS BY THE GOVERNOR; CONSENT OF SENATE

Section 38-211, A.R.S., specifies the method of nomination by the governor and confirmation by the senate of state officers. Language to accomplish an appointment pursuant to this section is as follows:

THE GOVERNOR SHALL APPOINT THE DIRECTOR PURSUANT TO SECTION 38- 211.

Note: Because § 38-211, A.R.S., provides the procedures for appointment as well as details regarding vacancies in office and time of assuming authority, the drafter should review that section to avoid including unnecessary specific provisions in the bill draft.

4.2 APPROPRIATIONS

Requirements

In general an appropriation of public monies should contain the following:

- C An amount of monies.
- C A source of the monies.
- C A recipient.
- C A fiscal year of applicability.
- C A purpose.

The drafter can usually place these requirements in a single sentence.

Categories

There are four categories of appropriation bills:

- C The general appropriation bill.
- C Separate appropriation bills.
- C Incidental appropriation bills.
- C Supplemental appropriation bills.

The general appropriation bill contains numerous appropriations for the different departments of the state, state institutions, public schools and interest on the public debt. Note: The general appropriation bill is effective the day the governor signs it but, by its terms, is applicable for the next fiscal year.

Article IV, part 2, § 20, Constitution of Arizona, provides:

The general appropriation bill shall embrace nothing but appropriations for the different departments of the state, for state institutions, for public schools, and for interest on the public debt. (See also 78 Op. Att'y Gen. 78-224.)

If a bill other than the general appropriation bill combines unrelated appropriations the whole bill is invalid. See Litchfield Park School Dist. No. 79 v. Babbitt, 125 Ariz. 215, 608 P. 2d 792 (App. 1980). See also article IV, part 2, § 20, Constitution of Arizona. This constitutional provision is aimed at the practice of "logrolling" in which enough legislative votes are secured to pass a bill by combining unrelated appropriations into that bill.

Separate appropriation bills contain only an appropriation and information incidental to that appropriation. They may be for new programs that were not anticipated but nonetheless need to be accomplished. A common example is an appropriation for a new program to conform to the prior year's enactment. Note: Separate appropriations go into effect on the general effective date (ninety-one days after adjournment sine die) unless the bill contains an emergency clause or a requirements for enactment clause ("Prop. 108"). Note also that a separate appropriation for a government entity other than the state should be made to a state agency for distribution to the local government for purposes of accountability.

Incidental appropriation bills are those that include an appropriation section to fund an activity that is required by the statutory or temporary law sections in the same bill. Note: Incidental appropriations have the same effective date as the entire bill.

Supplemental appropriation bills are for the "support and maintenance" of an existing agency for an ongoing and previously funded program. A supplemental appropriation is a specific appropriation and may not contain statutory or session law. Supplemental appropriations go into effect on the signature of the governor. Supplemental appropriations are noted as such in the bill title and the section heading.

C The following is an example of a separate appropriation bill:

Section 1. Appropriation; purpose

The sum of \$50,000 is appropriated from the state general fund to the governor for fiscal year 19__ - 19__ to defray the cost of controlling insects in agricultural areas as are deemed by the governor to be a menace to the welfare of this state.

C An example that illustrates funding supplied by a supplemental appropriation to an existing appropriation made by the general appropriation bill in the previous year is:

Section 1. Supplemental appropriation; purpose

In addition to the appropriation made by Laws 19__, chapter __, section __, the sum of \$150,000 is appropriated from the state general fund to the registrar of contractors for fiscal year 19__- 19__ for deposit in the contractors' license fund to meet general operating expenditures.

C The following is an example of an incidental appropriation:

Sec. 3. Appropriation

The sum of \$50,000 is appropriated from the state general fund to the state parks board for fiscal year 19__ - 19__ for the purposes provided in this act.

C The following is an example of an appropriation that illustrates funding supplied from a specific source other than the state general fund:

Section 1. Appropriation; purpose

The sum of \$185,000 is appropriated from the Arizona state highway fund to the department of transportation for fiscal year 19__ - 19__ to purchase furnishings and equipment for the highway engineering building.

Lapsing of appropriation; exemption from lapsing

Section 35-190, A.R.S., provides, in part, that no obligation may be incurred or expenditure made from an appropriation after the close of the fiscal year for which the appropriation was made. This section also provides that all appropriations lapse at the expiration of one month after the end of the fiscal year.

However, appropriations for construction or other permanent improvements do not lapse until the purpose for which the appropriation is made has been accomplished or abandoned, unless the appropriation has been available during the entire fiscal year without an expenditure or an encumbrance. If one fiscal year may not be sufficient time for a construction program to commence, the drafter should include the following provision:

Sec. __. Lapsing of appropriation

Notwithstanding section 35-190, Arizona Revised Statutes, the appropriation made in section 1 of this act does not lapse until the purpose for which the appropriation is made is accomplished or abandoned unless the appropriation stands until June 30, 1999 without an expenditure or encumbrance. In addition, all monies remaining unencumbered or unexpended on June 30, 1999 revert to the state general fund.

If a sponsor of a bill does not want an appropriation (that is not for construction purposes) to lapse at the end of the fiscal year, the drafter should add the following exemption:

Sec. __. Exemption from lapsing

The appropriation made in section 1 of this act is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.

Since this appropriation would be perpetually exempt, it should involve a program for which the expenditures will eventually be made in order to preclude the need of an additional enactment to authorize a reversion of unexpended monies. As an alternative the exemption might apply for a limited period as indicated above for capital outlay appropriations.

Insert the fiscal year of applicability to remove doubt as to the time during which the appropriated monies are available, as:

B. The appropriation made pursuant to this section is available for use during the 1999-2000 fiscal year.

Note: It is very important to include a lapsing exemption section if an appropriation is effective before the beginning of the next fiscal year. As an example, assume an appropriation is passed with an emergency clause and is signed by the governor on May 2. The monies are immediately appropriated. Without a lapsing exemption, any unexpended or unencumbered monies will revert less than two months later on June 30, the close of the fiscal year.

If an appropriation is for the following fiscal year that fact should be clearly set forth to avoid the possibility of the appropriation being applied to the current year and a lapse of the appropriation at the close of the current fiscal year and also for purposes of the state expenditure limitation. (See article IX, § 17, Constitution of Arizona.)

Reversion of appropriation

An example of a section that authorizes the reversion of unexpended monies that were exempted from lapsing is as follows:

Sec. __. Reversion

All monies remaining unexpended and unencumbered on July 1, 1999 from the appropriation made by Laws 1995, chapter __, section __ revert to the state general fund.

Line-item veto of appropriation

Article V, § 7, Constitution of Arizona, provides that "*if any bill presented to the governor contains several items of appropriations of money, he may object to one or more of such items...*". In the case of Rios v. Symington, 172 Ariz. 3, 833 P.2d 20 (1992), the Arizona supreme court held that the line-item veto power extends to any new appropriation, reduction, increase, transfer or elimination of monies.

4.3 COMMITTEES

Placement

The drafter should draft a bill to establish a committee (sometimes also referred to as a commission) as temporary law if the committee is to disband after it completes its duties and as statutory law if the committee is permanent (See § 4.31).

Checklist

When establishing a committee the drafter should consider the following:

C Membership and qualifications. A committee should be comprised of an odd number of members to limit the chances that a vote will end in a tie. Note: When prescribing qualifications, the drafter should not refer to a specific private entity from which a committee member is to be selected. (See § 4.27.) Note also: When prescribing membership by legislators say "not more than _____ of whom represent the same political party".

C Appointing authority. Who appoints the members? Again, the members should not be appointed by a specific private entity. (See § 4.27.)

C Officers. The language should specify who is to chair the committee or allow the committee to select a chairperson. The drafter may also provide for cochairpersons or for the rotation of chairpersons.

C Compensation and expenses. It is unusual for committee members to receive compensation, but a common provision makes members "eligible to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes". (See § 4.4.)

C Meetings. The drafter should include language that prescribes the number or frequency of meetings. Some committees allow the chairperson and a majority of committee members to call meetings. Some committees also prescribe the location of meetings.

C Powers and Duties. The drafter should describe, by a list if necessary, the committee's powers and duties. A committee usually is required to submit a report of its findings and recommendations to the governor, the president of the senate, the speaker of the house of representatives, the secretary of state and the director of the department of library, archives and public records on or before a specified date.

C Staffing. The drafter may include language to require a particular agency to provide the committee with administrative support and meeting room space.

C Duration. The drafter should include a delayed repeal section for the act or the relevant bill sections.

C Appropriation. The drafter may include an incidental appropriation section at the end of the bill to fund the committee's operation.

Note: If the committee is a legislative study committee the drafter should appropriate monies to a state agency with which the committee works.

Ex officio members; advisory members

If a committee member is specified as an ex officio member, that person serves by virtue of holding a particular office and may exercise the same powers as the other members, including voting, unless the law provides otherwise. See Barber Puremilk v. Alabama State Milk Cont. Bd., 156 So. 2d 351 (Ala. 1963).

Note: The drafter should avoid using the term "ex officio" because it is confused with the term "advisory" members. If a sponsor intends that a particular committee member not have voting privileges, the drafter should include language that states this fact and that indicates that the advisory member is not counted for the purpose of determining the presence of a quorum.

Legislators as board members; restrictions

If legislators are made members of a committee that has executive powers, (i.e., the power to carry out legislative policy) the drafter should be certain that the appointment does not violate the separation of powers doctrine found in article III, Constitution of Arizona, or the prohibition of dual office holding found in article IV, part 2, § 5, Constitution of Arizona.

Note: In State ex rel. Woods v. Arizona Constitutional Defense Council, 247 Ariz. Adv. Rep. 22 (1997), the Arizona supreme court, citing a federal court ruling, stated that allowing members of a legislative body to serve, even as advisory members, on a board that performs an executive function may violate separation of powers.

4.4 COMPENSATION FOR STATE OFFICERS AND EMPLOYEES

Compensation

The general rules of compensation are stated in § 38-611, A.R.S. This section covers compensation for employees under the state personnel system as well as exempt positions and members of boards, commissions and committees.

The following language may be used to accomplish this:

**THE DIRECTOR IS ELIGIBLE TO RECEIVE COMPENSATION
PURSUANT TO SECTION 38- 611.**

Note: Do not use mandatory language such as "The director shall receive compensation of ...". This language has the unintended effect of being a continuing appropriation. McDonald v. Frohmiller, 63 Ariz. 479, 163 P.2d 671 (1945).

Reimbursement of expenses

If no compensation is authorized but reimbursement for travel and subsistence expenses is desired, the drafter should include language similar to the following:

**MEMBERS OF THE COMMISSION ARE NOT ELIGIBLE TO RECEIVE
COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES
PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.**

4.5 CONDITIONAL ENACTMENTS OR REPEALS; REFERENDUM AS CONDITION OF ENACTMENT

Conditional enactments

A bill must contain a conditional enactment section if the bill is contingent on:

- C Submission to the voters of a related proposed constitutional amendment.
- C The passage of another related act.
- C The occurrence of some other condition such as the enactment of similar legislation in another state or congressional authorization of funding or jurisdiction.

A bill that requires a constitutional change must include a conditional enactment section or otherwise the bill could be invalidated. This provision should be noted at the end of the bill title with the words "; PROVIDING FOR CONDITIONAL ENACTMENT". (See §§ 2.7 and 2.10.)

C An example of a clause providing for conditional enactment that is contingent on additional constitutional authority is:

Sec. __. Conditional enactment

This act (or specified *statutory* sections) does not become effective unless the Constitution of Arizona is amended by vote of the people at the next general election to. . .

Note: If additional constitutional authority is required, the preparation of a house or senate concurrent resolution is necessary unless the needed constitutional change is being sought by initiative.

Note also that a bill may not contain both a conditional enactment and a requirements for enactment ("Prop. 108") section.

C An example of a clause providing for a conditional enactment contingent on passage of another act is:

Sec. __. Conditional enactment

This act does not become effective unless ____ Bill _____, relating to _____, is enacted into law.

C The following illustrate conditional enactments contingent on other conditions:

Sec. __. Conditional enactment

This act (or specified *statutory* sections) does not become effective unless (the governor enters into a contract with Nevada, California and Utah), (the United States Congress authorizes the state assumption of jurisdiction), (the legislature of each bordering state enacts authority) [or] (the United States department of health and human services grants the appropriate waivers) to (subject matter) by (insert a cutoff period to preclude ongoing conditional status). The

(appropriate state agency) shall notify the director of the Arizona legislative council of the date on which the condition is met.

Conditional repeal

CA n example of a clause providing for a conditional repeal is:

Sec. __. Conditional repeal

Section 36-4501, Arizona Revised Statutes, as added by this act, is repealed as of the date the secretary of the United States department of health and human services notifies the Arizona health care cost containment system administration of the acceptance of its application of a waiver submitted pursuant to this act. The administrator shall notify in writing the director of the Arizona legislative council of this date.

Note: As in the above example, a conditional repeal section must specify the statutory section to which it applies rather than the bill section.

4.6 CONFORMING LEGISLATION

Sometimes due to time constraints or other factors it is too difficult to do all of the conforming and amending changes in a bill draft and still meet legislative deadlines. In such case the drafter may add the following session law section:

Sec. __. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the forty-second legislature, second regular session.

4.7 DEFINITIONS

The role of definitions

By rule of statutory construction words and terms that are not specifically defined are defined by their common accepted usage. See Mid Kansas Fed. Sav. and Loan Ass'n of Wichita v. Dynamic Development Corp., 167 Ariz. 122, 804 P.2d 1310 (1991). See also Sutherland Stat. Const. § 46.01 (5th Ed). However, the drafter should define a word or term that might be unclear or unfamiliar to the reader or that has more than one meaning and the reader cannot determine that meaning from the context. Generally, do not define a term that does not appear in the statutory text.

Note: § 1-215, A.R.S., contains definitions that apply to all statutes. If the drafter intends a definition other than one that appears in that section the drafter should write a definition that applies to the specific unit of the statutes.

Format

Place definitions sections that apply to an entire title, chapter or article in a separate statutory section at the beginning of that title, chapter or article.

Arrange definitions alphabetically with an introduction that indicates whether the definitions apply to the title, chapter or article and that states that the definitions apply "unless the context otherwise requires". Each word defined is initially enclosed in quotation marks, but on subsequent uses within the definition section the word does not appear in quotation marks. The following is an example of a statutory law definition section:

32- 3801. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS. . . .
2. "CLINICAL LABORATORY" MEANS. . . .
3. "LABORATORY TECHNICIAN" MEANS. . . .
4. "LIFE THREATENING ILLNESSES" INCLUDES. . . .

Note that in the example above a defined term that appears in the plural form is still followed by either the singular "includes" or "means". A definition that is restrictive is followed by the word "means". A definition that is extensive is followed by the word "includes". See Sutherland Stat. Const. § 47.07 (5th Ed). Do not use the phrase "means and includes".

If a word or term appears only in one statutory section, it should be defined in that section rather than in a general definition section. A statutory section may have its own statutory definition subsection for words and terms that are used in that section. This subsection should appear at the end of the section. If a word or phrase is used only in a specific subsection, paragraph or subdivision, the word or phrase should be defined in that statutory unit unless there is an existing definition subsection. The definition is the last thing that appears in a particular statutory unit and is introduced by the words "**FOR THE PURPOSES OF THIS (SECTION) (SUBSECTION) (PARAGRAPH)**"

Citations to definitions

If a word is already defined in another statute, the drafter may cite that statute by cross-reference instead of repeating the definition. This has the advantage of promoting statutory uniformity, but it can also be inconvenient to the reader, especially if the definition is located in a different title of the statutes. Refer to a definition that is in another section by the words " **HAS THE SAME MEANING PRESCRIBED IN SECTION 00- 0000**" or by "**A PERSON MAY USE A PROVIDER AS DEFINED IN SECTION 00- 0000**".

Note: A reference to a definition in another section should be to the *section* and not to a specific paragraph. Because definition sections are often renumbered as specific definitions are added and deleted, a reference to a specific paragraph could soon become inaccurate.

“Stuffed” definitions

A definition should not contain substantive law in addition to the definition since the substantive law would be "hidden" in a place the reader would not expect to find it. A definition that contains substantive law is known as a "stuffed" definition. See Dickerson, The Fundamentals of Complete Legal Drafting. The following example illustrates a stuffed definition:

5. "ANNUAL INSPECTION" MEANS AN INSPECTION CONDUCTED BY THE DEPARTMENT AT LEAST SIXTY DAYS BEFORE A FACILITY'S LICENSE EXPIRES AND AT WHICH TIME THE FACILITY SHALL BE IN FULL COMPLIANCE WITH THIS ARTICLE AND RULES ADOPTED UNDER THIS ARTICLE.

In the above example the language that refers to the facility's compliance requirements does not define the term "annual inspection". It is substantive law that should be placed in its own section or in a section that otherwise prescribes compliance requirements.

Section Headings

The inclusion of a definition subsection should be noted in the section heading. Since the definition subsection is the last subsection of a section, definitions are noted last in the section heading. If only one term is defined the section heading should read “: definition”.

Note: Do not note a definition that is introduced by the words “For the purposes of this (subsection) (paragraph) (subdivision) (item)”.

Note also: Indicating that a word or phrase “does not mean” or “does not include” is not a definition and is not enclosed in quotation marks or noted in the section heading.

4.8 DELAYED REPEAL PROVISIONS

The following are examples of common delayed repeal provisions:

Delayed repeal of statutes

Sec. __. Delayed repeal
Section 42-101, Arizona Revised Statutes, is repealed from and after December 31, 2000.

Note: Delayed repeals of statutory laws and previously enacted temporary laws are included in the bill title.

Delayed repeal of temporary law

Sec. __. Delayed repeal

This act is repealed from and after December 31, 2000.

Delayed repeal; reversion

Sec. __. Delayed repeal; reversion

This act is repealed and the commission established by it terminates on June 30, 1998, at which time any unexpended or unencumbered monies standing to the credit of the commission revert to the state general fund.

Note: A delayed repeal section must specify the statutory section to which it applies rather than the bill section.

4.9 DELEGATION OF LEGISLATIVE REGULATORY POWER

When drafting a bill giving regulatory powers to an agency, consider the words of the court in the case of State v. Marana Plantations, 75 Ariz. 111, 252 P.2d 87 (1953):

The line of demarcation between what is legitimate granting of power for administrative regulation and an illegitimate delegation of legislative power is often quite dim.... It may safely be said that a statute with no prescribed restraints nor criterion nor guide to its action offends the Constitution as a delegation of legislative power. The board must be corralled in some reasonable degree and must not be permitted to range at large and determine for itself the conditions under which a law should exist and pass the law it thinks appropriate.

4.10 DEPUTY OFFICERS OF STATE AND COUNTY AGENCIES; POWERS

Section 38-462, A.R.S., automatically confers powers to deputy officials that are given to their principals:

A. *Unless otherwise provided, each deputy of a state or county officer possesses the powers and may perform the duties prescribed by law for the office of the principal.*

B. *When the official name of any principal officer is used in law conferring power, or imposing duties, liabilities or prohibitions, it includes the officer's deputies.*

4.11 EFFECTIVE DATE AND TIME OF STATUTES

General effective date

As stated in article IV, part 1, § 1 (3), Constitution of Arizona, the general effective date of enactments is the ninety-first day after the date on which the session of the legislature enacting them is adjourned *sine die*. For example, if the legislature adjourned *sine die* on May 15, the general effective date would be August 14 at 12:00 noon. Exceptions to the general effective date are as follows:

- C A bill that has a specific delayed effective date.
- C A bill that is conditionally enacted. (See § 4.5.)
- C An emergency measure that is passed by a “supermajority” vote of the legislature. (Article IV, part 1, section 1(3), Constitution of Arizona.)
- C An act for the “support and maintenance” of the agencies of state government and state institutions. (Article IV, part 1, section 1(3), Constitution of Arizona.)
- C An act increasing state revenues through new or increased taxes or assessments. (Article IX, §22, Constitution of Arizona.) (See § 4.15.)

Conflicting provisions: effect

C An act that purports to take effect on a specified date before the general effective date but is not a duly enacted emergency measure takes effect on the general effective date notwithstanding the specified date. Industrial Commission v. Frohmiller, 60 Ariz. 464, 140 P.2d 219 (1943).

C A duly enacted emergency measure, a requirements for enactment bill or a support and maintenance bill is immediately effective on approval by the governor, even though it contains a provision stating that it is to become effective on another date.

Vetoed or unsigned bills: effect

C If the governor does not sign or veto a measure within five days (Sunday excepted) after receipt, the legislature being in session, the measure takes effect on the general effective date.

C An act that is vetoed by the governor and that thereafter is passed by each house by a two-thirds vote takes effect on the general effective date.

C A duly enacted emergency measure or a requirements for enactment measure that is vetoed by the governor within five days (Sunday excepted) after it was presented to the

governor and that, after reconsideration, is passed by each house by a three-fourths vote takes effect on the date it is filed with the secretary of state.

C A measure that is not approved or vetoed by the governor or filed with the secretary of state within ten days (Sundays excepted) after the legislature's final adjournment, takes effect on the general effective date.

C If the governor does not sign or veto a duly enacted emergency measure or requirements for enactment measure within five days (Sunday excepted), the legislature being in session, or does not file the measure with the secretary of state within ten days (Sundays excepted) after the final adjournment of the legislature, the measure takes effect on the eleventh day.

Time of day statutes take effect

Section 1-241, A.R.S., provides:

A. An act or statute which by its terms is to take effect on a specified day shall, unless otherwise provided in the act or statute, take effect at twelve o'clock noon on the day specified.

B. An act or statute, which by its terms is to take effect from and after a specified day, shall take effect at midnight of the day specified.
(Emphasis added.)

Emergency clauses

If the sponsor of a bill wants it to become immediately operative on the signature of the governor, the drafter should add an emergency clause, the wording of which is:

Sec. __. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

A bill containing an emergency clause must receive a two-thirds vote in each house of the legislature in order for the emergency clause to be effective. If the bill is adopted by less than a two-thirds vote, it is considered as enacted without the emergency clause and, therefore, becomes effective on the general effective date.

Note: An emergency measure cannot be given an effective date, applicable to the entire bill or sections of the bill, other than the date on which the governor signs the bill. An attempt to make an emergency bill effective at a date after the date of enactment, and particularly after the general effective date, will fail, and the act will become "operative" immediately on signature of the governor. Article IV, part 1, § 1 (3), Constitution of Arizona. Industrial Commission v. Frohmiller, 60 Ariz. 464, 140 P.2d 219 (1943).

Nevertheless, specific provisions of the bill may be so worded as to become operative at subsequent times. (See Op. Att'y Gen. I82-026.) A typical way to accomplish this is by inserting a date in the statutory or temporary law text. For example, a section could state "BEGINNING ON OCTOBER 1, 1998, THE DEPARTMENT SHALL. . . ."

Retroactivity of statutes

Statutory changes in procedure or remedies may be applied retroactively if the statute does not affect or impair vested rights. Bouldin v. Turek, 125 Ariz. 77, 607 P.2d 954 (1979). However, § 1-244, A.R.S., requires that the retroactivity of a statute be "*expressly declared*". To do this the drafter should add a section toward the end of the bill similar to the following:

Sec. __. Retroactivity
This act is effective retroactively to from and after
June 30, 1993.

Note: If the retroactivity applies to amended A.R.S. sections, instead of new sections, the language should be "**applies retroactively**".

Effective date for tax measures

In drafting bills that levy a tax or change the way a tax is computed, applied or administered the effective date should reflect accounting and administrative requirements and should be either January 1 (or from and after December 31) or the beginning of another appropriate taxing period. Frequently income tax acts are given the general effective date but specifically apply retroactively to the entire tax year:

Sec. __. Retroactivity
This act applies retroactively to taxable years
beginning from and after December 31, 1990.

Delayed effective date

The following is an example of a delayed effective date:

Sec. __. Delayed effective date
Sections 23-527 and 23-528, Arizona Revised Statutes, as
amended by this act, are effective from and after December 31,
1996.

Bill title

Effective dates, including delayed effective dates, emergency clauses and requirements for enactment are not noted in the bill title.

4.12 USE OF "THE EFFECTIVE DATE OF THIS SECTION"

If, when drafting a new statute, it is necessary to refer to the effective date of the new section, use the phrase "THE EFFECTIVE DATE OF THIS SECTION".

If, when amending existing statutory text, it is necessary to refer to the effective date of the new amendment, use the phrase "THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION" rather than "THE EFFECTIVE DATE OF THIS SECTION" which, of course, is the date the statute was originally enacted.

4.13 FUNDS AND THE RECEIPT AND DISPOSITION OF MONIES

Examples of common clauses used for the receipt and disposition of monies and the establishment of funds, or funds for special purposes, are as follows:

Establishing a state fund

THE (NAME) FUND IS ESTABLISHED CONSISTING OF (SOURCE OF FUNDING). THE (NAME OF AGENCY) SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE [SUBJECT TO LEGISLATIVE APPROPRIATION] [CONTINUOUSLY APPROPRIATED].

Note: The language establishing a fund must contain a statement regarding the availability of the fund monies to the administering agency. The language should either state that the monies in the fund are "subject to legislative appropriation" or that they are "continuously appropriated".

Common sources of funding are fees collected pursuant to a specific statutory citation, legislative appropriations, civil penalties imposed pursuant to a specific statutory citation, federal monies, and private grants, gifts, contributions and devises.

Also, on specific request of the sponsor, the following clause may be added:

ON NOTICE FROM THE (NAME OF AGENCY), THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

Acceptance of federal monies and private gifts

THE DIRECTOR MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS, GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IN CARRYING OUT THE PURPOSES OF THIS (TITLE, CHAPTER, ARTICLE, SECTION). THESE MONIES DO NOT REVERT TO THE STATE GENERAL FUND AT THE CLOSE OF A FISCAL YEAR.

Disposition of fees; "90/10 boards"

A. THE ALLOPATHIC BOARD OF MEDICAL EXAMINERS FUND IS ESTABLISHED CONSISTING OF [FEES COLLECTED PURSUANT TO SECTION 00- 0000]. THE BOARD SHALL ADMINISTER THE FUND. THE BOARD SHALL TRANSMIT ALL MONIES COLLECTED UNDER THIS CHAPTER TO THE STATE TREASURER WHO SHALL DEPOSIT NINETY PER CENT OF THE MONIES IN THE BOARD OF MEDICAL EXAMINERS FUND AND TEN PER CENT OF THE MONIES IN THE STATE GENERAL FUND.

B. MONIES DEPOSITED IN THE BOARD OF MEDICAL EXAMINERS FUND ARE SUBJECT TO SECTION 35- 143. 01.

Note: These special funds are subject to annual legislative appropriation pursuant to § 35-143.01, A.R.S. Even though these monies are administered by the board, expenditures from the fund cannot exceed the authorized appropriation. Note also: Pursuant to § 35-143.01, A.R.S., monies in special funds are automatically exempt from lapsing to the state general fund. Therefore, a nonlapsing clause is unnecessary.

Nonlapsing clauses for non-90/10 board funds

Funds that are subject to legislative appropriation or continuously appropriated can be made nonlapsing by stating:

MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35- 190 RELATING TO LAPSING OF APPROPRIATIONS[, EXCEPT THAT ALL MONIES IN THE FUND EXCEEDING _____ DOLLARS REVERT TO THE STATE GENERAL FUND].

Revolving funds

Revolving funds are established for specific administrative purposes. They are rarely used. Procedures for establishing an administrative revolving fund are contained in § 35-193, A.R.S. Note: The term "revolving" does not make a fund continuously appropriated and does not exempt the fund balance from lapsing.

Transfer of fund monies

The following illustrates the transfer of fund monies:

Sec. __. Transfer of fund monies

On the effective date of this act, all monies in the data processing fund are transferred to the automation fund.

Proper citation of a fund

To cite a fund that is in another statutory section the drafter should refer to the "(exact name of fund) ESTABLISHED BY (not "in") SECTION 00-0000".

4.14 HEADING CHANGE

A bill may redesignate or repeal a statutory title, chapter or article heading as in the following examples:

Sec. __. Heading change

The article heading of title 42, chapter 1, article 2.1, Arizona Revised Statutes, is changed from "DIVISION OF APPRAISAL AND ASSESSMENT STANDARDS" to "CLASSIFICATIONS OF PROPERTY".

Sec. __. Heading repeal

The article heading of former title 36, chapter 15, article 1, Arizona Revised Statutes, is repealed.

A heading repeal is included in the bill title. A change in a title, chapter or article heading is included in the bill title as follows:

. . . CHANGING THE DESIGNATION OF TITLE 24, CHAPTER 2, ARTICLE 10, ARIZONA REVISED STATUTES, TO "GUIDE DOGS";

4.15 INCREASES IN STATE REVENUES; SUPERMAJORITY VOTE REQUIRED (PROP. 108)

Article IX, § 22, Constitution of Arizona, requires that if an act provides for a net increase in state revenues through a new tax, tax increase, change in a tax exemption, new or increased fee or assessment, elimination of an exemption to a fee or assessment or a change in state tax revenue allocations among state and local governments, it must receive a two-thirds vote of the members of each house of the legislature and is effective immediately on the governor's signature. These bills are often called "prop. 108" bills in reference to the 1992 ballot proposition that enacted this constitutional provision.

Bill drafters must make the initial determination whether the legislation is or might be subject to article IX, § 22. If so, the drafter must add the following section at the end of the bill:

Sec. __. Requirements for enactment

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the

subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.

Note: Bills that require a two-thirds vote go into effect on the day the governor signs the bill into law. Therefore, if the bill also contains effective date sections or a conditional enactment, these sections have no effect.

Note also: The inclusion of a requirements for enactment section is not noted in the bill title.

4.16 JUDICIAL REVIEW

The following language provides for judicial review of administrative proceedings:

A DECISION OF THE COMMISSION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

4.17 LEGISLATIVE INTENT SECTIONS

General rule

Intent sections (also called "purpose" or "legislative findings" sections) should not be used in a bill. There are several reasons for this general rule:

C Redundancy. Because each draft should include all provisions that are necessary to carry out legislative intent in the substantive text of the draft, a statement of intent, purpose or findings that mirrors the substantive text is redundant and thus unnecessary.

C Conflict. A statement of intent, purpose or findings that is initially drafted to be in harmony with substantive provisions of a bill may become irrelevant to or in direct conflict with the provisions as subsequently amended. If the statement is not, at the time of the amendment, also amended or repealed, the existence of the statement may confuse the status of the law.

C Misuse of undefined terms. A statement of intent, purpose or findings that purports to state the goal of the proposed legislation may do so by using undefined terms that differ from the terms used in substantive provisions of the bill. The undefined terms may be used later by a court to interpret the act's substantive language either more broadly or more narrowly than was intended. See Friends of Mammoth v. Board of Super. of Mono City, 104 Cal. Rptr. 761, 502 P.2d 1049 (1979), in which the court construed the undefined term "project" by using a broad legislative intent statement, achieving a result that appears to be significantly at odds with the act's substantive language.

C Unforeseen effects. A statement of intent, purpose or findings may include provisions that directly or indirectly grant rights, prohibit actions or are otherwise substantive in nature, having unforeseen effects on other, seemingly unrelated laws.

C Judicial and administrative misuse of argumentative language. A statement of intent, purpose or findings may contain language intended to promote the merits of a bill. If the language is construed by a court in the context of rights or privileges accorded in the substantive provisions of the act, the court's interpretation may yield a result that may not have been intended. See Protective Placement of D.E.R., 155 Wis. 2d 240 (1990), in which the court interpreted a phrase within a legislative intent statement that included sweeping language about protecting individuals to mean that a developmentally disabled individual is entitled to be protectively placed in an environment that requires funding by the county over and above federal, state and county matching monies.

Exceptions

An intent clause may be useful only under the following circumstances:

C Recodification. If a bill only recodifies existing law without making any substantive changes, a statement of legislative intent may clarify this fact.

C Constitutionality. If there is reasonable probability that a provision of a bill may be declared unconstitutional and that it may help to sustain the provision if the courts are aware of the asserted constitutional basis for the provision or if the courts are aware of certain facts or policy, a statement of legislative intent may indicate compliance with constitutional requirements that is not otherwise apparent. Also, a statement of legislative purpose or intent may counter an allegation of unreasonableness or arbitrariness by indicating a rational basis for action by the legislature. See Sutherland Stat. Const. § 20.03 to 20.05 (5th Ed).

Required use

C § 41-2955, A.R.S., requires that the enabling legislation for each new agency contain a purpose section stating the objectives of the programs. A purpose clause is also required for the rescheduling of each agency for a new ten year cycle. The purpose clause is meant to assist the auditor general to determine if an agency is meeting its legislative mandate.

The following is an example of a purpose clause used in the continuation of an agency:

Sec. 8. Purpose

The purpose of the board of cosmetology is to ensure that the public is protected from the incompetent practice of cosmetology.

C § 41-1107, A.R.S., requires that all legislation that "*diminishes a previous grant of authority to a political subdivision of this state shall contain an intent clause that explains the reason for the diminution of authority.*"

Note: If an intent section is used, it should not include argumentative material or provisions granting rights, prohibiting actions or otherwise creating substantive law and should pertain only to the particular law in question. This section should also appear at or near the end of a bill. (See § 2.10.)

4.18 LIBERAL INTERPRETATION SECTIONS

A basic rule of statutory construction is that statutes are liberally construed to accomplish legislative intent and to avoid making the statute constitutionally invalid. Thus, the drafter need not include a "liberal interpretation section" in preparing a bill. A statement of this rule is included in § 1-211, A.R.S.

4.19 LICENSURE, CERTIFICATION AND REGISTRATION

Consistent and limited meanings apply to the three separate categories of authorization that distinguish the regulation of occupations.

Licensing is a process by which an agency of government grants permission to a person to engage in a given occupation on finding that the applicant has attained the minimal degree of competency required to ensure that the public health, safety and welfare will be reasonably protected. Licensing makes it illegal for anyone who does not hold a valid license to engage in the occupation covered by the statute.

Certification is a form of regulation that grants recognition to persons who have met predetermined qualifications. Only those who meet the qualifications may legally use the designated title. However, noncertified persons may offer similar services to the public if they do not describe themselves as being "certified". Certification is especially appropriate if the public needs assistance in identifying competent practitioners, but the public risks are not severe enough to warrant licensure.

Registration is the least restrictive alternative form of regulation. Registration requires that a person file that person's name and address with a designated agency. There may also be a registration requirement in combination with minimum practice standards determined by the regulatory agency. The former type of regulation would simply provide a list of registrants while the latter would subject registrants to minimum standards.

4.20 NONSEVERABILITY AND SEVERABILITY CLAUSES

Nonseverability

On occasion the legislature wants an act either to stand or fall as one unit. To avoid a court interpretation that might allow an act to continue in force after a portion is invalidated the drafter should insert a nonseverability clause at or near the end of the bill similar to the following:

Sec. __. Nonseverability

If any portion of this act is finally adjudicated invalid, the entire act is void.

Note: § 1-252, A.R.S., does not apply if an act becomes invalid under a nonseverability clause. All former laws repealed by the invalid act are revived. An invalid statute that purports to repeal a prior statute is ineffective to do so. See Selective Life Ins. Co. v. Equitable Life Assur. Soc. of U.S., 101 Ariz. 594, 422 P.2d 710 (1967).

Severability

A severability clause is unnecessary for legal purposes because the courts have repeatedly ruled that regardless of the presence or absence of a severability clause they will sever invalid portions from an otherwise valid act whenever possible. See Cohen v. State, 121 Ariz. 6, 588 P.2d 299 (1978). However, severability provisions are occasionally used even though they add no legal effect to the bill. If requested, the drafter should use the following:

Sec. __. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

4.21 "NOTWITHSTANDING" CLAUSES

To state an exception to existing law, the drafter may introduce language with "NOTWITHSTANDING ANY LAW TO THE CONTRARY", "NOTWITHSTANDING ANY STATUTE TO THE CONTRARY" or "NOTWITHSTANDING ANY OTHER STATUTE".

Note: Whenever possible the drafter should find those statutes that conflict with the new provision and refer to them specifically or conform them with the new provision. An accumulation of "notwithstanding" clauses can result in a series of overlapping laws superseding each other.

4.22 OPEN MEETINGS

§ 38-431.01, A.R.S., provides that meetings of a public body must be open to the public. "Public body" is defined in § 38-431, A.R.S. If any doubt exists whether an agency is a public body, the bill should specify whether the agency is subject to the open meetings law.

4.23 PENALTIES; CIVIL AND CRIMINAL

The need for a penalty provision depends on the nature of the bill. Existing statutes should be checked carefully to determine whether a penalty already exists for the particular offense.

Penalties may be civil or criminal, or both. A civil penalty may be imposed by a public officer or agency, it may give an injured person a cause of action against the offender or it may suspend or revoke a license or permit to do business. If the criminal provision of a bill relates to a single section, it is customary to insert the criminal code penalty classification within that section as the last subsection.

Except in the case of strict liability crimes (regulatory offenses not requiring a particular mental state for guilt), all criminal offenses should require one of the four mental states defined in § 13-105, A.R.S.

Note: In the section heading of a criminal provision, use the singular "classification" even if there is more than one criminal offense classification.

Fines versus penalties

For drafting purposes it is important to note the distinction between penalties and fines if the legislative intent is to impose monetary sanctions as a result of prohibited activity. The Arizona supreme court has held that "penalty" and "fine" are not the same in law. Frazier v. Terrill, 65 Ariz. 131, 175 P.2d 438 (1946). The term "fine" must always be used in the context of criminal activity.

C The following are two examples of civil penalty provisions:

AFTER A HEARING PURSUANT TO TITLE 41, CHAPTER 6, THE BOARD MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN _____ DOLLARS AGAINST A LICENSEE WHO KNOWINGLY VIOLATES THIS CHAPTER.

* * *

THE BOARD MAY REVOKE OR SUSPEND THE LICENSE OF A DENTIST WHO PERMITS A DENTAL HYGIENIST WHO IS OPERATING UNDER THE DENTIST'S SUPERVISION TO PERFORM AN OPERATION OTHER THAN AS PERMITTED UNDER THIS ARTICLE.

C The following are two examples of criminal penalty provisions:

A. A PERSON COMMITS TRESPASS ON PUBLIC LAND BY INJURING ANY WOOD OR TIMBER GROWING ON STATE LAND OR BY CARRYING AWAY ANY SOIL ON OR UNDER THE SURFACE OF THAT LAND.

B. TRESPASSING ON PUBLIC LAND IS A CLASS 3 MISDEMEANOR.

* * *

A PERSON WHO VIOLATES THIS ARTICLE IS GUILTY OF A CLASS 2 MISDEMEANOR.

Criminal offenses; penalties

Criminal offenses are divided into seven felony classifications, three misdemeanor classifications and petty offenses. Except for class 1 felonies, there is a presumptive term of imprisonment for each felony. This term may be increased or decreased depending on the nature of the offense, the defendant's criminal history and the existence of any mitigating or aggravating circumstances. Fines may also be imposed. Fines for enterprises are set out in § 13-804, A.R.S. Prison terms and maximum fines for individuals are prescribed in §§ 13-701 and 13-801, A.R.S.

All lesser offenses are termed "petty offenses", with no imprisonment authorized and a maximum fine of \$300. Any offense defined outside the criminal code that lacks either designation as a felony or misdemeanor or specification of the classification or the penalty is a petty offense. (See § 13-602, A.R.S.)

4.24 POPULATION

If a bill applies different standards to different categories of locations measured by population, the drafter should use language that refers to "a (county) (city) with a population of (less than) (more than) _____ (million) (thousand) persons according to the most recent United States decennial census".

Note: At times a bill should use language that refers to both the most recent United States decennial census and the most recent special census. This is usually necessary when a bill distributes tax revenues or apportions monies. (See §§ 28-1501.02 and 42-1341.01, A.R.S.)

4.25 PROCUREMENT CODE; EXEMPTION

Spending public money for goods and services is governed by the procurement code. The applicability of the code and certain exemptions to it are found in title 41, chapter 23, A.R.S.

An exemption from the procurement code is usually for a limited duration and is thus typically in temporary law. The following language illustrates this exemption:

Sec. __. Exemption from the procurement code

The department of economic security is exempt from the procurement code requirements of title 41, chapter 23, Arizona Revised Statutes, for one year after the effective date of this act.

Note: § 35-729, A.R.S., is an example of a permanent exemption in statutory law.

4.26 QUORUM; JOINT AUTHORITY OF BOARD OR COMMISSION MEMBERS

Section 1-216, A.R.S., provides:

A. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving the authority to a majority of the officers or persons unless it is otherwise expressly declared in the law giving the authority.

B. A majority of a board or commission shall constitute a quorum.

This statute incorporates the general law that both a majority of the persons given authority to act and a quorum of those persons (not a majority of a quorum of those persons) are essential for valid administrative, legislative or other action. It is not necessary to restate this rule when establishing a new public body. However, the number necessary to act or the number necessary to comprise a quorum, or both, may be set by the legislature at something other than a majority.

4.27 REFERENCES TO NONSTATUTORY ENTITIES

The drafter should not make statutory reference to specific entities that are not established by this state's laws. As an alternative the drafter should make general references such as "a national association of retired persons" instead of "the national association of retired persons". This not only limits the possibility of an unconstitutional delegation of legislative authority but avoids inaccurate citations to entities that may change over time without the legislature's knowledge or approval.

4.28 RULES

Authority to issue rules

The following language authorizes a state agency to issue rules pursuant to the administrative procedure act:

THE (NAME OF AGENCY) MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS (CHAPTER) (ARTICLE) (SECTION).

Exemption from rules

An exemption from the rule making requirements of title 41 is drafted as temporary law since it is for a limited duration. The following language illustrates this exemption:

Sec. __. Exemption from rule making

The department of health services is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for one year from the effective date of this act.

Note: The above language extends a blanket exemption. The drafter may modify the exemption by adding language to require the agency to publish otherwise exempted rules or to provide the public with an opportunity to comment on the proposed rules.

Note also that the drafter should amend § 41-1005, A.R.S., to enact permanent exemptions from the administrative procedure act.

4.29 SAVING CLAUSES

A saving clause preserves rights and duties that have already matured and proceedings that have already begun. Since a repeal could otherwise destroy rights or obligations, the saving clause must be tailored to the needs of the particular case.

It is usually unnecessary to include a saving clause because of the general applicability of §§ 1-249 and 1-252, A.R.S.:

1-249. Repealing act; effect on pending action or accrued right

No action or proceeding commenced before a repealing act takes effect, and no right accrued is affected by the repealing act, but proceedings therein shall conform to the new act so far as applicable.

1-252. Repeal of repealing statute; effect

The repeal or abrogation of a statute, law or rule does not revive the former statute, law or rule theretofore repealed or abrogated, nor does it affect any right then already existing or accrued at the time of such repeal, nor any action or proceeding theretofore taken, except such as may be provided in the subsequent repealing statute, nor shall it affect any private statute not expressly repealed thereby.

Nevertheless, the absence of a saving clause in at least one instance has required remedial action by a special session of the legislature (Laws 1922, first special session, chapters 26 and 26-A). In every instance it is important to consider whose direct and collateral rights and duties, including the state's rights, may be affected by the bill.

The following are examples of saving clauses affecting civil and criminal legislation:

Sec. __. Saving clause

This act does not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of this act.

Sec. __. Saving clause

This act has no effect on any devise made by a will executed before the effective date of this act.

Sec. __. Saving clause

This act does not apply to any offense committed before the effective date of this act. Any such offense is punishable as provided by the statute in force at the time the offense was committed.

“Grandfather” clauses

Another type of saving clause is frequently referred to as a "grandfather" clause because it permits those persons already practicing in a profession or business to continue in that capacity even though they may not be able to meet the new law's specifications or qualifications. An example of the "grandfather" clause is:

Sec. __. Current licensees

The board of barber examiners shall issue a license to practice as a barber to any person who holds a valid license to practice barbering in this state on the effective date of this act and who on the expiration of this license pays the required fee and files a medical certificate.

4.30 SHORT TITLE

The use of a designated short title in Arizona bill drafting is rare. It is occasionally used in bills based on uniform or model acts or in reference to federal law. The short title is usually placed near the end of a bill and is not assigned a section number in the A.R.S. since it is not substantive law. The initial letter of the first word and initial letters of all important words of a short title should be capitalized. An example of a short title is:

Sec. __. Short title
Title 12, chapter 16, article 1, Arizona Revised
Statutes, as added by this act, may be cited as the "Uniform
Contribution Among Tortfeasors Act".

Note: The drafter should modify a model act to conform it with this state's bill drafting conventions and cite it, for example, as the "Revised Arizona Probate Code" instead of the "Uniform Probate Code".

4.31 STATUTORY BOARDS, COMMISSIONS, COMMITTEES AND COUNCILS

Placement

If a public body is to fulfill an ongoing duty of an unlimited duration, the drafter should place the language that creates it in statutory law. Typical of these kind of entities are the boards that regulate professions and occupations in title 32, A.R.S.

Sunset

The drafter must include a "sunset" provision in the bill unless the board, commission or committee is part of an agency that is already on a sunset schedule.

Checklist

When creating a board the drafter should consult relevant provisions of the checklist found in § 4.3. Note: Unlike temporary committee members, board members typically do receive compensation "in the amount of _____ dollars per day for each day of actual service in the business of the board and all expenses necessarily incurred in attending board meetings" or "as prescribed by section 38-611".

Initial terms of members; terms of additional members

Initial terms of appointed members or of additional members are always staggered. The provision prescribing their term of office appears near the end of a bill in temporary law in the following style:

Sec. __. Initial terms of members of _____

A. Notwithstanding section __ (insert number of section establishing terms of members), Arizona Revised Statutes, as added by this act, the (initial) terms of (additional) members are:

- 1. One term ending January __, 1999.**
- 2. Two terms ending January __, 2000.**

B. The _____ (insert governor or appropriate official) shall make all subsequent appointments as prescribed by statute.

If it is uncertain when a committee will form, or if there are multiple appointing authorities, the law itself may allow the initial members to draw lots to determine among themselves the initial staggered terms:

THE INITIAL MEMBERS SHALL ASSIGN THEMSELVES BY LOT TO TERMS OF TWO, FOUR AND SIX YEARS IN OFFICE. ALL SUBSEQUENT MEMBERS SERVE SIX YEAR TERMS OF OFFICE. THE CHAIR SHALL NOTIFY THE GOVERNOR'S OFFICE ON APPOINTMENTS OF THESE TERMS.

New terms for previously appointed committee members

If prescribing new terms for appointive members, provide for the transition in session law, taking into account the expiration dates of terms of present members, the number of members and whether the new terms are longer or shorter or an odd or even number of years. The following is an example in which an eight member board is retained, but the term of office is changed from eight years to four years:

Sec. __. Terms of board members

A. Notwithstanding section 15-1621, Arizona Revised Statutes, as amended by this act, a person who is serving as a member of the Arizona board of regents on the effective date of this act is eligible to continue to serve until expiration of the current term of office.

B. On the expiration of the term in January, 1998 of two members of the Arizona board of regents, the governor shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for a term beginning January 19, 1998 and ending January 15, 2001.

C. On the expiration of the term in January, 2000 of two members of the Arizona board of regents, the governor

shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for a term beginning January 17, 2000 and ending January 20, 2003. Thereafter the governor shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for terms beginning on the third Monday of January of the year of the expiration of term and ending on the third Monday of January four years thereafter.

Election of officers previously appointed

If prescribing the election of officers previously serving by appointment, take into account the effective date of the act (or constitutional amendment), general election dates, the beginning and expiration dates of terms of present members, the number of members and whether the new terms are longer or shorter or for an odd or even number of years.

Vacancies

If specific terms of office are not set forth, § 38-295, A.R.S., provides that:

A. Every officer whose term is not fixed by law shall hold office at the pleasure of the appointing power.

B. Every officer shall continue to discharge the duties of the office, although the term has expired, until a successor has qualified. The discharge of the duties of office for appointments requiring senate confirmation shall be governed by section 38-211.

C. Vacancies occurring in an office, or in the membership of a board or commission, shall be filled only for the unexpired term of the officer or member.

Article V, § 8, Constitution of Arizona, provides that when any office becomes vacant and no method is provided by the constitution or by statute for filling the vacancy the governor may appoint someone to fill the vacancy.

Procedures to be used when a vacancy occurs in the legislature are set out in title 41, chapter 7, article 7, A.R.S.

Retention of members

Often in bills providing for the reorganization of state functions it is appropriate to clarify the effect on appointed officials. The following examples illustrate how to continue certain terms:

Sec. __. Retention of members

All persons serving as members of a board, council or commission on the effective date of this act whose board, council or commission is retained as a part of the department of economic security may continue to serve until expiration of their normal terms.

Sec. __. Terms of state officers

Notwithstanding any other statute, all terms of state officers appointed pursuant to section 38-211, Arizona Revised Statutes, that are in effect on the effective date of this act expire on the third Monday in January next following the year in which the term would otherwise expire.

Sec. __. Retention of members

Notwithstanding section 32-1502, Arizona Revised Statutes, as added by this act, all persons serving as members of the naturopathic physicians board of medical examiners on the effective date of this act may continue to serve until the expiration of their normal terms. The governor shall make all subsequent appointments as prescribed by statute.

Abolishing an office; restrictions

If a bill has the effect of abolishing an office, the drafter should be aware of § 1-251, A.R.S., that provides:

A person who at the time an act takes effect holds office under a law repealed by such act continues to hold the office according to the tenure of the law repealed, unless the duties of the office are expressly transferred to some other office.

This provision cannot be avoided by abolishing an office and then creating a new office with similar duties. An existing officeholder's term will not be terminated unless the new office to which the officer's duties are transferred has substantially new, different or additional functions or powers. Ahearn v. Bailey, 104 Ariz. 250, 451 P.2d 30 (1969). Moreover, the legislature cannot abolish, prescribe additional qualifications for or otherwise circumvent constitutionally prescribed powers and duties of offices created by the state constitution.

4.32 SUNRISE LEGISLATION

If a bill would regulate a health profession that is now unregulated by this state or would increase the scope of practice of a board-regulated health profession, the drafter should be aware of title 32, chapter 31, A.R.S. That chapter prescribes the requirements that applicants for either initial regulation or an increased scope of practice must meet.

4.33 SUNSET LEGISLATION

Under state law each new and existing agency has no more than a ten year life span, at the end of which the agency is subject to a sunset review. Title 41, chapter 27, A.R.S., sets out the sunset conditions and procedures, and article 2 of that chapter establishes the sunset schedule for the various agencies.

Each agency is assigned a sunset statute, for example:

- 41-3002.14. Osteopathic board; termination July 1, 2002
A. *The Arizona board of osteopathic examiners in medicine and surgery terminates on July 1, 2002.*
B. *Title 32, chapter 17 is repealed on January 1, 2003.*

This sample sunset statute illustrates several unique features that should be addressed in each bill that establishes a new agency or changes an agency's sunset termination date:

C The section number corresponds to the year of the sunset termination. In the sample statute, § 41-3002.14 corresponds with the year 2002. All agencies that terminate in 2002 are assigned a statute section in the 41-3002.____ series.

C The agency terminates "on July 1" of the appropriate year.

C The enabling statutes for the agency are repealed six months later "on January 1" of the following year under the assumption that even though the agency is officially terminated, it may still require continuing statutory existence while it concludes its affairs.

To change an agency's sunset date the drafter must repeal the existing sunset statute and enact a new statute with a section number corresponding to the new termination year. The following illustrates how to extend an agency for ten years:

- Section 1. Repeal**
Section 41- 2998. 01, Arizona Revised Statutes, is repealed.
Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41- 3008. 01, to read:
41- 3008. 01. Arizona state lottery commission; termination July 1, 2008
A. THE ARIZONA STATE LOTTERY COMMISSION TERMINATES ON JULY 1, 2008.
B. TITLE 5, CHAPTER 5 IS REPEALED ON JANUARY 1, 2009.
Sec. 3. Purpose
The purpose of the Arizona state lottery commission is to promote the state lottery's maximum administrative efficiency and financial viability.

ö ö ö

Sec. 4. Retroactivity
Sections 1 and 2 of this act are effective retroactively to July 1, 1998.

Note: For purposes of drafting legislation, always number the new sunset section as the next available number regardless of other bills that may also add that same section number. The drafter should not assume that the other bill or bills will actually be enacted. After the legislative session is over the legislative council will renumber all of the newly enacted sunset sections in a consecutive series corresponding to the sunset year.

Since sunset legislation usually becomes effective on the general effective date, it is usually necessary to include a retroactivity provision relating back to July 1, the date the agency terminates. Without it there would be a hiatus between July 1 and the general effective date during which the existence and authority of the agency could be called into question.

Section 41-2955, A.R.S., requires legislation that establishes a new agency or continues an existing agency to contain a statement of policy, purpose or objectives of the agency. (See § 4.17.)

4.34 TAX MEASURES; REQUIRED STATEMENT OF OBJECTIVES

Article IX, §§ 3 and 9, Constitution of Arizona, require that laws that impose, continue or revive a tax must distinctly state the tax and the objects for which it shall be applied.

The Arizona supreme court has held that this requirement relates only to measures imposing a property tax and not to measures imposing an excise tax. See Hunt v. Callaghan, 32 Ariz. 235, 257 P. 648 (1927).

4.35 TRANSFER OF COST OF PROGRAM FROM POLITICAL SUBDIVISION TO STATE; REDUCTION OF EXPENDITURES AND ADJUSTMENT OF TAX REVENUES

If a bill provides for the transfer of the cost of a program to the state and fails to require that tax revenues of the political subdivision be commensurately reduced, the new state obligation would be subject to the seven percent spending limitation imposed by article IX, § 17, Constitution of Arizona. In addition, article IX, § 17, Constitution of Arizona, allows the state to adjust the seven percent limit during the first fiscal year of the transfer.

To enable the economic estimates commission to make the adjustment, in the case of a legislative transfer the effective date prescribed by the bill should be July 1, the beginning date of the fiscal year following the fiscal year beginning July 1 in which the bill is proposed for enactment.

The drafter should include provisions similar to the following temporary law sections in an act transferring program costs from a political subdivision to the state. Please note that the following is only an example. Each situation involving a transfer will be unique:

Sec. __. Reduction of expenditures and adjustment of tax revenues

A. To adjust for the transfer of the cost of the () program to the state, the (political subdivision) shall commensurately decrease tax revenues under article IX, section 17, Constitution of Arizona.

B. Not later than October 1, 199_, the economic estimates commission shall adjust the state appropriation percentage limitation in the manner prescribed by article IX, section 17, Constitution of Arizona, and report this adjustment to the legislature.

Sec. __. Delayed effective date

Sections ____, ____, and ____ of this act are effective on July 1, 199_.

4.36 TRANSFER OF PERSONNEL, EQUIPMENT AND MONIES; TRANSFER AND SUCCESSION OF POWERS

Transfer of personnel, equipment and monies

The following are examples of provisions for the transfer of personnel, equipment and monies between agencies or from an old agency to a new or successor agency:

Sec. __. Succession

A. As provided by this act, the (new department) succeeds to the authority, powers, duties and responsibilities of (old agency #1) and (old agency #2).

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the (old agencies) in existence before January 1, 199__.

C. Administrative rules and orders that were adopted by the (old agencies) continue in effect until superseded by administrative action by the (new department).

D. All administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process, of the (old agencies) on January 1, 199__ are transferred to and retain the same status with the (new department).

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were issued by the (old agencies) retain their validity for the duration of their terms of validity as provided by law.

F. All equipment, records, furnishings and other property, all data and investigative findings and all appropriated monies that remain unexpended and unencumbered on January 1, 199__ of the (old agencies) are transferred to the (new department).

G. All personnel who are under the state personnel system and employed by the (old agencies) are transferred to comparable positions and pay classifications in the respective administrative units of the (new department) on January 1, 199__.

Transfer and succession of powers

If a new agency is to replace an existing agency, the drafter should include session law to cover the succession and transfer of functions:

Sec. __. Transfer of powers

The department of economic security succeeds to the powers and duties of the following:

1. The employment security commission of Arizona and its Arizona state employment service, unemployment compensation and administrative service divisions.
2. The state department of public welfare.
3. The division of vocational rehabilitation.
4. The veterans service commission.
5. The state office of economic opportunity.
6. The apprenticeship council.
7. The state office of manpower planning.
8. The state department of mental retardation.

In transferring functions from one agency to another, the drafter should consider including language to ratify or confirm prior actions, obligations and rules of the old agency such as:

Sec. __. Transfer of powers; effect

A. All matters, including contracts, orders and judicial or quasi-judicial actions, whether completed or pending, of the (old agency) are transferred, on the effective date of this act, and maintain the same status with the (new agency).

B. Rules adopted by the (old agency) are effective until superseded by rules adopted by the (new agency).

C. All personnel, property and records, all data and investigative findings and all appropriated monies remaining unspent and unencumbered for the _____ fiscal year of the (old agency) are transferred to the (new agency) and may be used for the purposes of this act.

4.37 TRANSFERRING AND RENUMBERING STATUTORY SECTIONS

A section of codified law is renumbered if it is moved to a different placement in the same statutory article (or in title 13, in the same chapter). A section of codified law is transferred and renumbered if it is moved to a different chapter or article. A section of a bill may renumber or transfer and renumber a statutory section, article or chapter as in these examples:

Sec. __. Renumber

Section 41-1846, Arizona Revised Statutes, is renumbered as section 41-1842.

Sec. __. Transfer and renumber

Section 13-292, Arizona Revised Statutes, is transferred and renumbered for placement in title 13, chapter 23, Arizona Revised Statutes, as section 13-2309.

Sec. __. Transfer and renumber

Title 36, chapter 28, Arizona Revised Statutes, is transferred and renumbered for placement in title 49, Arizona Revised Statutes, as chapter 5, entitled "HAZARDOUS WASTE DISPOSAL". The transferred articles are renumbered, with title 36, chapter 28, articles 1, 2 and 3 becoming, respectively, title 49, chapter 5, articles 1, 2 and 3. The transferred sections, previously included in title 36, chapter 28, articles 1, 2 and 3, are renumbered for placement in title 49, chapter 5, articles 1, 2 and 3, respectively, the first number being replaced by the second number as follows: 36-2801 as 49-901, 36-2802 as 49-902, ... and 36-2844 as 49-944.

If multiple statutory sections are transferred and renumbered in one of the initial sections of a bill but are amended later in the same act, the disposition text should read as follows:

Sec. __. Section 13-2309, Arizona Revised Statutes, as transferred and renumbered by this act, is amended to read:

Also an amendment of a section may be combined with the transfer and renumbering of a section as follows:

Sec. __. Section 13-541.01, Arizona Revised Statutes, is transferred and renumbered for placement in title 13, chapter 24, Arizona Revised Statutes, as section 13-2409 and, as so renumbered, is amended to read:

The following bill title is an example of language suggested for use when transferring divisions of the A.R.S. (e.g., articles and chapters), renumbering the sections within the division and amending a renumbered section:

TRANSFERRING AND RENUMBERING TITLE 15, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 32, ARIZONA REVISED STATUTES, AS CHAPTER 30; TRANSFERRING AND RENUMBERING TITLE 15, CHAPTER 9, ARTICLE 4, ARIZONA REVISED STATUTES, AS TITLE 32, CHAPTER 30, ARTICLE 1, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTIONS 15-931, 15-932, 15-932.01 AND 15-933 THROUGH 15-946, ARIZONA REVISED STATUTES, RESPECTIVELY, AS SECTIONS 32-3001 THROUGH 32-3017; AMENDING SECTION 32-3007, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT. . . .

Note: The drafter should not renumber statutory sections unless there is a compelling reason to do so. Renumbering may obscure a measure, make subsequent changes or amendments more difficult or impair the tracing of legislative history. Renumbering also may result in ambiguity and increases the likelihood of drafting errors. It is also expensive because internal references, index entries, annotations, administrative rules and explanatory materials, such as bulletins published by state agencies, must all be changed to conform to the renumbering.

4.38 VACANCY SAVINGS

Section 35-174, A.R.S., provides that vacancy savings must revert to the state general fund at the end of each fiscal year. Vacancy savings are monies saved or generated in personal services and employee related expenditures by not filling vacant or newly authorized positions, filling a position at a step or grade lower than authorized or a downward reclassification of an authorized position. An example of creating an exemption to the vacancy savings law as well as authorizing additional positions is as follows:

Sec. __. Authorization for additional positions:
vacancy savings exemption

Notwithstanding section 35-174, Arizona Revised Statutes, relating to vacancy savings, the department of administration is authorized to fill two additional positions in order to comply with the requirements of section 41-1304.05, Arizona Revised Statutes.

CHAPTER 5

GENERAL INSTRUCTIONS AS TO FORM AND STYLE

- 5.1 General Drafting Rules
- 5.2 Classification, Arrangement and Numbering of the A.R.S.
- 5.3 Capitalization
- 5.4 Age
- 5.5 Federal Statutes and Regulations
- 5.6 Citing the Arizona Constitution
- 5.7 Citing Internal References to the A.R.S.
- 5.8 Numbers, Dates and Times
- 5.9 Officer and Agency Names
- 5.10 Punctuation
- 5.11 Spelling
- 5.12 Use of Synonyms
- 5.13 Words and Phrases to Avoid
- 5.14 Use of the Present Tense
- 5.15 Use of the Active Voice
- 5.16 Use of the Masculine Pronoun
- 5.17 Lists; Format
- 5.18 Use of Modifiers
- 5.19 Use of “Amount” and “Number”
- 5.20 Use of “Fewer” and “Less”
- 5.21 Use of “Biennially” and “Biannually”
- 5.22 Use of “Bimonthly” and “Semimonthly”
- 5.23 Use of “Consecutive” and “Successive”
- 5.24 Use of “Continual” and “Continuous”
- 5.25 Use of “Assure”, “Ensure” and “Insure”
- 5.26 Use of “Except” and “Provided”
- 5.27 Use of “Farther” and “Further”
- 5.28 Use of “Funds” and “Monies”
- 5.29 Use of “If”, “Where” and “When”
- 5.30 Use of “Includes”
- 5.31 Use of “Shall” and “May”
- 5.32 Use of “Such”
- 5.33 Use of “That” or “Which”
- 5.34 Use of “Therefore” and “Therefor”
- 5.35 Use of “Through”

CHAPTER 5

GENERAL INSTRUCTIONS AS TO FORM AND STYLE

5.1 GENERAL DRAFTING RULES

The goal of good bill drafting is to make legislation as short, simple and readable as possible while not sacrificing clarity or precision. The instructions enumerated in this chapter are designed to achieve this goal. The following are some of the most basic drafting rules that are discussed in this chapter:

- C Use only necessary and understandable words. (See §§ 5.12 and 5.13.)
- C Do not use unnecessary legalese or redundant legal phrases. (See §§ 5.12 and 5.30.)
- C Keep sentences as brief as possible by limiting them to a single thought.
- C Use section divisions to break down lengthy statutes into understandable units. (See § 5.2.)
- C Use a list to describe multiple duties or actions. (See § 5.17.)
- C Use "shall" only to impose a duty to act. (See § 5.31.)
- C Use "may" to grant discretion or authority to act. (See § 5.31.)
- C Use the present tense. (See § 5.14.)
- C Use the active voice. (See § 5.15.)
- C Avoid using pronouns. (See § 5.16.)

5.2 CLASSIFICATION, ARRANGEMENT AND NUMBERING OF THE STATUTES

The Arizona Revised Statutes are comprised of the compiled laws of the state of Arizona and are divided, according to subject matter, into forty-nine titles. The designations given the titles were selected to indicate the broad principal subject matter allocated to each title so that an examination of the list of titles will show the approximate location of a particular law.

ö ö ö

Title and chapter headings take the following form:

TITLE 16
ELECTIONS AND ELECTORS
CHAPTER 1
REGISTRATION OF ELECTORS

Article headings take the following form:

ARTICLE 1. REGISTRATION REQUIREMENTS

A compound or hyphenated section numbering system is used. The digits to the left of the hyphen represent the number of the title in which the section appears. The digits to the right of the hyphen indicate the section number. The first section in each title is appropriately numbered 101: e.g., the first section in title 1 is 1-101; the first section in title 46 is numbered § 46-101. If additional section numbers must be added between existing sections, decimal hundredth sections may be used such as 46-101.01, 46-101.02, etc.

Section divisions have the following designations:

- A. Subsection (capital letter followed by a period)
- 1. Paragraph (Arabic numeral followed by a period)
- (a) Subdivision (lower case letter in parentheses)
- (i) Item (lower case Roman numeral in parentheses)

Divisions beyond items are not used in the A.R.S.

An outline consisting of the heading of each chapter and article within the title is printed at the beginning of each title in the published A.R.S. At the beginning of each chapter a chapter analysis is printed consisting of each article heading, section heading and section number appearing in the chapter.

When adding a new chapter in the A.R.S. it is preferable to have the first section end with the number "01" or "51", such as 32-301 and 41-2351. The first section in a new article should end with the number "1", such as 32-331 or 36-851.

When determining what number should be used to begin a new chapter or article, the drafter must remember that the legislative process is not static. If possible, the drafter should leave sufficient free numbers to allow expansion of the current law. Title 41, chapter 19, A.R.S., contains only five sections, therefore, chapter 20 of that title begins with § 41-2351.

If title 41, chapter 19 had contained forty sections, chapter 20 would have begun with § 41-2401 to leave room for expansion of chapter 19.

Note: Do not divide a statutory section unit unless there are at least two smaller units involved.

5.3 CAPITALIZATION

In bill drafting only the following terms are capitalized:

- C Proper nouns (proper names).
- C Arizona Revised Statutes.
- C Congress (when referring to the Congress of the United States).
- C Constitution (when preceded by "Arizona" or "United States", or followed by "of Arizona" or "of the United States").

In memorials and resolutions all titles of officers and entities, as well as names of agencies, are capitalized.

Note: If the drafter is adding a word or words to the beginning of an existing sentence do not strike the word that had appeared first in the original sentence to show the word in lower case. And if a draft strikes a word or words from the beginning of a sentence do not strike the word that is now first word in the sentence to capitalize that word. In both instances the drafter only has to show the proper capitalization.

5.4 AGE

The drafter should use the following language to prescribe age categories:

"A person who is under eighteen years of age. . . ."

"A person who is at least eighteen years of age. . . ."

5.5 FEDERAL STATUTES AND REGULATIONS

Delegation issues

The legislature may not delegate its power to make laws. See Lake Havasu City v. Mohave County, 138 Ariz. 552, 675 P. 2d 1371 (1984). Therefore, the drafter should not use language that makes a statute appear dependent on federal law for its administration or enforcement. The drafter may use the following techniques to avoid an unlawful delegation:

C If the intent of the bill is to conform state law to current federal law, the drafter should simply incorporate the pertinent federal language into the bill.

C If it is impracticable to restate or repeat the federal law, the drafter should require the appropriate state agency to adopt rules based on the federal law and to revise them as necessary to keep them current.

Use of "as amended"

The use of the phrase "as amended" can cause problems in drafting statutes. The general rule is that a legislature may not confer on the United States or other government authorities the power to determine what rule is in force in this state or condition changes in its rule based on changes in rules enacted by the United States or elsewhere.

If at the time the legislature adopts by reference a measure to which amendments have previously been made, the use of "as amended" indicates that the legislature intended to include the amendments previously made. However, the legislature may not constitutionally delegate its authority by using "as amended" to include future amendments by the authorities of another state or the United States to the measure that the other state or the United States adopts. See Scappaticci v. Southwest Savings and Loan Ass'n, 135 Ariz. 456, 662 P.2d 131 (1983); Sutherland, Stat. Const. § 51.08 (5th Ed).

Citation of a federal act

The following is an example of a complete citation to a federal act:

"BOARD" MEANS THE UNITED STATES METRIC BOARD EXISTING UNDER THE METRIC CONVERSION ACT OF 1975 (P. L. 94-168; 89 STAT. 1007; 15 UNITED STATES CODE SECTION 250a).

Note the following:

C If citing consecutive sections or subsections, give inclusive numbers. Do not use "et seq."

C If a federal act has no popular name, it should be cited by date of enactment: "Act of _____, 19 _____" followed by the statutory references.

C If the date is not part of the popular name of the act, state the date following the Statutes at Large citation.

C Cite to the official United States Code, not to the unofficial United States Code Annotated (e. g. , 15 United States Code section 260a not 15 United States Code Annotated section 260a).

C Many public laws contain material unrelated to the U.S. code section or contain only amendments that do not include all of the text that the drafter intends to cite.

Citation of a federal regulation

An example of a citation to the Code of Federal Regulations is:

EPA Effluent Limitations Guidelines, 40 Code of Federal Regulations section 405.53 (1980).

If the number cited contains a decimal it is a citation to a CFR section, and if the citation contains only a whole number it is a citation to a CFR part.

Citation to the federal poverty level

Cite the federal poverty level:

". . . AS DETERMINED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET AND REPORTED ANNUALLY IN THE FEDERAL REGISTER".

Citation to the federal poverty guidelines

Cite the federal poverty guidelines:

". . . AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES".

5.6 CITING THE ARIZONA CONSTITUTION

A reference to the Arizona Constitution in the statutes should be as follows, using Roman numerals for the article designation and Arabic numerals for the remainder of the citation.

. . . article IV, part 1, section 2, Constitution of Arizona.

It is preferable in dividing section units within the Constitution of Arizona to conform as closely as possible to the division units within A.R.S. (subsections, paragraphs, subdivisions and items) for ready comprehension rather than use unidentified paragraph units and designations for which there is no agreed upon citation form.

5.7 CITING INTERNAL REFERENCES TO THE A.R.S.

Note: Do not cite session law in statutory text.

In referring to a section of the statutes within the body of the bill, the word "section" is written out, as "section 35-173".

ö ö ö

C In citing a complete article, use the following style:

. . . title 12, chapter 6, article 2 [or] article 2 of this chapter [or] chapter 3, article 1 of this title.

C If making a reference within a section to another division, use the following style:

. . . as provided in subsection A.

. . . as provided in subsection A, paragraph 1.

. . . as provided in subsection A, paragraph 1, subdivision (a).

. . . as provided in subsection A, paragraph 1, subdivision (a), item (i).

C If a reference is made to a division of another section of the statutes, the designation would be "as provided in section 42-101, subsection A". Also, internal references within a section that refer to any other section of the A.R.S. should be denoted as such by the addition of the phrase "of this section".

C "Of this section" is not required in the following example:

A. ON THE DEATH OF A TAXPAYER, THE AMOUNT OF GAIN RELATED TO AN OUTSTANDING RECEIVABLE THAT HAS NOT PREVIOUSLY BEEN INCLUDED IN INCOME SHALL BE INCLUDED IN INCOME.

B. SUBSECTION A DOES NOT APPLY IF A BOND IS FILED WITH THE DEPARTMENT IN AN AMOUNT THAT THE DEPARTMENT CONSIDERS TO BE NECESSARY.

C "Of this section" is required in the following example:

A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSONAL EXEMPTION IS ALLOWED IN THE AMOUNT OF ONE THOUSAND DOLLARS.

B. THE DEPARTMENT SHALL ANNUALLY REVISE THE DOLLAR AMOUNTS SPECIFIED IN SUBSECTION A OF THIS SECTION TO REFLECT CHANGES MANDATED BY SECTION 43-252.

C Use "OF THIS SECTION" if there is a reference to another A.R.S. section number (i.e., "section 23-4301").

C Do not use "OF THIS SECTION" if the other reference is not an A.R.S. section (i.e., a reference to another title, chapter or article of A.R.S. or to the U.S. Code or Federal Regulations).

C Use "OF THIS SUBSECTION" if there is more than one subsection within that section that has paragraphs under it.

Note: If the drafter is adding language to an A.R.S. section, the drafter should also review the entire statutory section to determine if "OF THIS SECTION" needs to be added to the existing text.

5.8 NUMBERS, DATES AND TIMES

In permanent law numerals and simple fractions are written out, as, "One hundred four thousand dollars fifty cents" and "two-thirds". Exceptions to this rule are as follows:

C Statutory citations, "section 15- 101, paragraph 2".

C Legal descriptions of real property.

C Dates, "January 1, 1994" or "fiscal year 1993-1994".

C Times, "4:00 p.m.".

C Criminal classes, "class 1 felony".

C Complex numbers, "... multiplied by .0324 ...".

C Appropriations, "\$5,014,200.50".

Note: Do not use the word "and" when writing a number, as "fifty-five dollars and fifty cents", and do not follow the spelled out number with the figures in parentheses, as "five (5) dollars".

ö ö ö

When writing dates and times:

Do not use:

Use:

July first, nineteen
hundred ninety-nine

July 1, 1999

June 30th, June thirtieth,
or the thirtieth day
of June

June 30

1996-97

1996-1997

twelve o'clock noon

12:00 noon

beginning October 1, 1996

beginning on October 1, 1998

ten o'clock p.m.

10:00 p.m.

two-fifteen a.m.

2:15 a.m.

5.9 OFFICER AND AGENCY NAMES

Precision requires that a statute drafter use the proper title of any officer or governmental agency. If in doubt, check the following statutes that authorize the office or establish the agency:

Arizona Board of Regents	15-1621
Arizona Department of Agriculture	3-102
Arizona Department of Racing	5-101.01
Arizona Game and Fish Department	17-101
Arizona Geological Survey	27-150
Arizona Health Care Cost Containment System Administration	36-2903
Arizona State Lottery commission	5-502
Arizona State Retirement System	38-711
Attorney General	41-191
Commission on the Arts	41-981
Commission of Indian Affairs	41-541
Corporation Commission	40-102
Council for the Hearing Impaired	36-1941
Department of Administration	41-701
Department of Building and Fire Safety	41-2141
Department of Commerce	41-1501
Department of Economic Security	41-1952
Department of Education	15-231
Department of Emergency and Military Affairs	26-101
Department of Environmental Quality	49-101
Department of Health Services	36-101

Department of Insurance	20-101
Department of Juvenile Corrections	41-2802
Department of Law	41-193
Department of Library, Archives and Public Records	41-1331
Department of Liquor Licenses and Control	4-111
Department of Mines and Mineral Resources	27-101
Department of Public Safety	41-1711
Department of Revenue	42-111.01
Department of State	41-121.02
Department of Transportation	28-101
Department of Water Resources	45-102
Governor	41-101
Industrial Commission	23-101
Joint Legislative Budget Committee	41-1271
Legislative Council	41-1301
Public Safety Personnel Retirement System	38-841
Radiation Regulatory Agency	30-651
Secretary of State	41-121
State Banking Department	6-101
State Board of Directors for Community Colleges	15-1401
State Board of Equalization	42-171.01
State Board of Tax Appeals	42-171
State Department of Corrections	41-1602
State Hospital	36-201
State Land Department	37-101
State Mine Inspector	27-121
State Parks Board	41-511
State Real Estate Department	32-2101
State Schools for the Deaf and the Blind	15-1303
State Treasurer	41-171
Superintendent of Public Instruction	15-251

5.10 PUNCTUATION

A properly drafted bill requires little punctuation. Short simple sentences avoid the need for excessive punctuation, facilitate amendment and reduce the possibility of misinterpretation.

The following rules are designed to promote uniformity in punctuation:

Colons

C Do not use a colon in the text of a section except to introduce a series. For a series of indented subsections, paragraphs or items following a colon, use a period at the end of each.

Commas

Commas should be used sparingly but are appropriate in the following instances:

C To separate the items in a series, as in "the governor, the director, the attorney general and the secretary of state" Note: The comma is omitted before the conjunction "and" or "or" within a series of words, phrases or clauses.

C To set off dates, as in "Beginning on July 1, 2002, the director shall"

C To set off clauses that describe a subject *already identified* but not clauses that identify the subject ("The director who is appointed pursuant to section 36-2903 shall"). Note: Never separate the subject of the sentence from its verb by only one comma.

Quotation marks

Unless the entire sentence is quoted, place a period or comma *outside* the last quotation mark. For example: FOR THE PURPOSES OF THIS SUBSECTION, "STOP", "STOPPED" OR "STOPPING" MEANS

5.11 SPELLING

Use of dictionary

The drafter should follow Webster's New International Dictionary in the spelling, compounding and dividing of words, except if otherwise provided in this manual.

Use of hyphens

Use hyphens sparingly. Do not hyphenate foreign phrases when used as adjectives, e.g., "prima facie evidence". Other words that should not be hyphenated include "semiannual", "per cent", "audiovisual", "statewide" and "cochairperson".

5.12 USE OF SYNONYMS

In drafting legislative measures use short, simple words. Do not use synonyms. Use the same word, if the same meaning is intended. Statute drafting requires uniformity as a price for precision in communicating. The creative writing style of varying terminology to provide more reader appeal is not appropriate for drafting.

5.13 WORDS AND PHRASES TO AVOID

Do not use the following words and phrases:

aforesaid
aforementioned
before-mentioned

duly
herein
hereinabove

hereinafter
hereunder
in no event

same (as a substitute for it, he, him, etc.)
said
thereof

thereto
therewith
to wit

whatsoever
whenever
wheresoever

C When referring to the superior court do not say, for example, "the Maricopa county superior court". Say "the superior court in Maricopa county."

ö ö ö

Do not use:

Use instead:

accord	<i>give</i>
adequate number of	<i>enough</i>
afforded	<i>given</i>
and/or	<i>both a or b, or,</i>
any and all	<i>all</i>
at the place	<i>where</i>
at the time	<i>when</i>
attorney's fees	<i>attorney fees</i>
by and with	<i>by</i>
calculate	<i>compute</i>
commence	<i>begin</i>
complete	<i>finish</i>
consequence	<i>result</i>
constitute and appoint	<i>appoint</i>
create	<i>establish</i>
crisis situation	<i>crisis</i>
do and perform	<i>do</i>
during such time as	<i>while</i>
each and every	<i>each</i>
emergency situation	<i>emergency</i>
evidence, documentary or otherwise	<i>evidence</i>
expend	<i>spend</i>
fail, refuse and neglect	<i>fail</i>
fax	<i>telefacsimile</i>
for the purpose of	<i>to</i>
forthwith	<i>promptly [or] immediately</i>
full and complete	<i>full</i>
give consideration to	<i>consider</i>
however or provided	<i>if [or] unless [or] state the condition</i>
he or she	<i>he, the applicant, etc.</i>
if any person shall violate	<i>a person who violates</i>
if it shall appear that	<i>if it appears</i>
if it shall be necessary	<i>if it is necessary</i>
in accordance with	<i>according to [or] pursuant to [or] under</i>
in the event that	<i>if</i>

Do not use:

Use instead:

in the preceding section
inc.
in its discretion may
includes, but is not limited to,

in section (insert number)
incorporated
may
includes

is applicable
is defined and shall be construed
to mean with reference to
is hereby authorized and
empowered to
is hereby vested with power and
authority and it shall be its
duty in carrying out the
provisions of this act

applies
means

may

shall

is null and void
is ordered and directed to
is required to
it is his duty to
it shall be lawful

void
shall
shall
shall
may

it shall be unlawful
lay member
less
make application
make inquiry

it is unlawful
public member
minus
apply
inquire

not (less) (fewer) than
not to exceed
nothing in this section shall be
construed to
notwithstanding any other
provision of law to the
contrary

at least
not more than

this section does not
notwithstanding any
other statute [or]
notwithstanding any
other law [or]
notwithstanding any
law to the contrary

Do not use:

Use instead:

on and after June 30, 1994

*on June 30, 1994 if noon
is intended; from and after
June 30 if midnight is
intended (See § 4.11.)*

order, adjudge and decree
over the age of sixteen

*order
at least seventeen
years of age*

part and portion

part

per

a

per centum [or] percent

per cent

per annum

a year

practical

practicable

prior to

before

provide assistance to
provided, however

*assist
if [or] except [or] unless [or]
specifically state the condition*

registered mail

*certified mail, return
receipt requested*

rule and regulation

rule

set forth

state

shall be

is [or] are

shall be in full force

is effective

and effect

sole and exclusive

sole

State of Arizona

this state [or] Arizona

a statement setting forth

state

subsequent to

after

the same is hereby

is

under the provisions of

under

upon

on

U. S.

United States

utilize

use

verified statement

notarized statement

with reference to

about

when

if

wherein

in which

5.14 USE OF THE PRESENT TENSE

In drafting use the present tense since a statute speaks as of the time that it is read. "A person who drives recklessly" not "A person who shall drive recklessly".

§ 1-214, A.R.S., stipulates that words in the present tense include the future as well as the present.

Do not use "shall" to convey future meaning. Since statutes are generally prospective in application those unfamiliar with drafting often incorrectly deem it necessary to use future tense in writing proposed statutory text. However, a statute speaks as of the time it is being read, not merely as of the time it was enacted. In addition, present tense is more readily understood and presents more forceful admonitions. Declarative sentences are preferable to unnecessary mandatory or imperative sentences.

Do not use:

It shall be unlawful

If a member shall resign

The term "person" shall mean

The equipment shall remain the property of the lessor

No person shall be entitled

This section shall not be construed to

Use instead:

It is unlawful

If a member resigns

"Person" means

The equipment remains the property of the lessor

No person is entitled

This section does not

5.15 USE OF THE ACTIVE VOICE

Use the active voice in drafting. The active voice is more direct and less subject to misinterpretation than the passive voice. It may not always be clear on whom a duty is imposed or a power or privilege conferred when the passive voice is used. The verb form is passive if it consists of a form of the verb "to be" and the past participle of another. As examples consider:

C Notice shall be given by the secretary. (passive)

C The secretary shall give notice. (active)

5.16 USE OF THE MASCULINE PRONOUN

New legislation should be drafted in “gender-neutral” terms and should avoid using the masculine pronoun. However, in some cases this might result in confusion, awkward sentence structure or improper grammar, and in those cases the drafter may use a gender specific pronoun. A drafter may also amend existing statutory text to use gender-neutral terms at the drafter’s option. In any case, the use of gender-neutral terminology should be consistent with the following principles:

C A.R.S. § 1-214, subsections C and D provide:

C. Words of the masculine gender include the feminine and the neuter.

D. Words of the feminine gender include the masculine and the neuter.

This provides all the legal authority necessary for the statutes to apply to males and females alike (unless, of course, there is some biological basis for exclusivity as, for example, statutes relating to pregnancy or paternity litigation). Gender neutral drafting efforts should carry or produce no implication that gender specific text is biased, exclusive or otherwise defective.

C Gender-neutrality should not call attention to itself through the use of new artificial or contrived terms or sentence structure. Replacement terminology should be selected with care. “Police officer” may be a satisfactory replacement for “policeman”, but “military officer” is not the equivalent of “serviceman”.

C When amending existing statutory text, it is acceptable to make incidental changes to enact gender-neutral terms, but there is no affirmative obligation to change existing law to achieve gender-neutrality.

C Unless specifically asked by a legislator do not prepare amendments to bills solely to make gender changes in existing or proposed new law and do not include page and line instructions to replace a gender specific term with a gender neutral term.

The following example illustrates the proper way to avoid a personal pronoun:

If the director determines that an agency has violated this article, the director or the director's designee may file a civil action in the superior court in the county in which the director's office is located.

Note: Do not say "the director or their designee".

5.17 LISTS; FORMAT

The drafter should use a list to set out related elements such as definitions, powers, duties, restrictions, examples and conditions.

To properly use a list the drafter shall:

1. Introduce the listed items by lead-in language that ends in a colon.
2. List each distinct item in a separately numbered paragraph if the lead-in is in a section or subsection. If necessary, a listed paragraph may contain additional sentences that apply only to that paragraph.
3. Capitalize the first word of each sentence.
4. End each sentence with a period.
5. Use sentences that, when read with the lead-in, form a complete thought and that respond, in substance and in form, to that lead-in.
6. When necessary, further break down a list:
 - (a) Into two or more subdivisions.
 - (b) Into two or more items. Items:
 - (i) Are designated by lower case Roman numerals in parentheses.
 - (ii) May not be broken down into smaller units.

Note:

C Where necessary, the lead-in phrase should indicate whether the enumerated elements are cumulative (“...ALL OF THE FOLLOWING APPLY”) or alternative (“...ANY OF THE FOLLOWING APPLY”).

C All items in the list should belong to the same class. In other words, the list must have a common theme.

5.18 USE OF MODIFIERS

To avoid ambiguity the drafter must be careful to modify only the words the drafter intends to modify. For example, “an unmarried student, parent or pregnant woman” is ambiguous since it is not clear what “unmarried” modifies. Similarly, “a licensee may hunt moose, deer or ducks that are not on the endangered species list” is ambiguous.

In the first example, the drafter should either write “a parent, a pregnant woman or an unmarried student” or “an unmarried person who is a student, parent or a pregnant woman”, depending on the legislation’s intent.

ö ö ö

In the second example, if the drafter intends the modifier to apply to all of these animals, the drafter should use the following format:

A licensee may hunt any of the following if the animal is not on the endangered species list:

1. Moose.
2. Deer.
3. Ducks.

But if the drafter intends to modify only one of these terms, the drafter should state “a licensee may hunt ducks that are not on the endangered species, moose and deer”.

5.19 USE OF "AMOUNT" AND "NUMBER"

"Amount" is used to refer to something as a mass (a certain amount of money).

"Number" is used to refer to individual items (a large number of plants).

5.20 USE OF "FEWER" AND "LESS"

"Less" is used to refer to something that is considered as a mass.

"Fewer" is used to refer to individual items.

"Less" applies to quantity, size and measurement.

"Fewer" applies to number and counting.

Since "fewer" applies to number, in making numerical comparisons, use "fewer", not "less": "IF THERE ARE **FEWER** APPLICANTS IN THE CURRENT FISCAL YEAR THAN IN THE PRECEDING FISCAL YEAR . . ."

Frequently the ideas of quantity and number are indistinguishable, and either "less" or "fewer" is acceptable: "IF THE EMPLOYEE WORKS **LESS** (or) **FEWER** THAN ONE HUNDRED DAYS IN A YEAR . . ." and "HOSPITALS THAT EMPLOY **LESS** (or) **FEWER** THAN THIRTY NURSES".

Sometimes an apparently numerical expression is obviously a unitary measure and therefore requires "less". One million dollars is understood to be a sum of money, not a number of units. Likewise, a population of one million is used as a quantity, not as one more person added to 999,999. Thus it is appropriate to write "**LESS THAN ONE MILLION DOLLARS**" and "A POPULATION OF **LESS THAN ONE MILLION PERSONS**".

5.21 USE OF "BIENNIALLY" AND "BIANNUALLY"

"Biennially" means once every two years. "Biannually" means twice a year.

Note: Use "semiannual", not "biannually"

5.22 USE OF "BIMONTHLY" AND "SEMIMONTHLY"

"Bimonthly" means once every two months. "Semimonthly" means twice a month.

5.23 USE OF "CONSECUTIVE" AND "SUCCESSIVE"

The words "consecutive" and "successive" each mean following one after the other. However, "consecutive" stresses immediacy in following and implies that no interruption or interval occurs (four consecutive days). "Successive" may apply to things of the same kind or class that follow each other regardless of the length of interval between the events (four successive paydays).

5.24 USE OF "CONTINUAL" AND "CONTINUOUS"

"Continual" refers to an action that occurs repeatedly over a period of time. "Continuous" refers to an action that is in uninterrupted flow.

5.25 USE OF "ASSURE", "ENSURE" AND "INSURE"

"Assure" means to make certain or to try to increase another's confidence. "Ensure" means to make certain or guarantee. "Insure" means to indemnify or procure insurance for something.

5.26 USE OF "EXCEPT" AND "PROVIDED"

Exceptions are a method of limiting the application of an act. Exceptions and provisos are legally differentiated for purposes and pleadings and proof. The more readily understandable and grammatically simple "except" is preferred in drafting because of the occasional casual use of "provided" as a conjunction. The preferred approach, however, is the use of a direct statement such as:

"This article does not apply to. . ." (to state an exception).

"The eligibility of a member of the board terminates if that member fails to maintain a current license to practice. . ." (to state a condition subsequent that is often stated as a proviso).

5.27 USE OF "FARTHER" AND "FURTHER"

"Farther" indicates distance. "Further" indicates time, quantity or degree.

5.28 USE OF "FUNDS" AND "MONIES"

"Funds" is roughly synonymous with "accounts". Use "funds" if referring to assets that are set apart for a specific objective or on deposit on which checks or drafts can be drawn. Use "monies" if referring to cash or sums of money. For example, the legislature appropriates monies from the state general fund to state agencies.

5.29 USE OF "IF", "WHERE" AND "WHEN"

Use "if" not "where" or "when" to introduce a hypothetical situation unless the place or time is relevant.

5.30 USE OF "INCLUDES"

The word "includes" or "including" is defined in A.R.S. § 1-215 as meaning "*not limited to and is not a term of exclusion*". This definition applies to all the statutes and laws of this state.

Therefore, the words "include", "includes" and "including", when used by themselves to introduce a list of examples, are words of "inclusion", not of limitation or exclusion. It is therefore unnecessary, and occasionally confusing and erroneous, to use the phrase "includes, *but is not limited to,*". Since "includes" is not exhaustive, the words "*but is not limited to*" are redundant, add nothing and invite misinterpretation.

Note: Drafters should be aware of the following circumstances that may affect the use of "include":

C When the phrase "may include" is used to introduce a list of administrative powers or other authorized activities, using the word "may" turns the phrase into substantive statutory authority, not merely a list of examples. Since agencies have only those powers specifically authorized by law, the following list thereby becomes *exclusive*.

C The legislature may want to make absolutely certain that hostile administrators will not limit the application of the provision to only the listed items.

Neither of these instances justify redundancy by using the phrase "*but is not limited to*". Instead, it is preferable to draft the last entry in the following list essentially to say "*et cetera*" with phrases such as "provide other similar services to clients" or "perform other tasks of a similar nature" that clearly state an open ended administrative authorization.

5.31 USE OF "SHALL" AND "MAY"

Shall

"Shall" is mandatory and normally implies that to accomplish the purpose of the provision someone must act. As to a public official "shall" is used to impose a duty, direction or command unless the context indicates that the legislature wished discretion to be exercised.

Use "shall" to prescribe a rule of conduct, rather than to declare a legal result. Don't say "**the equipment shall remain the property of the United States**". Instead use: "**The equipment remains . . .**".

Avoid using "shall" to confer a right as with "the director shall receive compensation". Instead use "the director's compensation is" or "the director is eligible to receive compensation".

Note: Shall not literally imposes a duty not to act.

May

"May" is permissive and confers a privilege or power. Normally the use of "may" implies discretion or permission.

Use "may" when giving the officer or agency the option of acting or not acting.

Note: May not imposes a prohibition.

Incorrect use with a negative subject

Avoid the negative subject with affirmative "**shall**" as in "**No person shall**". Literally, this means that no one is required to act. It negates the obligation but not the permission to act. However, "**no person may**" negates the permission also and is in reality the stronger proscription. Strict rules of drafting suggest the desirability of reversing subject and verb. The legal subject should be stated affirmatively and preferably in the single case, as "**a person shall not**".

Consequences of inconsistent or inaccurate use

The inconsistent or inaccurate use of "shall" and "may" has occasionally allowed judicial selection rather than legislative direction to determine the applicable verb form in laws. Additionally, even if "may" is used, the courts have imposed an affirmative duty if the object of the statute shows such a legislative intent. Pioneer Mutual Benefit Assn. v. Corp. Commission, 59 Ariz. 112, 123 P.2d 828 (1942). A prime drafting concern is to preserve the distinction between mandatory and permissive directives.

5.32 USE OF "SUCH"

Do not use the word "such" as a demonstrative adjective to point to someone or something previously referred to. The use of "such" in this way is awkward and contrived and often causes confusion. Use words such as "that", "the", "these", "those", "them" and "it". For example, say "and that person may apply...". Do not say "and such person may apply ...".

5.33 USE OF "THAT" OR "WHICH"

When "that" is properly used, the meaning of the sentence is not complete without the "that" clause. The clause is not set off by commas.

When "which" is properly used, it introduces a nonrestrictive clause that gives additional, supplemental or descriptive, but nonessential, information about the word modified. And since the meaning of the sentence is complete without the "which" clause, commas are used to enclose the clause.

Note: The use of "which" is uncommon in good bill drafting because nonessential information is usually inappropriate for statutory language.

Therefore, it is correct to say "a fence that conforms to this section is exempt from § 36-101." It is incorrect to say "a fence which conforms to this section ...".

5.34 USE OF "THEREFORE" AND "THEREFOR"

"Therefore" indicates a conclusion. "Therefor" indicates in place of, in return for or because of.

5.35 USE OF "THROUGH"

The word "through" means "to and including" when used in reference to a series of three or more statute sections, subsections, paragraphs, subdivisions or items; e.g., "§§ 13-111 through 13-114". If a series of section numbers contains a ".01" in between, "through" should not be used.

CHAPTER 6
AMENDMENTS

- 6.1 Amendments in General
- 6.2 Blank Amendments
- 6.3 Blank Amounts
- 6.4 Capitalization
- 6.5 Conforming Title
- 6.6 Hyphenated Words
- 6.7 Identical Changes on a Single Page
- 6.8 Inserting New Language
- 6.9 Page Designation
- 6.10 Punctuation
- 6.11 Restoring Stricken Language
- 6.12 Section Headings
- 6.13 Strike Everything Amendments
- 6.14 Striking and Inserting Bill Language
- 6.15 Striking Language From a Bill

CHAPTER 6

AMENDMENTS

6.1 AMENDMENTS IN GENERAL

Amendments vary as to form and style depending on whether they are House or Senate amendments, committee amendments, conference committee amendments or amendments to amendments. Appendix A contains a sample format for each kind of amendment. But in general, all amendments must:

C Be line numbered on the left margin.

C Reference a printed bill, a House engrossed bill, a Senate engrossed bill or a committee amendment.

C Enclose all references to text changes in quotation marks.

C In the lower left hand corner of the (last) page, state the time and date of the amendment preparation as follows:

i n i t i a l s

3/03/99

10: 53 a. m.

C End House amendments with the words

Amend title to conform

6.2 BLANK AMENDMENTS

A legislator may request that a drafter prepare an amendment before the legislator knows what bill will be amended. The drafter can do so by preparing an amendment in blank. The drafter is usually asked to prepare a strike everything amendment in the blank format. But if the legislator anticipates adding language to an existing bill, introduce the new language as follows:

After line __, insert:

6.3 BLANK AMOUNTS

If the drafter has used a blank space in a bill draft to designate an as yet to be determined amount (for example, “The sum of _____ dollars is appropriated. . .”) use the following instruction to fill in the blank:

Page 2, line 3, strike “_____” insert “two thousand”.

6.4 CAPITALIZATION

If the drafter is adding a word or words to the beginning of a sentence it is unnecessary to include an instruction to lower case the word that had appeared first in the original sentence. And if an amendment removes words it is unnecessary to include an instruction to capitalize the now first word in the sentence.

6.5 CONFORMING TITLE

End an amendment with “Amend title to conform” unless it is a Senate amendment.

6.6 HYPHENATED WORDS

If an amendment changes part of a hyphenated word, strike the entire word. For example, to replace the word “twenty-five” with “twenty-eight” the amendment must direct that the entire word “twenty-five” be stricken.

6.7 IDENTICAL CHANGES ON A SINGLE BILL PAGE

List identical changes on a single bill page in one instruction if there are no intervening amendments. For example:

Page 3, lines 4, 7, 8 and 11, strike “director”
Line 12, after the first “the” insert “DEPUTY”
Lines 14, 19 and 32, strike “director”

6.8 INSERTING NEW LANGUAGE

C Show new language to be added to statutory or existing session law in UPSTYLE letters. Show new language to be added to proposed session law in downstyle.

C To insert new language at a point between two lines, state:

Page 1, between lines 3 and 4, insert:
“C. THE DIRECTOR SHALL. . .”

C To insert new language at a point that follows the last line on a page, state:

Page 4, after line 40, insert:

**“Sec. 3. Repeal
Section 36-5928, Arizona Revised Statutes, is repealed.”**

C If adding another statutory unit state “Renumber to conform” or “Reletter to conform” on the next line.

C If the amendment is inserting material, the drafter may use a colon after the word “insert” only if the amendment is adding a complete section, subsection, paragraph, subdivision or item. Otherwise, state:

Page 10, line 3, strike “such” insert “THE”

6.9 PAGE DESIGNATION

Designate the page of the bill or the amendment being amended only once with the first amendment to that page. For example:

**Page 1, line 6, strike “both”
Line 12, strike “and”
Line 14, strike “director”**

However, if the amendment to a particular page carries over to the next page of the amendment the drafter should repeat the page designation once on that next page.

6.10 PUNCTUATION

Amendments must include changes to punctuation. For example:

**Page 3, line 18, strike “make,”
Line 20, after “RECEIVE” strike the comma
Line 34, after “section” strike remainder of line insert a
period
Line 40, after “October 3” insert a comma
Line 42, after “months” insert “, NOR MORE THAN ONE YEAR”**

6.11 RESTORING STRICKEN LANGUAGE

To restore language that is shown as stricken in a bill the amendment must state, for example:

Page 2, line 5, strike “~~department~~” insert “department”

Note: To restore a complete unit of text that is stricken in the bill, state:

Page 3, strike lines 12 through 15, insert: (Insert previously stricken text)

“B. On the director’s written request, the attorney general shall conduct an investigation into alleged cases of fraud. The attorney general shall complete this investigation not later than thirty days after receiving this request.”

6.12 SECTION HEADINGS

To amend a section heading, include the underline in any stricken and added language. Do not show new material in upstyle. For example:

Page 2, line 5, strike “fine” insert “penalty”

6.13 STRIKE EVERYTHING AMENDMENTS

C To strike an entire bill, always use the following language:

Strike everything after the enacting clause and insert:

C To strike a resolution, state:

Strike everything after the resolving clause and insert:

C To strike a memorial, state:

Strike everything after the representing clause and insert:

6.14 STRIKING AND INSERTING BILL LANGUAGE

Strike all material in one block before inserting new material. For example:

Strike pages 4 through 10, insert:
(Insert language in indented format.)

Note: If the amendment is making extensive changes to a subsection, paragraph, subdivision, item or line that already has stricken and new material in it, the drafter should strike the entire unit or sentence and insert it in the desired form. This will make the amendment easier to follow and avoid any mistakes in the engrossing process.

6.15 STRIKING LANGUAGE FROM A BILL

C To strike an entire bill section (i.e., “Sec. 2. Section 36-2995, A.R.S., is amended to read...”) or another complete unit (i.e., a subsection, paragraph, subdivision or item) state:

Page 3, strike lines 7 through 21 (Do not use “to” and “inclusive” and do not insert any text)

C If striking this language changes the numbering of subsequent bill sections or paragraphs or items within a bill section, on the following line state:

Renumber to conform

C If striking the language changes the lettering of subsections or subdivisions, on the following line state:

Reletter to conform

Note: This instruction will not correct internal references within subsections, paragraphs, subdivisions or items or within other bill sections in the text. The drafter must use the amendment to specifically make internal reference conforming changes.

C To strike a word or words from a line, state:

Page 2, line 4, strike “department”

If “department” appears more than once in the same line, specify which “department” by stating:

Page 2, line 6, after “any” strike “department”
Page 2, line 6, strike the second “department”

C To strike three lines, state:

“Page 9, strike lines 4, 5 and 6”

C To strike more than three lines, state:

“Page 9, strike lines 4 through 7”

C To strike more than one word or a series of words from a line use a semicolon to separate the instructions as follows:

Line 14, strike “one” insert “TWO”; strike “monies”

C If the stricken language continues on part of the next line of the bill, state:

Lines 8 and 9, strike “of the monies”

Note, however, that if there are additional changes to the second line the instruction must state:

Line 8, strike “of the”

Line 9, strike “monies”; after “property” insert “fund”

C If the stricken language continues on consecutive lines from one page to the next, state:

**Page 13, line 44, after the period strike remainder of line;
strike lines 45 through 48**

Page 14, strike lines 1 through 5

C To remove language from a bill that is a portion of existing law within a section, state:

Page 2, line 1, strike “violation of this section”

(The engrossed bill would then show the existing law with a line through it.)

C To strike language that is shown as new statutory material in the bill, state:

Page 2, line 1, strike “VIOLATION OF THIS SECTION”

C If numerous changes are made to a line, strike the whole line of text from the bill and reinsert the line with the desired changes.

APPENDICES

Appendix A	Samples
Appendix B	Rules and Deadlines
Appendix C	Bill Draft Checklist
Appendix D	Bibliography

APPENDIX A
SAMPLES

SAMPLE NO. 1
Appropriation

REFERENCE TITLE: appropriation; hydrologic study

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. B. _____

Introduced by _____

An Act

Making an appropriation to the department of water resources for a hydrologic study of the sierra vista sub-basin.

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

2 Section 1. Appropriation; purpose; exemption

3 A. The sum of \$100,000 is appropriated from the state general fund
4 to the department of water resources in fiscal year 1998-1999 for the
5 purpose of conducting a hydrologic data collection study in the Sierra
6 Vista sub-basin of the upper San Pedro river groundwater basin.

7 B. The appropriation made in subsection A of this section is exempt
8 from the provisions of section 35-190, Arizona Revised Statutes, relating
9 to lapsing of appropriations.

SAMPLE NO. 2
Supplemental Appropriation

REFERENCE TITLE: appropriation; Clifton flood control

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

. B. _____

Introduced by _____

AN ACT

making a supplemental appropriation to the division of emergency management of the department of emergency and military affairs for the Clifton flood control project.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 2. Appropriation; purpose; exemption
3 A. In addition to the appropriation made by Laws 1995, chapter 67,
4 section 1, the sum of \$2,000,000 is appropriated from the state general
5 fund in fiscal year 1998-1999 to the division of emergency management of
6 the department of emergency and military affairs for use by the division
7 in completion of the Clifton flood control project.
8 B. The appropriation made in subsection A of this section is exempt
9 from the provisions of section 35-190, Arizona Revised Statutes, relating
10 to lapsing of appropriations, except that all monies remaining unexpended
11 or unencumbered after completion of the project revert to the state
12 general fund.

Note the use of the word “supplemental” in the bill title.

SAMPLE NO. 3
Adding a Section to the Statutes

REFERENCE TITLE: juvenile victims' rights; implementation fee

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

. B. _____

Introduced by _____

AN ACT

amending title 8, chapter 2, article 2.1, Arizona Revised Statutes, by adding section 8-230.03; relating to juvenile victims' rights.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 3. Title 8, chapter 2, article 2.1, Arizona Revised
3 Statutes, is amended by adding section 8-230.03, to read:
4 **8-230.03. Implementation fee**
5 BEGINNING ON JULY 1, 1999, FOR ALL JUVENILES ADJUDICATED DELINQUENT
6 FOR OFFENSES INVOLVING A VICTIM, INCLUDING THOSE OFFENSES THAT ARE
7 ADJUSTED PURSUANT TO SECTION 8-230.01, THE JUVENILE PROBATION OFFICER
8 SHALL ASSESS THE PARENT OF A DELINQUENT A FEE OF FIFTEEN DOLLARS UNLESS,
9 AFTER DETERMINING THE INABILITY OF THE PARENT TO PAY THE FEE, THE JUVENILE
10 PROBATION OFFICER ASSESSES A LESSER AMOUNT. MONIES ASSESSED PURSUANT TO
11 THIS SECTION SHALL BE PAID TO THE CLERK OF THE SUPERIOR COURT. THE CLERK
12 OF THE SUPERIOR COURT SHALL TRANSMIT ALL MONIES COLLECTED FROM THIS
13 ASSESSMENT TO THE STATE TREASURER FOR DEPOSIT IN THE VICTIMS' RIGHTS
14 IMPLEMENTATION REVOLVING FUND ESTABLISHED BY SECTION 41-191.06.
15 Sec. 4. **Requirements for enactment**
16 Pursuant to article IX, section 22, Constitution of Arizona, this
17 act is effective only on the affirmative vote of at least two-thirds of
18 the members of each house of the legislature and is effective immediately
19 on the signature of the governor or, if the governor vetoes this act, on
20 the subsequent affirmative vote of at least three-fourths of the members
21 of each house of the legislature.

Note: This sample also demonstrates the only way legislation passed with a Proposition 108 section can be made to go into practical effect on a date other than its official effective date, which is the date it is signed by the governor. The drafter accomplished this by introducing the appropriate language with "Beginning on July 1, 1995".

SAMPLE NO. 4
Adding an Article

REFERENCE TITLE: public employees; disclosure of information

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_. B. ____

Introduced by _____ AN ACT

amending title 38, chapter 3, Arizona Revised Statutes, by adding article 9; relating to disclosures by public employees.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 5. Title 38, chapter 3, Arizona Revised Statutes, is
3 amended by adding article 9, to read:
4 ARTICLE 9. DISCLOSURE OF INFORMATION BY PUBLIC EMPLOYEES
5 38-531. Definitions
6 in this article, unless the context otherwise requires:
7 1. "Employee" includes any person who is an officer or employee
8 whether paid on a full-time, part-time or contract basis by a governmental
9 unit.
10 * * *
11 38-532. Prohibited personnel practice; violation;
12 classification
13 A. It is a prohibited personnel practice for an employee who has
14 control over personnel actions to take reprisal against a person for a
15 disclosure of information by the person, unless the disclosure is
16 prohibited by law, that the person reasonably believes evidences:
17 1. A violation of any law or rule.
18 2. Mismanagement, a gross waste of monies, an abuse of authority or
19 a substantial and specific danger to public health or safety.
20 B. A person who violates this section is guilty of a class 1
21 misdemeanor.

SAMPLE NO. 5
Adding a Chapter

REFERENCE TITLE: Arizona professional corporation act

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. B. ____

Introduced by _____AN ACT

repealing title 10, chapter 20, Arizona Revised Statutes, as transferred and renumbered by Laws 1994, chapter 223, section 13; amending title 10, Arizona Revised Statutes, by adding a new chapter 20; relating to professional corporations.

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

2 Section 6. Repeal

3 Title 10, chapter 20, Arizona Revised Statutes, as transferred and
4 renumbered by Laws 1994, chapter 223, section 13, is repealed.

5 Sec. 7. Title 10, Arizona Revised Statutes, is amended by adding a
6 new chapter 20, to read:

7

CHAPTER 20

8

PROFESSIONAL CORPORATIONS

9

ARTICLE 1. GENERAL PROVISIONS

10

10-2201. Definitions

11

in this chapter, unless the context otherwise requires:

12

1. "disqualified person" means an individual or entity that is not
13 or ceases to be a qualified person.

14

2. "foreign professional corporation" means a corporation or
15 association for profit incorporated for the purpose of rendering
16 professional services under a law other than the law of this state.

17

3. "license" or "licensed" means any license, authorization,
18 certificate, registration, certificate of registration, membership or
19 other evidence of the satisfaction of the requirements of this state for
20 the practice of a professional service.

21

4. "licensing authority" means the officer, board, agency, court or
22 other authority in this state empowered by law to license or otherwise
23 authorize the rendition of a professional service.

24

5. "professional corporation" or "domestic professional
25 corporation" means a corporation for profit that is not a foreign
26 professional corporation and that is incorporated under or subject to this
27 chapter.

* * *

SAMPLE NO. 6
Repealing a Statutory Section

REFERENCE TITLE: teachers' retirement

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. B. _____

Introduced by _____

An Act

repealing sections 15-1427 through 15-1436, Arizona Revised Statutes;
relating to teachers' retirement.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 8. Repeal
- 3 Sections 15-1427 through 15-1436, Arizona Revised Statutes, are
- 4 repealed.

Note: The use of "through" is only possible here because there are no intervening statutory sections that are designated by the use of a decimal point. If there were a section 15-1427.01, the draft would need to read "Sections 15-1427, 15-1427.01 and 15-1428 through 15-1436, Arizona Revised Statutes, are repealed."

SAMPLE NO. 7
Repealing a Section and Replacing It
With an Identically Numbered Section

REFERENCE TITLE: mortgage; default; resale

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_ . B. _____

Introduced by _____

AN ACT

repealing section 12-1624, Arizona Revised Statutes; amending title 12, chapter 9, article 7, Arizona Revised Statutes, by adding a new section 12-1624; relating to sales under execution.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 9. Repeal
3 Section 12-1624, Arizona Revised Statutes, is repealed.
4 Sec. 10. Title 12, chapter 9, article 7, Arizona Revised Statutes, is
5 amended by adding a new section 12-1624, to read:
6 12-1624. Liability of bidder for failure to pay; resale and
7 recovery of loss and costs
8 IF THE PURCHASER AT THE SALE UNDER EXECUTION DOES NOT PAY THE FULL BID
9 PRICE AND STATUTORY FEES WITHIN FIVE WORKING DAYS AFTER THE SALE, THE OFFICER
10 SHALL IMMEDIATELY OFFER THE PROPERTY TO THE SECOND HIGHEST BIDDER WHO MAY
11 PURCHASE THE PROPERTY AT THE AGREED BID. THE FIVE DAY DEADLINE PRESCRIBED
12 IN THIS SECTION MAY BE EXTENDED IF AGREED ON IN WRITING BY THE OFFICER
13 CONDUCTING THE SALE.

Note the use of the word “new” to introduce the replacement language.

SAMPLE NO. 8
Repealing Existing Article

REFERENCE TITLE: private employment agent regulation; repeal

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. B. ____

Introduced by _____

An Act

repealing title 23, chapter 3, article 2, Arizona Revised Statutes;
relating to private employment agents.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 11. Repeal
- 3 Title 23, chapter 3, article 2, Arizona Revised Statutes, is
- 4 repealed.

SAMPLE NO. 9
Committee

REFERENCE TITLE: Alzheimer's disease demonstration project

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_. B. _____

Introduced by _____

An Act

establishing the Alzheimer's disease treatment demonstration project.

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

2 Section 12. Alzheimer's disease treatment demonstration
3 project oversight committee: membership:
4 duties; participant requirements

5 A. The Alzheimer's disease treatment demonstration project
6 oversight committee is established consisting of the following members:

7 1. Two members of the senate who are appointed by the president of
8 the senate and who represent different political parties. Each even
9 numbered year the president of the senate shall designate one of these
10 members to serve as committee chairman. The president of the senate shall
11 select the first committee chairman.

12 2. Two members of the house of representatives who are appointed by
13 the speaker of the house of representatives and who represent different
14 political parties. Each odd numbered year the speaker of the house of
15 representatives shall designate one of these members to serve as committee
16 chairman.

17 3. The director of the department of health services or the
18 director's designee.

19 4. The director the department of economic security or the
20 director's designee.

21 5. One physician who is licensed under title 32, chapter 13 or 17,
22 Arizona Revised Statutes. The governor shall appoint this member.

23 6. One registered nurse practitioner who is licensed under title
24 32, chapter 15, Arizona Revised Statutes, and who specializes in adult or
25 geriatric care. The governor shall appoint this member.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

7. ||Two private sector providers of services to Alzheimer's disease clients. The governor shall appoint these members.

8. ||One public member who is appointed by the governor.

B. ||Appointed members serve at the pleasure of the person who made the appointment.

C. ||Committee members are not eligible to receive compensation, but members appointed by the governor are eligible for reimbursement of expenses under title 38, chapter 4, article 2, Arizona Revised Statutes.

D. ||The committee shall develop a demonstration project designed to establish a subclass of licensure for health care institutions that wish to provide treatment to people with Alzheimer's disease and other dementia. The committee shall also:

1. ||Inform potential providers of the demonstration project and seek letters of intent.

* * *

6. ||Submit a report regarding the committee's activities and recommendations for administrative or legislative action on or before November 15 of each year to the governor, the president of the senate and the speaker of the house of representatives.

* * *

Sec. |13. ||Del ayed repeal

This act is repealed from and after June 30, 2000.

SAMPLE NO. 10
Simple Resolution

REFERENCE TITLE: daylight saving time; county option

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

__ R. ____

Introduced by _____

A resolution

urging the governor to request the authority from the United States government to grant Arizona counties the option to reject the state exemption and elect to adopt daylight saving time.

1 Whereas, 15 United States Code section 260a provides for daylight
2 saving time from the last Sunday in April of each year until the last
3 Sunday in October of each year; and
4 Whereas, Arizona has received an exemption from daylight saving
5 time; and
6 Whereas, while many parts of this state benefit from this exemption
7 from daylight saving time, there are also parts of this state that because
8 of special circumstances would benefit from adopting daylight saving time.
9 Therefore
10 Be it resolved by the (legislative body) of the State of Arizona:
11 That the members of the (legislative body) respectfully request that
12 the Governor petition the United States Government for authority to grant
13 Arizona counties the option to reject the state exemption and to elect to
14 adopt daylight saving time.

SAMPLE NO. 13
Concurrent Resolution
Ratification of Proposed Amendment
to the United States Constitution

REFERENCE TITLE: ratification; eighteen year old vote

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_ C. R. ____

Introduced by _____

A concurrent resolution

ratifying the proposed amendment to the Constitution of the United States; providing that the right to vote of citizens of the United States who are eighteen years of age or older shall not be denied or abridged by the United States or by any state on account of age.

1 Whereas, the Ninety-second Congress of the United States of America
2 at its First Session, in both Houses, by a constitutional majority of
3 two-thirds thereof, adopted the following proposition to amend the
4 Constitution of the United States of America in the following words, to
5 wit:

JOINT RESOLUTION

Resolved by the Senate and the House of
8 Representatives of the United States... .

* * *

10 Therefore

11 Be it resolved by the Legislature of the State of Arizona:

12 1. || That such proposed amendment to the Constitution of the United
13 States of America is ratified.

14 2. || That the Secretary of State of the State of Arizona transmit a
15 copy of this Resolution to the President of the United States Senate and
16 the Speaker of the United States House of Representatives.

SAMPLE NO. 14
Concurrent Resolution
Amendment of the Constitution
by Addition of New Section

REFERENCE TITLE: property price controls; prohibition

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_ C. R. ____

Introduced by _____

A concurrent resolution

proposing an amendment to the Constitution of Arizona; amending article II, Constitution of Arizona, by adding section 35; relating to real property prices.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. ||Article II, Constitution of Arizona, is proposed to be amended
4 as follows, by adding section 35, if approved by the voters and on
5 proclamation of the Governor:
6 35. ||Prohibition on control of real property prices
7 SECTION 35. AN OWNER OF REAL PROPERTY HAS THE SOLE... .
8 2. ||The Secretary of State shall submit this proposition to the
9 voters at the next general election as provided by Article XXI,
10 Constitution of Arizona.

SAMPLE NO. 15
Concurrent Resolution
Amendment of the Constitution
by Addition of New Article

REFERENCE TITLE: bill drafting

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_ C. R. ____

Introduced by _____

A concurrent resolution

proposing an amendment to the Constitution of Arizona; amending the
Constitution of Arizona by adding article XXIX; relating to bill drafting.

- 1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. ||Article XXIX, Constitution of Arizona, is proposed to be added
4 as follows if approved by the voters and on proclamation of the Governor:
5 ARTICLE XXIX. BILL DRAFTING
6 THE LEGISLATURE MAY ENACT LAWS APPLICABLE TO THE... .
7 * * *
8 2. ||The Secretary of State shall submit this proposition to the
9 voters at the next general election as provided by Article XXI,
10 Constitution of Arizona.

SAMPLE NO. 16
Concurrent Resolution
Constitutional Amendment

REFERENCE TITLE: legislature; terms of members

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

__ C. R. ____

Introduced by _____

A concurrent resolution

proposing an amendment to the Constitution of Arizona; amending article IV, part 2, section 21, Constitution of Arizona; relating to legislative members' terms.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. ||Article IV, part 2, section 21, Constitution of Arizona, is
4 proposed to be amended as follows if approved by the voters and on
5 proclamation of the Governor:
6 21. ||Terms of members of legislature
7 Section 21. ||A. ||~~The members of the~~
8 ~~first Legislature shall hold office until the~~
9 ~~first Monday in January, 1913.~~ BEGINNING WITH
10 THE FORTY-SECOND LEGISLATURE IN 1995, the
11 terms of office of the members of ~~succeeding~~
12 ~~Legislatures~~ THE HOUSE OF REPRESENTATIVES AND
13 OF THE MEMBERS OF THE SENATE shall be ~~two~~ FOUR
14 years.
15 B. ||MEMBERS OF THE SENATE AND THE HOUSE
16 OF REPRESENTATIVES... .
17 2. ||The Secretary of State shall submit this proposition to the
18 voters at the next general election as provided by Article XXI,
19 Constitution of Arizona.

SAMPLE NO. 17
Concurrent Resolution
Constitutional Repeal

REFERENCE TITLE: office of mine inspector; repeal

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

__ C. R. ____

Introduced by _____

A concurrent resolution

proposing an amendment to the Constitution of Arizona; repealing article XIX, Constitution of Arizona; relating to the state mine inspector.

- 1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. ||Article XIX, Constitution of Arizona, is proposed to be repealed
4 as follows if approved by the voters and on proclamation of the Governor:
5 Article XIX, Constitution of Arizona, relating to the
6 establishment of the office of mine inspector, is repealed.
7 2. ||The Secretary of State shall submit this proposition to the
8 voters at the next general election as provided by Article XXI,
9 Constitution of Arizona.

SAMPLE NO. 18
Conditional Enactment
(Companion Bill to Concurrent Resolution, Sample No. 17)

REFERENCE TITLE: state mine inspector; qualifications; appointment

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

. B. _____

Introduced by _____

An act

amending section 27-121, Arizona Revised Statutes; relating to the state
mine inspector; providing for conditional enactment.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 14. Section 27-121, Arizona Revised Statutes, is amended to
3 read:
4 27-121. State mine inspector; appointment; qualifications;
5 duties; deputies; salary; seal
6 A. THE OFFICE OF STATE MINE INSPECTOR IS ESTABLISHED. THE GOVERNOR
7 SHALL APPOINT THE STATE MINE INSPECTOR PURSUANT TO SECTION 38-211, AND THE
8 STATE MINE INSPECTOR SERVES AT THE PLEASURE OF THE GOVERNOR.
9 ~~A.~~ B. The state mine inspector shall be a resident of this state
10 FOR at least two years ~~prior to his election~~ BEFORE APPOINTMENT, ~~not under~~
11 SHALL BE AT LEAST thirty years of age, and shall have been practically
12 engaged in, and acquainted with, mines and mining in this state, and
13 shall have had at least seven years' experience in underground mining.
14 * * *
15 ~~D.~~ E. The inspector ~~shall~~ IS ELIGIBLE TO receive ~~an annual~~
16 ~~salary of seventeen thousand dollars and in addition necessary traveling~~
17 ~~expenses when traveling in discharge of official duties~~ COMPENSATION AS
18 PROVIDED IN SECTION 38-611.
19 Sec. 15. Conditional enactment
20 This act does not become effective unless the Constitution of
21 Arizona is amended by vote of the people at the next regular general
22 election to remove the constitutional requirement for election of the
23 mine inspector.

SAMPLE NO. 19
Concurrent Resolution
Referendum

REFERENCE TITLE: little Davis-Bacon act; repeal

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

. C. R. _____

Introduced by _____

A concurrent resolution

enacting and ordering the submission to the people of a measure relating to wages and hours for employees under public works contracts.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. ||Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to wages and hours for employees under
5 public works contracts, is enacted to become valid as a law if approved by
6 the voters and on proclamation of the Governor:
7 AN ACT
8 AMENDING SECTION 34-244, ARIZONA REVISED STATUTES; REPEALING
9 SECTIONS 34-321, 34-322, 34-324, 34-325 AND 34-326, ARIZONA
10 REVISED STATUTES; AMENDING TITLE 34, CHAPTER 3, ARTICLE 2,
11 ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 34-321;
12 RELATING TO PUBLIC WORKS CONTRACTS.
13 Be it enacted by the Legislature of the State of
14 Arizona:
15 Section 1. ||Section 34-244, Arizona
16 Revised Statutes, is amended to read:
17 * * *
18 2. ||The Secretary of State shall submit this proposition to the
19 voters at the next general election as provided by article IV, part 1,
20 section 1, Constitution of Arizona.

SAMPLE NO. 22
Simple Memorial

REFERENCE TITLE: sale of electricity; other states

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. M. ____

Introduced by _____

A memorial

urging the Arizona corporation commission to take action regarding the sale of electricity to other states.

- 1 To the Members of the Arizona Corporation Commission:
2 Your memorialist respectfully represents:
3 Whereas, recent reports indicate that a public service corporation
4 in Arizona is selling electricity in other states at rates lower than
5 those charged to Arizona utility users; and
6 Whereas, Arizona utility users should not be made to subsidize
7 utility users of other states.
8 Wherefore your memorialist, the (introducing body) of the State of
9 Arizona, prays:
10 1. ||That the Arizona Corporation Commission consider prompt action
11 to investigate and review the sales of electricity to non-Arizona users by
12 public service corporations and take appropriate action under its
13 constitutional authority to regulate rates that are consistent with the
14 public interest.
15 2. ||That the Secretary of State of the State of Arizona transmit
16 copies of this Memorial to each member of the Arizona Corporation
17 Commission.

SAMPLE NO. 23
Concurrent Memorial

REFERENCE TITLE: light rail system; support

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

_ . C. M. ____

Introduced by _____

A concurrent memorial

urging the president of the United States to instruct certain federal agencies to provide monies to the Arizona department of transportation to study the feasibility of a municipal light rail system.

1 To the President of the United States of America:
2 Your memorialist respectfully represents:
3 Whereas, the unprecedented growth of municipalities in this state
4 has caused transportation problems for commuters and those in the inner
5 cities; and
6 Whereas, the benefits of a municipal light rail system include
7 reduced air pollution and greater traffic safety and commuter cost
8 savings; and
9 Whereas, monies are available to states from the United States
10 Departments of Transportation and Education and the Environmental
11 Protection Agency for studies for municipal transportation systems.
12 Wherefore your memorialist, the (introducing body) of the State of
13 Arizona, the (concurring body) concurring, prays:
14 1. ||That the President of the United States instruct the federal
15 agencies to provide available monies to the Arizona Department of
16 Transportation to conduct a study of the feasibility of a municipal light
17 rail system for Arizona.
18 2. ||That the Secretary of State of the State of Arizona transmit a
19 copy of this Memorial to the President of the United States and each
20 Member of Congress from the State of Arizona.

SAMPLE NO. 24
Initiative Measure
Amending Constitution

AN INITIATIVE MEASURE

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING THE CONSTITUTION OF ARIZONA
BY ADDING ARTICLE XXIX; RELATING TO EQUALITY OF RIGHTS.

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

2 The Constitution of Arizona is proposed to be amended as follows, by adding
3 Article XXIX, if approved by the voters and on proclamation of the Governor:

4 Section 1. The Constitution of Arizona is amended by adding Article XXIX, to read:

5 ARTICLE XXIX. EQUAL RIGHTS

6 1. Equal rights of sexes

7 SECTION 1. EQUALITY OF RIGHTS UNDER THE LAW SHALL NOT BE DENIED OR ABRIDGED
8 BY THIS STATE ON ACCOUNT OF SEX.

9

SAMPLE NO. 25
Initiative Measure
Amending Existing Statute

AN INITIATIVE MEASURE

AMENDING SECTION 13-2910.01, ARIZONA REVISED STATUTES; RELATING TO FIGHTING OF ANIMALS AND BIRDS.

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

2 Section 13-2910.01, Arizona Revised Statutes, is proposed to be amended as follows if
3 approved by the voters and on proclamation of the Governor:

4 Section 1. Section 13-2910.01, Arizona Revised Statutes, is amended to read:
5 13-2910.01. Animal or bird fighting: classification

6 A. A person commits animal OR BIRD fighting by knowingly:

7 1. Owning, possessing, keeping or training any animal OR BIRD with the intent that such
8 animal OR BIRD engage in an exhibition of fighting with another animal OR BIRD.
9 2. For amusement or gain, causing any animal OR BIRD to fight with another animal OR BIRD,
10 or causing any animals OR BIRDS to injure each other.

11 3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under
12 his charge or control.

13 B. Animal OR BIRD fighting is a class 6 felony.

SAMPLE NO. 26
House Proposed Amendment

PROPOSED AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H. B. 0000

(Reference to printed bill)

1 Page 8, line 31, strike "TEN MILLION" insert "SEVENTEEN MILLION FIVE
2 HUNDRED THOUSAND"

3 Between lines 40 and 41, insert:

4 "E. FOR FISCAL YEAR 1999-2000, AND FOR ALL SUBSEQUENT FISCAL
5 YEARS NO MONIES MAY BE APPROPRIATED FROM THE ARIZONA HIGHWAY USER
6 REVENUE FUND FOR USE BY THE DEPARTMENT OF PUBLIC SAFETY."

7 Reletter to conform

8 Page 15, line 40, strike "~~monies~~" insert "monies"

9 Page 16, between lines 5 and 6, insert:

10 "H. FOR FISCAL YEAR 1999-2000 AND FOR ALL SUBSEQUENT FISCAL
11 YEARS NO MONIES MAY BE APPROPRIATED FROM THE STATE HIGHWAY FUND FOR
12 USE BY THE DEPARTMENT OF PUBLIC SAFETY."

13 Amend title to conform

(Name of House Sponsor)

(initials)
(date)
(time)

SAMPLE NO. 27
House Committee Amendment

COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES AMENDMENTS TO H. B. 0000
(Reference to printed bill)

1 Page 8, line 31, strike "TEN" insert "TWENTY"

2 Between lines 40 and 41, insert:

3 "E. FOR FISCAL YEAR 1998-1999 AND FOR ALL SUBSEQUENT FISCAL
4 YEARS NO MONIES MAY BE APPROPRIATED FROM THE ARIZONA HIGHWAY USER
5 REVENUE FUND FOR USE BY THE DEPARTMENT OF PUBLIC SAFETY. "

6 Reletter to conform

7 Page 15, line 40, strike "TEN" insert "TWENTY"

8 Page 16, between lines 5 and 6, insert:

9 "H. FOR FISCAL YEAR 1998-1999 AND FOR ALL SUBSEQUENT FISCAL
10 YEARS NO MONIES MAY BE APPROPRIATED FROM THE STATE HIGHWAY FUND FOR
11 USE BY THE DEPARTMENT OF PUBLIC SAFETY. "

12 Amend title to conform

(initials)
(date)
(time)

SAMPLE NO. 28
Amendment to an Amendment

PROPOSED AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H. B. 0000

(Reference to Lynch Amendment dated 2/6/98)

- 1 Page 1, strike lines 25, 26 and 27 and insert:
2 "Line 43, strike "~~seven and one-half~~ FIVE" insert "seven and one-
3 half"
4 Page 6, line 3, strike "~~five and one-half~~ THREE AND ONE-HALF" insert "five
5 and one-half"
6 Lines 5 and 6, strike "~~seven and one-half~~ FIVE" insert "seven and one-
7 half"
8 Line 28, strike "strike "four" and" insert "after counties"
9 Line 29, strike "FIVE"
10 Page 2, between lines 24 and 25, insert:
11 "Page 7, between lines 41 and 42, insert:
12 "J. A PERMITTEE IS ENTITLED TO REDUCE THE PERCENTAGE PAID TO
13 THE STATE AS PROVIDED IN SUBSECTIONS B AND D OF THIS SECTION.""
14 Amend title to conform

(Name of House Sponsor)

(initials)
(date)
(time)

SAMPLE NO. 29
House Floor Amendment

Floor Amendment

February 22, 1999

I move the following amendment to HEALTH COMMITTEE AMENDMENTS:
HOUSE BILL 2147 (Reference to printed bill)

- 1 Page 9, lines 12 and 13, strike "OR A CONDITIONAL"
- 2 Page 17, lines 21 and 22, strike ", CONDITIONAL"
- 3 Page 18, lines 1, 3 and 5, strike ", CONDITIONAL"
- 4 Page 22, strike line 23
- 5 Page 23, strike lines 1 through 16, insert:
 - 6 "36-1940.04. Licensure: exemption
 - 7 ANY PERSON WHO IS EMPLOYED BY A SCHOOL, AS DEFINED IN
 - 8 SECTION 15-101, ON OR BEFORE MAY 1, 2001 IS EXEMPT FROM THE
 - 9 LICENSING REQUIREMENTS OF THIS ARTICLE."
- 10 Amend title to conform

(initials)
(date)
(time)

(Name of House Sponsor)

SAMPLE NO. 30
House Substitute House Floor Amendment

ARIZONA HOUSE OF REPRESENTATIVES
Floor Amendment

February 23, 1999

I move the following SUBSTITUTE amendment to the ENVIRONMENT COMMITTEE
AMENDMENTS:

HOUSE BILL 0000 (Reference to printed bill)

1 Page 1, line 9, strike the colon; strike lines 10 through 19, insert "BE
2 CONSISTENT WITH THE GUIDELINES ESTABLISHED BY THE STATE BOARD OF
3 EDUCATION PURSUANT TO SUBSECTION D. "

4 Line 20, after "C." insert "IF A SCHOOL DISTRICT CHOOSES TO PROVIDE
5 INSTRUCTION IN ENVIRONMENTAL EDUCATION, "

6 Page 2, strike lines 28 and 29, insert:

7 "2. INCLUDES A DISCUSSION OF ECONOMIC AND SOCIAL
8 IMPLICATIONS. "

9 Line 31, strike "INFORMATION" insert "COURSES OR PROGRAMS"; strike "OR
10 INFORMAL"

11 Line 34, strike "AND TECHNOLOGY" insert ", TECHNOLOGY AND RESOURCE
12 PRODUCTION"

13 Amend title to conform

(Name of House Sponsor)

(initials)
(date)
(time)

SAMPLE NO. 31
Senate Proposed Amendment

(Legislature)
(Session)

PROPOSED AMENDMENT
SENATE AMENDMENTS TO S. B. ____
(Reference to printed bill)

- 1 Page 2, line 3, strike "OR" insert "ANIMALS OR POULTRY"
- 2 Page 3, strike lines 9 through 13
- 3 Page 4, line 10, strike "domesticated"; strike "animals"
- 4 Line 11, strike "~~person~~" insert "person"
- 5 Strike pages 5, 6 and 7
- 6 Page 8, lines 15, 19, 21 and 25, strike "SUCH" insert "THAT"
- 7 Line 26, after "animal" strike remainder of line

(date)

(time)

(initials)

Proposed by Senator _____

SAMPLE NO. 32
Senate Committee Amendment

(Legislature)
(Session)

RULES

SENATE AMENDMENTS TO H. B. ____
(Reference to House engrossed bill)

- 1 Page 6, strike lines 11 through 31
- 2 Renumber to conform
- 3 Strike lines 42, 43 and 44
- 4 Page 7, strike lines 1 through 4
- 5 Renumber to conform
- 6 Strike lines 12 through 18
- 7 Renumber to conform
- 8 Strike lines 26 through 32
- 9 Renumber to conform
- 10 Page 8, strike lines 24 through 42
- 11 Renumber to conform
- 12 Page 12, strike lines 22 through 43
- 13 Page 18, strike lines 1, 2 and 3

(initials)
(date)
(time)

Note that the word "through" is used only when the instruction is to strike more than three lines.

SAMPLE NO. 33
Senate Committee Amendment to a Senate Committee Amendment

EDUCATION

SENATE AMENDMENTS TO S. B. 1056

(Reference to GOV REF amendment)

- 1 Page 2, line 18, after "COTTON" insert "RESEARCH AND PROTECTION"
- 2 Page 3, line 29, after "COTTON" insert "RESEARCH AND PROTECTION"
- 3 Page 4, line 15, strike "NOTWITHSTANDING SECTION 3-214.01, "
- 4 Line 16, strike "DEPOSITED" insert "TRANSMITTED TO THE STATE TREASURER
- 5 FOR DEPOSIT"
- 6 Line 20, after "article" insert "EXCEPT CIVIL PENALTIES ASSESSED
- 7 PURSUANT TO SECTION 3-205.02 OR 3-215.01"; strike "deposited with"
- 8 insert "TRANSMITTED TO"; strike "place" insert "DEPOSIT"
- 9 Page 5, line 11, strike "NOTWITHSTANDING SECTION 3-214.01, "
- 10 Line 12, strike "DEPOSITED" insert "TRANSMITTED TO THE STATE TREASURER
- 11 FOR DEPOSIT"
- 12 Line 14, strike "; continuing appropriation"
- 13 Page 7, line 3, strike ", civil penalties"
- 14 Line 4, after "chapter" insert "EXCEPT CIVIL PENALTIES ASSESSED
- 15 PURSUANT TO SECTION 3-933 OR 3-934"
- 16 Line 18, strike "NOTWITHSTANDING SECTION 3-913, "
- 17 Line 19, strike "DEPOSITED" insert "TRANSMITTED TO THE STATE TREASURER
- 18 FOR DEPOSIT"
- 19 Line 34, strike "NOTWITHSTANDING SECTION 3-913, "
- 20 Line 35, strike "DEPOSITED" insert "TRANSMITTED TO THE STATE TREASURER
- 21 FOR DEPOSIT"
- 22 Page 11, line 4, strike "DEPOSITED" insert "TRANSMITTED TO THE STATE
- 23 TREASURER FOR DEPOSIT"

Note: The standing committee name is abbreviated only in the parenthetical reference.

SAMPLE NO. 34
Senate Floor Amendment

(Legislature)
(Session)

(Legislator's last name) _____ FLOOR AMENDMENT
SENATE AMENDMENTS TO __. B. ____
(Reference to printed bill)

1 Page 1, strike lines 2 through 22, insert:

2 "Section 1. Repeal

3 Title 13, chapter 16, Arizona Revised Statutes, is repealed."

4 Page 3, strike lines 18 through 21, insert:

5 "Sec. 4. Transfer of records, monies and personnel

6 All records, unspent monies and personnel of the Arizona drug
7 control district are transferred on November 1, 19__ to the division
8 of narcotics enforcement and criminal intelligence in the department
9 of public safety."

10 After line 37, insert:

11 "Sec. 6. Effective date

12 This act is effective from and after October 31, 19__."

(initials)
(date)
(time)

SAMPLE NO. 35
Conference Committee Amendment

(Legislature)
(Session)

[FREE] or [SIMPLE] CONFERENCE COMMITTEE AMENDMENTS TO S. B. ____
(Reference to House engrossed Senate bill)

- 1 Page 1, lines 6 and 10, strike "five" insert "SEVEN"
2 Line 15, strike the first "three" insert "FOUR"
3 Line 24, strike "TWO" insert "THREE"
4 Line 25, after "next" insert "TWO"
5 Page 2, line 45, before "Extension" insert "Election of seven member
6 board:"
7 Line 47, after "act," insert "each community college district governing
8 board shall establish seven precincts by August 1, 19__ and shall
9 call a special election to be held on or before the second Tuesday
10 in December"

(initials)
(date)
(time)

Note: A conference committee amendment is almost always designated as "Free". A "Simple" Conference Committee Amendment may not add new language and may only remove language from the version received by the House and the Senate. By contrast, a "Free" Conference Committee Amendment may make any change to the amendment it receives, but may not strike everything after the enacting clause.

SAMPLE NO. 36
Conference Committee Report

SENATE
and
HOUSE OF REPRESENTATIVES

STATE OF ARIZONA

REPORT OF CONFERENCE COMMITTEE

September 7, 19__

MR. PRESIDENT:

MR. SPEAKER:

Your FREE Conference Committee on H. B. 0000, stolen vehicle; chop shops

_____respectfully recommends: (Reference to Senate engrossed bill)
That the House accept the Senate amendments with exceptions and the bill be further amended.

- 1 Page 2, line 35, strike "TITLE 28" insert "ALL APPLICABLE LAWS"
- 2 Page 4, line 40, after "28-1401.01" insert "OR A BUSINESS ACTING IN GOOD
- 3 FAITH"
- 4 Amend title to conform

SENATE CONFEREES:

HOUSE CONFEREES:

Note: The legislator's name is typed below the signature line.

SAMPLE NO. 37
Conference Committee Amendment

FREE CONFERENCE COMMITTEE AMENDMENTS TO H. B. 0000

(Reference to Senate engrossed House bill)

1 Page 24, between lines 31 and 32, insert:

2 “Sec. 18. Allopathic board of medical examiners and all
3 other health profession boards; regulation;
4 auditor general review

5 A. The auditor general shall conduct a comprehensive study of
6 all health profession boards regulated pursuant to titles 32 and 36,
7 Arizona Revised Statutes.

8 B. The auditor general’s study shall examine previous
9 performance audits of all health profession boards to determine if
10 there are any common findings and recommendations in these audits.”

11 Renumber to conform

12 Page 24, line 41, before “Section” insert “A.”

13 After line 44, insert:

14 “Sec. 23. Appropriation

15 The sum of \$56,000 is appropriated from the state general fund
16 to the auditor general for fiscal year 1998-1999 for the purposes
17 provided in section 18 of this act.”

18 Amend title to conform

(initials)
(date)
(time)

SAMPLE NO. 38
Amendment of Session Law

REFERENCE TITLE: health education account

State of Arizona
(Chamber of Origin)
(Legislature)
(Session)
(Year)

.. B. ____

Introduced by _____

AN ACT

amending Laws 1995, chapter 275, section 9; relating to tobacco tax monies.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Laws 1995, chapter 275, section 9 is amended to read:
3 Sec. 9. ||Health education account; rules; expenditure limit
4 A. ||The director of the department of health services shall adopt
5 rules regarding the expenditure of monies in the health education account
6 of the tobacco tax and health care fund established pursuant to section
7 42-1241, subsection B, Arizona Revised Statutes. ~~These the~~ rules shall
8 include the means and process for awarding contracts or expending monies,
9 a mechanism for reviewing any contracts awarded to ensure that the monies
10 are used in accordance with law and other provisions determined by the
11 director to be necessary to implement the provisions of section ~~42-1242.01~~
12 ~~42-1244~~, Arizona Revised Statutes.
13 B. ||Subject to the availability of funds and subsequent to the
14 adoption and approval of rules required by this section, the director of
15 the department of health services may expend from the monies contained in
16 the health education account established pursuant to section 42-1241,
17 subsection C, paragraph 1, Arizona Revised Statutes, up to ten million
18 dollars in fiscal year 1995-1996 and up to ~~fifteen~~ ~~twenty-five~~ million
19 dollars in fiscal year 1996-1997, subject to the provisions of section
20 ~~42-1242.01~~ ~~42-1244~~, Arizona Revised Statutes.

* * *

APPENDIX B

LEGISLATIVE COUNCIL

DRAFTING RULES AND DEADLINES

Rule 22

PROCEDURES FOR DRAFTING AND RESEARCH

The executive director shall prescribe rules relating to the form and style of bills and research memorandum and reports, the distribution thereof, the order of drafting bills or performing research, and such other matters relating to the procedure to be followed by the Council staff in rendering its services as may be deemed necessary or advisable by the Council. Any major changes shall be placed before the Legislative Council for approval.

Rule 24

FORM OF AMENDMENTS

All bills prepared for introduction which propose to amend existing statutes shall show the words to be added in capital letters, and the words to be deleted shall be shown in regular type lined through.

Rule 25

INTRODUCTION OF BILLS

All legislative measures prepared for introduction shall first be presented to the staff of the Legislative Council for preparation in accordance with legislative form and style and for processing.

Rule 26

DEADLINE FOR REQUESTING LEGISLATION

A. Every state agency, board and commission shall make its request for each bill, resolution or memorial which it proposes for a regular session of the legislature, from Legislative Council, on or before November 15 of the year next preceding the legislative session. Every state agency, board and commission must have a legislator agree to sponsor the requested legislation before the legislation is drafted by the Legislative Council staff.

B. Any exception to this Rule must be approved in writing by both the President of the Senate and the Speaker of the House of Representatives.

Rule 28

A. A legislator shall request each bill, resolution or memorial which he proposes for introduction in a regular session of the legislature, from Legislative Council, by 5:00 p.m. of the fourteenth calendar day prior to the legislation introduction deadline established by the House and Senate Rules for such regular session, unless the request is for legislation for introduction by approval of the Rules Committee in the House or Senate.

B. Any exception to this Rule must be approved in writing by the Speaker of the House for House requests and the President of the Senate for Senate requests.

Rule 29

A. Legislative Council shall prepare and distribute all introduction sets requested for bills, resolutions and memorials for a regular session by the seventh calendar day prior to the legislation introduction deadline established by House and Senate Rules for such regular session.

B. No introduction sets for the regular session shall be prepared by Legislative Council after the seventh calendar day prior to the legislation introduction deadline without approval in writing by the Speaker of the House for House requests and the President of the Senate for Senate requests, except for introduction sets prepared for introduction by approval of the Rules Committee in the House or Senate.

APPENDIX C

BILL DRAFT CHECKLIST

TITLE CHECK

- | | | | |
|-------|---------------------|-------|-----------------------|
| _____ | Reference Title | _____ | Heading Changes |
| _____ | All sections listed | _____ | Conditional Enactment |
| _____ | Appropriation | _____ | Delayed Repeal |

BILL CHECK

- _____ Enacting Clause
- _____ Latest Effective Version of Law
- _____ Correct Version of Section
- _____ Code Placement
- _____ Arrangement & Numbering of sections, subsections, etc.
- _____ New Material - "UP" Style
- _____ Stricken Material
- _____ Definitions (alphabetical)
- _____ Special Constitutional and Statutory Provisions
- _____ Penalty Provisions
- _____ Grandfather/Saving Clause
- _____ Effective Date/Emergency/Prop. 108
- _____ Sunset
- _____ Internal Reference Manual - effect on other laws
- _____ Annual Report - defects & suggested improvements
- _____ Revised Section Headings
- _____ Proofread

APPENDIX D

BIBLIOGRAPHY OF MATERIALS ON BILL DRAFTING AND STATUTORY CONSTRUCTION

The following sources are available in the library of the Arizona Legislative Council:

Dickerson, Reed, "The Fundamentals of Legal Drafting", Little Brown, Boston, MA, 2d ed., 1965.

Dickerson, Reed, "Legislative Drafting", Little Brown, Boston, MA, 1954.

Filson, Lawrence E., "The Legislative Drafter's Desk Reference", Congressional Quarterly, Washington, D.C., c1992.

Kentucky Research Commission, *Bill Drafting Manual for the Kentucky General Assembly*, (Revised 1996).

Martineau, Robert J., "Drafting Legislation in Plain English", West Publishing Company, St. Paul, MN, c1991.

Ohio Legislative Service Commission, Code Revision Division, *Drafting Manual of the Ohio Legislative Service Commission*, Fifth Edition, 1993.

Singer, Norman J., "Sutherland Statutes and Statutory Construction", Callaghan, Deerfield, IL, 5th ed.

Wisconsin Legislative Reference Bureau, *Bill Drafting Manual*, 1997-1998.

INDEX

Abolishing an office	55
Active voice, use of	78
Age	66
Agencies	71, 72
Amendments	
adding language (see inserting language)	
blank	87
conforming title	88
general requirements	87
hyphenated words	88
identical changes	88
inserting language	88, 89
punctuation	89
restoring stricken language	90
samples	120-131
section headings	90
strike everything amendments	90
striking language	91, 92
“Amount”	81
Appointments	25
Appropriations	
exemption from lapsing	27, 28
general	26
incidental	26, 27
lapsing	27, 28
line item veto	29
reversion	29
samples	94, 95
separate	26, 27
supplemental	26, 27, 95
“Assure”	82
“Biannually”	82
“Biennially”	82
Bills	
appropriate use	6
enacting clause	11
reference titles	9
sample	8
section headings	13
title	9
Bill requests	3
confidentiality	4

deadlines	133, 134
drafting requirements	3
“Bimonthly”	82
Boards (Statutory)	52
election of officers	54
initial terms	53
new terms	53
retention of members	54, 55
vacancies	54
Capitalization	66
Census	48
Certification	45
Chapter headings (see Headings)	
Citations, proper form of	
A.R.S.	68, 69
Arizona Constitution	68
definitions	34, 35
federal acts	67, 68
federal regulations	68
funds	40- 42
internal (see A.R.S.)	
special sessions	11
Colons (see Punctuation)	
Commas (see Punctuation)	
Commissions (see Boards)	
Committees	
advisory members	30
checklist	29, 30
compensation	31
sample	102
Compensation	31
Conditional enactments	31- 33
examples	32, 33
sample	112
Conforming legislation	33
“Consecutive”	82
“Continual”	82
Continuing funds (see Funds)	41
“Continuous”	82
Dates (see also Effective dates)	70, 71
Death resolution	105
Definitions	33
citation	34, 35
format	34

section headings	35
“stuffed”	35
Delayed repeal	
of statutes	35, 36
of temporary law	36
Delegation	36, 66, 67
Deputy officers	36
Dictionary	73
Effective dates	37-39
conflicts	37
delayed	39
emergency clauses	38
general effective date	37
“of this section”	40
proposition 108	42, 43
retroactivity	39
tax measures	39
time of day	38
vetoed	37, 38
Emergency clauses (see Effective dates)	38
Enacting clause	11, 12
“Ensure”	82
Ex officio	30
“Except”	82
“Farther”	83
Federal poverty level (see Federal statutes and regulations)	
Federal statutes and regulations	
citation of acts	67, 68
citation of federal poverty level	68
citation of regulations	68
delegation issues	66, 67
Fees	41, 42
“Fewer”	81
Fines	47
“Funds”	83
Funds	40-42
citation of	42
continuing	41
establishing a fund	40
federal monies and gifts	40

fees	41
ninety/ten boards	41
revolving fund	41
transfer of fund assets	41
“Further”	83
Germaneness	16, 17
Grandfather clauses	51
Headings	
change	42
repeal	42
Hyphens, use of	73
“If”	83
“Includes”	83
Initiatives	22
samples	118, 119
“Insure”	82
Intent sections	43-45
Internal references	15
Judicial review	43
Legislative Council; Rules	132, 133
Legislative intent (see Intent sections)	43-45
“Less”	81
Liberal interpretation sections	45
Licensure	45
Lists; format	80
“May”	84
Memorials	19
proper use	19, 20
samples	116, 117
titles	20
Modifiers, use of	80, 81
“Monies”	83
Ninety/ten boards	41
Nonseverability clauses	45, 46
"Notarized Statement"	77
Notwithstanding clauses	46
“Number”	81
Numbers	70, 71
Open meetings	47
Penalties	
civil	47, 48
criminal	47, 48
Population	48

"Practical" (see Words and phrases to avoid)	
Present tense	78
Procurement code exemption	49
Pronouns	79
Proposition 108 (see Requirements for enactment)	42, 43
Propositions (see Initiatives) (see Referendums)	
“Provided”	82
Punctuation	72, 73
Quorums	49
Quotations marks (see Punctuation)	72, 73
Reference titles	9
Referendums	23
as condition of enactment	31, 32
Registration	45
Regulatory powers (Delegation)	36
Reimbursement of expenses	31
Repeals	
delayed repeal	35, 36
samples	99-101
statutes; title format	11
temporary (session) law; title format	11
Requirements for enactment ("prop. 108")	42, 43
Resolutions	
proper use	19- 21
samples	104-115
titles	20
Retroactivity	39
Reversion of appropriation	29
Revolving funds (see also Funds)	41
Rules	
authority to make	50
exemption from rule making	50
Saving clause	50, 51
Section headings	13
“Semimonthly”	82
Session (temporary) law	
adding amendment of	14
proper use of	6, 7
repealing	7, 15, 132
Severability clauses	46
“Shall”	84, 85
Short title	52
Special Sessions, citation of	11

Spelling	73
State agencies, names of	71, 72
State officers, names of	71, 72
Statutory law	
adding	14
amending	13
arrangement	64-66
repealing	15
transferring and renumbering	60, 61
Striker amendments (see Amendments)	
“Successive”	82
“Such”	85
Sunrise legislation	55, 56
Sunset legislation	56, 57
Superior court, reference to	74
Synonyms, use of	73
Tax measures	57
Technical changes	16
"Telefacsimile"	75
Temporary law (see also Session (temporary) law)	6, 7
Terms of office	53, 54
“That”	85
“Therefor”	85
“Therefore”	85
Time of day	70, 71
Transfer of costs	57, 58
Transfer of monies	41, 58, 59
Transfer of personnel and equipment	58, 59
Transfer of powers	59, 60
Transfer and renumbering	60, 61
“Through”	85
Vacancy savings	61, 62
"Verified statement"	77
Veto	37, 38
“When”	83
“Where”	83
“Which”	85
Words and phrases to avoid	74-77