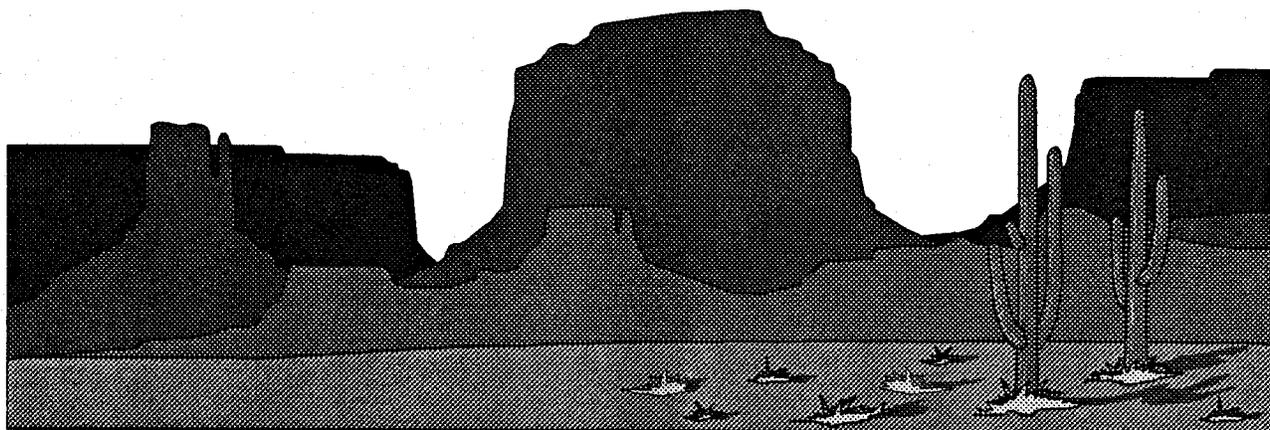


ARIZONA
HOUSE OF REPRESENTATIVES
FORTY-SECOND LEGISLATURE
1995

SUMMARY OF LEGISLATION

First Regular Session
First Special Session
Second Special Session



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Arizona House of Representatives
Phoenix, Arizona 85007

May 22, 1995

Dear Members:

I am pleased to transmit the enclosed report, "Summary of Legislation of the Forty-Second Arizona Legislature, First Regular Session - 1995." In addition, the report includes a summary of legislation passed in the First and Second Special Sessions of 1995. Also included is a summary of legislation passed in the Ninth Special Session of the Forty-First Legislature (this special session was held after the 1994 summary book had been completed and was therefore not included). The report was written and compiled by the House Majority Research Staff.

This report begins with a summary of funds appropriated by the Legislature during the First Special Session and the First Regular Session. The report continues with the First Regular Session, presenting a summary of legislation passed and enacted into law, a summary of legislation passed and vetoed and a summary of memorials and resolutions passed. Following these sections are individual sections on each of the three Special Sessions mentioned above. The final section contains a bill index and cross reference for the First Regular Session.

I know that you will find the report to be informative and useful.

Sincerely,

A handwritten signature in cursive script that reads "Robert C. Lockwood".

Robert C. Lockwood
Director of Research

First Regular Session

Session Convened
Monday, January 9, 1995
at 12 noon

Session Adjourned Sine Die
Thursday, April 13, 1995
at 4:16 a.m.

**General Effective Date for Nonemergency Legislation is
July 13, 1995**

NOTE: Seven bills were enacted which were subject to the provisions of Proposition 108 which concerns bills that provide for a net increase in state revenues. These bills are denoted by the "P" to the right of the chapter number. These bills, as well as bills containing an emergency clause, became effective immediately upon the signature of the Governor.

**SUMMARY OF LEGISLATION
OF THE FORTY-SECOND LEGISLATURE**

FIRST REGULAR SESSION - 1995

**FIRST SPECIAL SESSION • SECOND SPECIAL SESSION
FORTY-FIRST LEGISLATURE - 1994 • NINTH SPECIAL SESSION**

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LOA: LIST - O' - ACRONYMS
[WHICH MAY BE USED IN SUMMARIES]

ACC	Arizona Corporation Commission
ACI	Arizona Correctional Industries
ACJC	Arizona Criminal Justice Commission
ADA	Average Daily Attendance
ADE	Arizona Department of Education
ADM	Average Daily Membership
ADOT	Arizona Department of Transportation
AFDC	Aid to Families with Dependent Children
AHCCCS	Arizona Health Care Cost Containment System
ALTCS	Arizona Long Term Care System
AMA	Active Management Area
APA	Administrative Procedure Act
APP	Aquifer Protection Permit
ARP	Aquifer Replenishment Project
ARS	Arizona Revised Statutes
ASDB	Arizona School for the Deaf and the Blind
ASH	Arizona State Hospital
ASPIRE	Arizona Student Program Investing Resources for Education
ASRS	Arizona State Retirement System
ASU	Arizona State University
AV	Assessed Valuation
BADCT	Best Available Demonstrated Control Technology
BLM	Bureau of Land Management (federal)
BMP	Best Management Practices
BOMEX	Board of Medical Examiners
CAP	Central Arizona Project
CAWCD	Central Arizona Water Conservation District
CDL	Classified Driver's License
CJEF	Criminal Justice Enhancement Fund
CNG	Compressed Natural Gas
CO	Carbon Monoxide
CORP	Correctional Officers Retirement Plan
DD	Developmental Disabilities
DDD	Division of Developmental Disabilities [DES]
DEQ	Department of Environmental Quality
DES	Department of Economic Security
DHS	Department of Health Services
DJC	Department of Juvenile Corrections [was DYTR]
DLAPR	Department of Library, Archives and Public Records
DOA	Department of Administration

LOA: LIST - O' - ACRONYMS
[Continued]

DOC	Department of Corrections
DOI	Department of Insurance
DOR	Department of Revenue
DPS	Department of Public Safety
DWM	Department of Weights and Measures
DWR	Department of Water Resources
DYTR	Department of Youth Treatment and Rehabilitation [now DJC]
EAC	Eligible Assistance Children
EEC	Economic Estimates Commission
ELIC	Eligible Low Income Children
EORP	Elected Officials Retirement Plan
EPA	Environmental Protection Agency (federal)
EPSDT	Early and Periodic Screening, Diagnosis and Treatment
FAGI	Federally Adjusted Gross Income
FHWA	Federal Highway Administration
FCV	Full Cash Value
GDPIPD	Gross Domestic Product Implicit Price Deflator
GRD	Groundwater Replenishment District
GRCC	Governor's Regulatory Review Council
GSPED	Governor's Strategic Plan for Economic Development
GVW	Gross Vehicle Weight
HCFA	Health Care Financing Administration (federal)
HCSO	Health Care Services Organization
HMO	Health Maintenance Organization
HURF	Highway User Revenue Fund
IGA	Intergovernmental Agreement
I/M240	Inspection / Maintenance in Four Minutes (vehicle emissions)
JCCR	Joint Committee on Capital Review
JLAC	Joint Legislative Audit Committee
JLBC	Joint Legislative Budget Committee
JLTC	Joint Legislative Tax Committee
LB&I	Land, Buildings and Improvements
LEP	Limited English Proficient
LPV	Limited Property Value
LTAFF	Local Transportation Assistance Fund
LUST	Leaking Underground Storage Tank

LOA: LIST - O' - ACRONYMS
[Continued]

M&O	Maintenance and Operation
MAO	Medical Assistance Only
MN/MI	Medically Needy/Medically Indigent
MTBE	Methyl Tertiary-Butyl Ether
MVD	Motor Vehicle Division
NAFTA	North American Free Trade Agreement (federal)
NAU	Northern Arizona University
NHTSA	National Highway Traffic Safety Administration (federal)
ORB	Omnibus Reconciliation Bill (state)
OBRA	Omnibus Budget Reconciliation Act (federal)
OSHA	Occupational Safety and Health Administration (federal)
OSPB	Office of Strategic Planning and Budgeting
PSPRS	Public Safety Personnel Retirement System
QMB	Qualified Medical Beneficiaries
RARF	Regional Area Road Fund
RBHA	Regional Behavioral Health Authority
RCL	Revenue Control Limit
RPTA	Regional Public Transportation Authority
RTC	Resolution Trust Corporation
RUCO	Residential Utility Consumers Office
SLIF	State Lake Improvement Fund
SMI	Seriously Mentally Ill
SOBRA	Sixth Omnibus Budget Reconciliation Act (federal)
SPCC	Structural Pest Control Commission
SPI	Superintendent of Public Instruction
SSI	Supplemental Security Income (federal)
TRO	Temporary Restraining Order
U of A	University of Arizona
UST	Underground Storage Tank
VLT	Vehicle License Tax
WIC	Women, Infants and Children
WICHE	Western Interstate Commission for Higher Education

REGULAR SESSION BILL INTRODUCTIONS AND SUCCESS PERCENTAGE:
HOUSE, SENATE AND TOTAL

YEAR	TOTAL INTRODUCED	BILLS SENT TO GOVERNOR	VETOED	VETO OVERRIDEN	TOTAL BECAME LAW	SUCCESS PERCENTAGE
HOUSE						
1995	550	145	2	0	143	26.0%
1994	598	187	0	0	187	31.3%
1993	393	123	1	0	122	31.0%
1992	597	222	4	0	218	36.5%
1991	503	181	5	0	176	35.0%
1990	692	265	4	0	261	37.7%
1989	666	189	6	0	183	27.5%
1988	442	179	5	0	174	39.4%
1987	474	203	5	0	198	41.8%
1986	518	253	7	0	246	47.5%
SENATE						
1995	407	163	6	0	157	38.6%
1994	565	193	0	0	193	34.2%
1993	433	138	1	0	137	31.6%
1992	545	147	4	0	143	26.2%
1991	476	153	7	0	146	30.7%
1990	559	152	1	0	151	27.0%
1989	468	133	3	0	130	27.8%
1988	486	181	4	0	177	36.4%
1987	463	176	5	0	171	36.9%
1986	438	179	5	0	174	39.7%
TOTAL						
1995	957	308	8	0	300	31.3%
1994	1163	380	0	0	380	32.7%
1993	826	261	2	0	259	31.4%
1992	1142	369	8	0	361	31.6%
1991	979	334	12	0	322	32.9%
1990	1251	417	5	0	412	32.9%
1989	1134	322	9	0	313	27.6%
1988	928	360	9	0	351	37.8%
1987	937	379	10	0	369	39.4%
1986	956	432	12	0	420	43.9%

SECTION I

SUMMARY OF

APPROPRIATIONS FOR

FISCAL YEAR 1995-1996

SECTION I

SUMMARY OF APPROPRIATIONS FOR FISCAL YEAR 1995-1996

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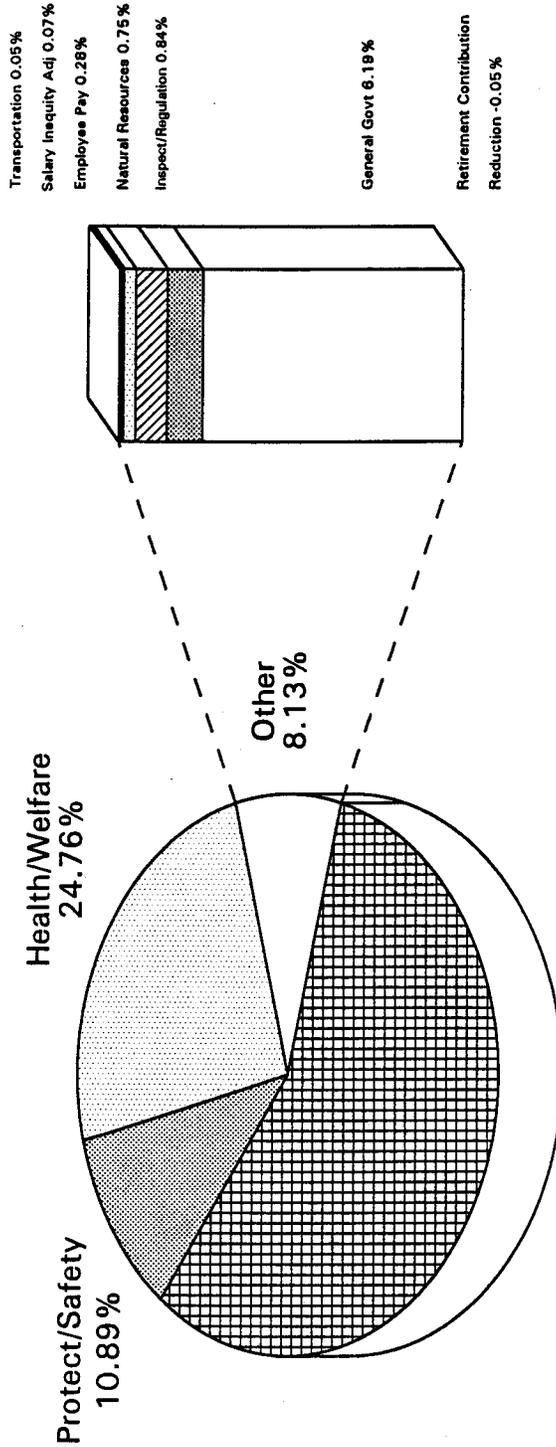
TABLE 1

State of Arizona Summary Table of General Fund Appropriations:
Fiscal Year 1995 - 1996 Operating Budget

FUNCTION	APPROPRIATION	PERCENT OF TOTAL OPERATING BUDGET
GENERAL GOVERNMENT	\$276,094,150	6.19%
HEALTH AND WELFARE	\$1,104,392,386	24.76%
INSPECTION AND REGULATION	\$37,588,750	0.84%
EDUCATION	\$2,506,884,850	56.21%
PROTECTION AND SAFETY	\$485,841,354	10.89%
TRANSPORTATION	\$2,374,300	0.05%
NATURAL RESOURCES	\$33,338,300	0.75%
RETIREMENT CONTRIBUTION REDUCTION	(\$2,435,800)	-0.05%
FY 1996 EMPLOYEE PAY INCREASE	\$12,700,000	0.28%
FY 1996 SALARY INEQUITY ADJUSTMENT	\$3,000,000	0.07%
TOTAL	\$4,459,778,290	100.00%

CHART 1

STATE OF ARIZONA SUMMARY OF GENERAL FUND APPROPRIATIONS



FISCAL YEAR 1995-96
\$4,459,778,290

TABLE 2

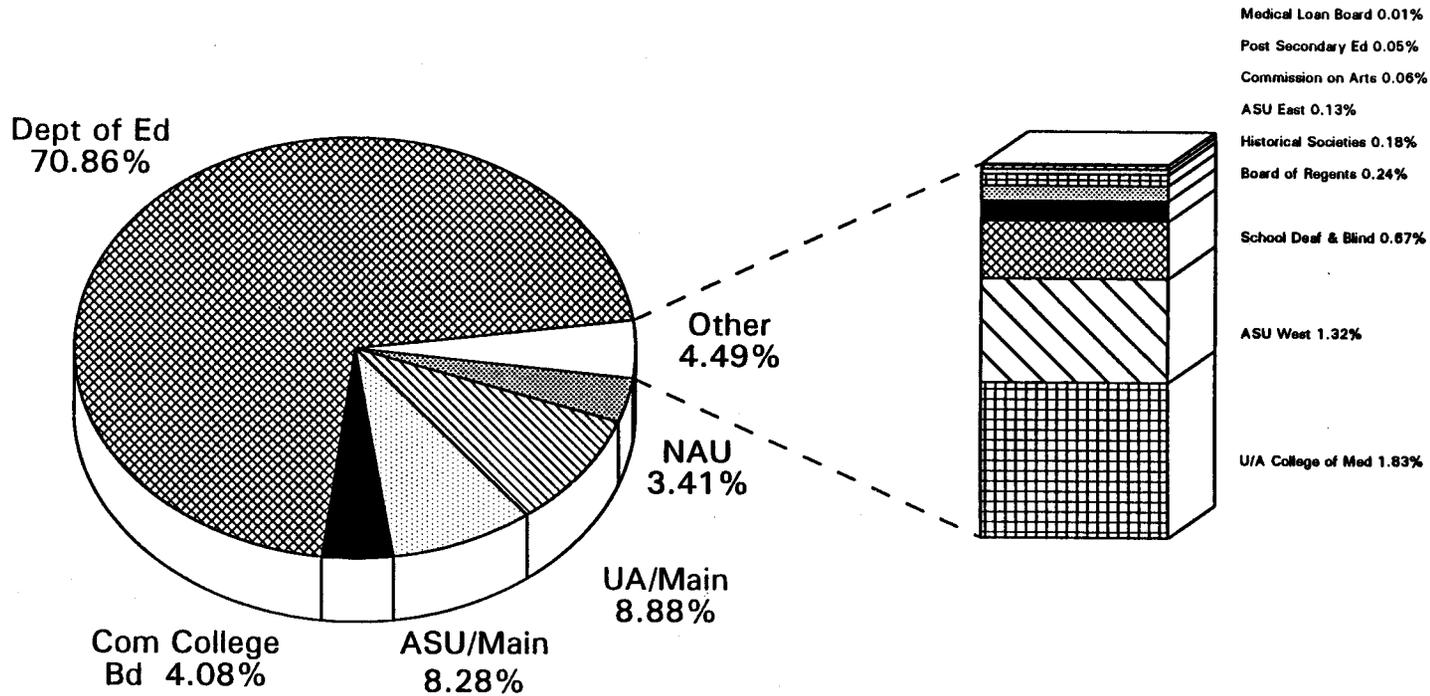
State of Arizona Summary Table of General Fund Appropriations
for Education Purposes: Fiscal Year 1995 - 1996 Operating Budget

FUNCTION	APPROPRIATION	PERCENT OF TOTAL EDUC. APPROPRIATION	PERCENT OF TOTAL APPROPRIATION
Commission on the Arts	\$1,507,300	0.06%	0.03%
Community College Board	\$102,184,700	4.08%	2.29%
School for the Deaf and the Blind	\$16,808,300	0.67%	0.38%
Department of Education	\$1,776,437,050	70.86%	39.83%
Arizona Historical Society	\$3,991,300	0.16%	0.09%
Prescott Historical Society	\$604,900	0.02%	0.01%
Medical Student Loans Board	\$113,900	0.00%	0.00%
Postsecondary Education, Comm. on	\$1,234,000	0.05%	0.03%
Board of Regents	\$5,962,000	0.24%	0.13%
Arizona State University - Main	\$207,511,100	8.28%	4.65%
Arizona State University - West	\$33,147,600	1.32%	0.74%
Arizona State University - East	\$3,334,900	0.13%	0.07%
Northern Arizona University	\$85,525,700	3.41%	1.92%
University of Arizona - Main	\$222,608,500	8.88%	4.99%
College of Medicine	\$45,913,600	1.83%	1.03%
TOTAL	\$2,506,884,850	100.00%	56.21%

CHART 2

STATE OF ARIZONA

SUMMARY OF GENERAL FUND APPROPRIATIONS FOR EDUCATION PURPOSES



FISCAL YEAR 1995-96
\$2,506,884,850

TABLE 3

STATE OF ARIZONA
 STATISTICAL SUMMARY OF OPERATING APPROPRIATIONS
 FISCAL YEAR 1995 - 1996

AGENCY	GENERAL FUND			OTHER FUNDS			TOTAL APPROPRIATION
	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL GENERAL FUND APPROP	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL OTHER FUND APPROP	
GENERAL GOVERNMENT							
ADMINISTRATION, DEPARTMENT OF	25,889,000	713,650	26,602,650	99,094,100	0	99,094,100	125,696,750
ADMINISTRATIVE HEARINGS, OFFICE OF	0	347,600	347,600	0	183,700	183,700	531,300
ATTORNEY GENERAL	22,008,100	1,000,000	23,008,100	2,384,500	0	2,384,500	25,392,600
COLISEUM AND EXPOSITION CENTER /2	0	0	0	14,510,200	0	14,510,200	14,510,200
COMMERCE, DEPARTMENT OF	9,259,500	925,000	10,184,500	5,202,100	0	5,202,100	15,386,600
COURTS							0
Court of Appeals	8,900,400	0	8,900,400	0	0	0	8,900,400
Comm on Appellate and Trial Court Appts	10,000	0	10,000	0	0	0	10,000
Commission on Judicial Conduct	262,200	0	262,200	0	0	0	262,200
Superior Court	83,626,000	0	83,626,000	0	0	0	83,626,000
Supreme Court	11,936,000	0	11,936,000	1,624,500	0	1,624,500	13,560,500
TOTAL - ARIZONA JUDICIARY	104,734,600	0	104,734,600	1,624,500	0	1,624,500	106,359,100
EQUALIZATION, STATE BOARD OF	0	85,500	85,500	0	0	0	85,500
OFFICE OF THE GOVERNOR	6,058,600	352,900	6,411,500	500,000	0	500,000	6,911,500
Office of Equal Opportunity	158,000	0	158,000	0	0	0	158,000
Office of Strategic Planning & Budgeting	1,699,500	0	1,699,500	0	0	0	1,699,500
LAW ENFORCEMENT MERIT SYS COUNCIL	46,400	0	46,400	0	0	0	46,400
LEGISLATURE							
Auditor General	9,343,300	98,000	9,441,300	0	0	0	9,441,300
House of Representatives	7,763,100	0	7,763,100	0	0	0	7,763,100
Joint Legislative Budget Committee	2,109,900	0	2,109,900	0	0	0	2,109,900
Legislative Council	4,327,100	0	4,327,100	0	0	0	4,327,100
Library, Archives & Public Records	5,193,600	0	5,193,600	0	0	0	5,193,600
Senate	5,969,600	0	5,969,600	0	0	0	5,969,600
TOTAL - LEGISLATURE	34,706,600	0	34,706,600	0	0	0	34,706,600
LOTTERY, ARIZONA COMMISSION	0	0	0	49,151,700	0	49,151,700	49,151,700
PERSONNEL BOARD	306,000	0	306,000	0	0	0	306,000
RETIREMENT SYSTEM	0	0	0	3,647,900	0	3,647,900	3,647,900
REVENUE, DEPARTMENT OF	49,994,200	242,200	50,236,400	424,700	0	424,700	50,661,100
SECRETARY OF STATE	5,507,100	0	5,507,100	0	0	0	5,507,100
TAX APPEALS, BOARD OF	764,000	10,000	774,000	0	0	0	774,000
TOURISM, OFFICE OF	7,413,000	0	7,413,000	0	0	0	7,413,000
TREASURER, STATE	3,746,500	0	3,746,500	0	0	0	3,746,500
UNIFORM STATE LAWS, COMMISSION ON	28,200	0	28,200	0	0	0	28,200
TOTAL - GENERAL GOVERNMENT	272,319,300	3,774,850	276,094,150	176,539,700	183,700	176,723,400	452,817,550

AGENCY	GENERAL FUND			OTHER FUNDS			TOTAL APPROPRIATIO
	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL GENERAL FUND APPROP	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL OTHER FUND APPROP	
HEALTH AND WELFARE							
AHCCCS	476,168,700	430,900	476,599,600	0	0	0	476,599,600
ECONOMIC SECURITY, DEPARTMENT OF	390,041,300	1,214,136	391,255,436	414,700	0	414,700	391,670,136
ENVIRONMENTAL QUALITY, DEPT OF	13,352,300	544,000	13,896,300	14,908,800	0	14,908,800	28,805,100
HEALTH SERVICES, DEPARTMENT OF	216,608,200	232,550	216,840,750	17,155,000	0	17,155,000	233,995,750
HEARING IMPAIRED, COUNCIL FOR THE	223,100	0	223,100	0	0	0	223,100
INDIAN AFFAIRS, COMMISSION OF	188,800	0	188,800	0	0	0	188,800
PIONEERS' HOME	2,014,300	0	2,014,300	1,180,800	0	1,180,800	3,195,100
RANGERS' PENSIONS	10,300	0	10,300	0	0	0	10,300
VETERANS' SERVICE COMMISSION	3,363,800	0	3,363,800	514,900	0	514,900	3,878,700
TOTAL - HEALTH AND WELFARE	1,101,970,800	2,421,586	1,104,392,386	34,174,200	0	34,174,200	1,138,566,586
INSPECTION AND REGULATION							
ACCOUNTANCY, BOARD OF	0	0	0	1,037,600	0	1,037,600	1,037,600
AGRIC. EMPLOYMENT RELATIONS BD.	60,800	0	60,800	0	0	0	60,800
AGRICULTURE, DEPT. OF	9,986,600	0	9,986,600	1,730,700	0	1,730,700	11,717,300
APPRAISAL, BOARD OF	0	0	0	257,600	0	257,600	257,600
BANKING DEPARTMENT	2,824,400	(2,450)	2,821,950	0	0	0	2,821,950
BARBERS, BOARD OF	0	0	0	149,800	0	149,800	149,800
BEHAVIORAL HEALTH EXAMINERS, BOARD O	0	0	0	341,400	0	341,400	341,400
BOXING COMMISSION	67,000	0	67,000	0	0	0	67,000
BUILDING AND FIRE SAFETY, DEPT. OF	3,142,400	(35,600)	3,106,800	0	0	0	3,106,800
CHIROPRACTIC EXAMINERS, BOARD OF	0	0	0	260,300	0	260,300	260,300
CONTRACTORS, REGISTRAR OF	0	0	0	5,398,600	(183,700)	5,214,900	5,214,900
CORPORATION COMMISSION	5,211,500	0	5,211,500	6,070,500	0	6,070,500	11,282,000
COSMETOLOGY, BOARD OF	0	0	0	807,000	0	807,000	807,000
DENTAL EXAMININERS, BOARD OF	0	0	0	597,600	0	597,600	597,600
FUNERAL DIRECTORS & EMBALMERS, BOARD	0	0	0	171,600	0	171,600	171,600
HOMEOPATHIC EXAMINERS, BOARD OF	0	0	0	29,300	0	29,300	29,300
INDUSTRIAL COMMISSION	0	0	0	12,876,800	0	12,876,800	12,876,800
INSURANCE, DEPARTMENT OF	4,702,300	(88,000)	4,614,300	0	0	0	4,614,300
LIQUOR LICENSES AND CONTROL, DEPT.	2,685,200	(44,100)	2,641,100	0	0	0	2,641,100
MEDICAL EXAMINIERS, BOARD OF	0	0	0	2,903,800	0	2,903,800	2,903,800
MINE INSPECTOR	766,300	0	766,300	0	0	0	766,300
NATUROPATHIC PHYSICIANS BOARD	0	0	0	71,000	0	71,000	71,000
NURSING, BOARD OF	0	0	0	1,497,300	60,000	1,557,300	1,557,300
NURSING CARE INSTITUTIONAL ADMIN. BOA	0	0	0	77,800	0	77,800	77,800
OCCUPATIONAL THERAPY EXAM., BOARD OF	0	0	0	95,600	0	95,600	95,600
OPTICIANS, BOARD OF DISPENSING	0	0	0	67,200	0	67,200	67,200

[continued]

AGENCY	GENERAL FUND			OTHER FUNDS			TOTAL APPROPRIATIO
	HB 2001 ** APPROPRIATION	OTHER BILLS /I	TOTAL GENERAL FUND APPROP	HB 2001 ** APPROPRIATION	OTHER BILLS /I	TOTAL OTHER FUND APPROP	
OPTOMETRY, BOARD OF	0	0	0	108,000	0	108,000	108,000
OSHA REVIEW BOARD	9,000	0	9,000	0	0	0	9,000
OSTEOPATHIC EXAMINERS, BOARD OF	0	0	0	310,000	0	310,000	310,000
PHARMACY, BOARD OF	0	0	0	739,500	0	739,500	739,500
PHYSICAL THERAPY EXAMINERS, BOARD	0	0	0	91,100	0	91,100	91,100
PODIATRY EXAMINERS, BOARD OF	0	0	0	57,800	0	57,800	57,800
PRIVATE POSTSECONDARY EDUCATION	0	0	0	146,800	0	146,800	146,800
PSYCHOLOGIST EXAMINERS, BOARD OF	0	0	0	224,100	0	224,100	224,100
RACING, DEPARTMENT OF	2,622,400	(4,250)	2,618,150	3,129,700	0	3,129,700	5,747,850
RADIATION REGULATORY AGENCY	1,071,700	0	1,071,700	105,200	0	105,200	1,176,900
REAL ESTATE DEPARTMENT	2,895,700	(43,550)	2,852,150	0	0	0	2,852,150
RESIDENTIAL UTILITY CONSUMER OFFICE	0	0	0	1,004,400	0	1,004,400	1,004,400
RESPIRATORY CARE EXAMINERS BOARD	0	0	0	165,400	0	165,400	165,400
STRUCTURAL PEST CONTROL COMMISSION	0	0	0	1,268,100	0	1,268,100	1,268,100
TECHNICAL REGISTRATION, BOARD OF	0	0	0	875,100	0	875,100	875,100
VETERINARY MED. EXAMINING BOARD	0	0	0	190,800	0	190,800	190,800
WEIGHTS AND MEASURES, DEPT. OF	1,761,400	0	1,761,400	546,500	0	546,500	2,307,900
TOTAL - INSPECTION & REGULATION	37,806,700	(217,950)	37,588,750	43,404,000	(123,700)	43,280,300	80,869,050
EDUCATION							
ARTS, COMMISSION ON THE	1,507,300	0	1,507,300	0	0	0	1,507,300
COMMUNITY COLLEGES	102,184,700	0	102,184,700	139,500	0	139,500	102,324,200
DEAF AND THE BLIND, SCHOOL FOR THE	16,808,300	0	16,808,300	5,350,500	0	5,350,500	22,158,800
EDUCATION, DEPARTMENT OF	1,773,128,000	3,309,050	1,776,437,050	0	0	0	1,776,437,050
HISTORICAL SOCIETY, ARIZONA	3,991,300	0	3,991,300	0	0	0	3,991,300
HISTORICAL SOCIETY, PRESCOTT	604,900	0	604,900	0	0	0	604,900
MEDICAL STUDENT LOANS BOARD	113,900	0	113,900	0	0	0	113,900
POSTSECONDARY EDUCATION, COMM. FOR	1,234,000	0	1,234,000	2,981,900	0	2,981,900	
UNIVERSITIES					0	0	0
Arizona State University - Main	207,511,100	0	207,511,100	67,884,800	0	67,884,800	275,395,900
Arizona State University - East	1,834,900	1,500,000	3,334,900	109,800	0	109,800	
Arizona State University - West	33,147,600	0	33,147,600	5,469,400	0	5,469,400	38,617,000
Northern Arizona University	85,525,700	0	85,525,700	23,264,200	0	23,264,200	108,789,900
Board of Regents	5,962,000	0	5,962,000	0	0	0	5,962,000
University of Arizona - Main	222,608,500	0	222,608,500	60,358,900	0	60,358,900	282,967,400
University of Arizona - Health Sciences Center	45,913,600	0	45,913,600	4,836,500	0	4,836,500	50,750,100
TOTAL - UNIVERSITIES	602,503,400	1,500,000	604,003,400	161,923,600	0	161,923,600	762,482,300
TOTAL - EDUCATION	2,502,075,800	4,809,050	2,506,884,850	170,395,500	0	170,395,500	2,669,619,750

AGENCY	GENERAL FUND			OTHER FUNDS			TOTAL APPROPRIATIO
	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL GENERAL FUND APPROP	HB 2001 ** APPROPRIATION	OTHER BILLS /1	TOTAL OTHER FUND APPROP	
PROTECTION AND SAFETY							
CORRECTIONS, DEPARTMENT OF	385,392,000	303,054	385,695,054	26,399,800	0	26,399,800	412,094,854
CRIMINAL JUSTICE COMMISSION, ARIZONA	1,100,000	0	1,100,000	578,100	0	578,100	1,678,100
EMRG. & MILITARY AFFAIRS, DEPT. OF	7,558,000	0	7,558,000	52,600	0	52,600	7,610,600
EXECUTIVE CLEMENCY, BOARD OF	1,723,700	0	1,723,700	0	0	0	1,723,700
PUBLIC SAFETY, DEPARTMENT OF	47,448,700	0	47,448,700	48,162,000	0	48,162,000	95,610,700
YOUTH TREATMENT REHAB., DEPT OF	42,315,900	0	42,315,900	1,978,300	0	1,978,300	44,294,200
TOTAL - PROTECTION AND SAFETY	485,538,300	303,054	485,841,354	77,170,800	0	77,170,800	563,012,154
TRANSPORTATION	74,300	2,300,000	2,374,300	186,649,900	5,000,000	191,649,900	194,024,200
TOTAL - TRANSPORTATION, DEPART. OF	74,300	2,300,000	2,374,300	186,649,900	5,000,000	191,649,900	194,024,200
NATURAL RESOURCES							
ENVIRONMENT, COMMISSION ON THE AZ	105,200	0	105,200	0	0	0	105,200
GAME AND FISH DEPARTMENT	0	0	0	17,862,600	0	17,862,600	17,862,600
GEOLOGICAL SURVEY, ARIZONA	750,600	0	750,600	0	0	0	750,600
LAND DEPARTMENT	11,401,800	0	11,401,800	0	0	0	11,401,800
MINES & MINERAL RESOURCES, DEPT. OF	685,700	0	685,700	0	0	0	685,700
NAVIGABLE STREAM ADJUDICATION COMM.	115,300	0	115,300	0	0	0	115,300
PARKS BOARD	6,430,000	0	6,430,000	2,454,600	0	2,454,600	8,884,600
WATER RESOURCES, DEPARTMENT OF	13,786,400	63,300	13,849,700	0	0	0	13,849,700
TOTAL - NATURAL RESOURCES	33,275,000	63,300	33,338,300	20,317,200	0	20,317,200	53,540,200
RETIREMENT CONTRIBUTION REDUCTION	(2,435,800)	0	(2,435,800)	(138,900)	0	(138,900)	(2,574,700)
FY 1996 EMPLOYEE PAY INCREASE	12,700,000	0	12,700,000	0	0	0	12,700,000
SALARY INEQUITY ADJUSTMENTS	3,000,000	0	3,000,000	0	0	0	3,000,000
TOTAL - OPERATING APPROPRIATION	4,446,324,400	13,453,890	4,459,778,290	708,512,400	5,060,000	713,572,400	5,165,574,790

** House Bill 2001, Laws 1995, First Special Session, Chapter 1.

/1 See Table 4 (following) for the list of other bills by department or agency.

/2 The Arizona Coliseum and Exposition Center is appropriated 100% of collections which are estimated to be \$14,510,200.

/3 Collections, Other Receipts, and Balance Forward are not included in the total.

/4 Monies dispersed pursuant to Laws 1995, First Special Session, Chapter 275 (Tobacco Tax Monies) are not included in the total.

TABLE 4

OTHER BILLS CONTAINING OPERATING APPROPRIATIONS

<u>Chapter</u>	<u>Bill</u>		<u>General Fund</u>	<u>Other Fund</u>
<u>Fiscal Year 1994 - 1995</u>				
<u>Department of Administration</u>				
162E	HB 2080	Appropriations for Named Claimants	\$ 110,459	\$ 103,210
<u>Department of Commerce</u>				
185E	SB 1039	Work recruitment and job training program	1,500,000	
<u>Department of Emergency and Military Affairs</u>				
28E	HB 2412	Nuclear Emergency Appropriation and Assessment [Repaid by assessment]	459,464	
<u>Department of Health Services</u>				
291E	HB 2522	Hospital Services in the Springerville and Eager area	700,000	
<u>Radiation Regulatory Agency</u>				
28E	HB 2412	Nuclear Emergency Appropriation and Assessment [Repaid by assessment]	399,100	
<u>Secretary of State</u>				
36	HB 2297	1990-1991 general election runoff election costs	106,707	
<u>State Agency Supplementals</u>				
6	HB 2006	General appropriation, FY 1994-95 supplementals [Laws 1995, 1st regular session]	10,566,800	
TOTAL FISCAL YEAR 1994-1995			\$ 13,842,530	\$ 103,210

<u>Chapter</u>	<u>Bill</u>		<u>General Fund</u>	<u>Other Fund</u>
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Fiscal Year 1995 - 1996

Department of Administration

79	SB 1023	Compliance with the Indian Tribe Water Rights Settlement Act of 1994	\$ 200,000	\$
201	SB 1189	Arizona Military Institute	100,000	
229	HB 2188	Underground Storage Tanks	300,000	
251	SB 1274	Start-up costs of the Office of Administrative Hearings	122,400	
		Transfer to the Office of Administrative Hearings	(8,750)	

Office of Administrative Hearings

251	SB 1274	Transfers from other state agencies	347,600	183,700
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AHCCCS

175	SB 1305	Benefits extension pilot demonstration program	430,900	
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Arizona State University - East Campus

298	SB 1368	Renovation of buildings and telecommunications linkages	1,500,000	
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Attorney General

197	SB 1149	Victims' rights	1,000,000	
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Auditor General

94	SB 1401	Review of the Attorney General's Office financial records	98,000	
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Banking Department

251	SB 1274	Transfer to the Office of Administrative Hearings	(2,450)	
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Department of Building and Fire Safety

251	SB 1274	Transfer to the Office of Administrative Hearings	(35,600)	
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Cochise County

300	HB 2226	Temporary financial assistance	393,000	
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Fiscal Year 1995 - 1996 - continuedDepartment of Commerce

209	SB 1248	Border port management pilot project	\$	750,000	\$
		CANAMEX trade corridor expenses		25,000	
		Infrastructure development in the Arizona-Sonora border region		150,000	

Department of Corrections

158	HB 2002	Minors and pupils with disabilities education programs		263,054	
		Capital improvements relating to the minors and pupils with disabilities education programs		40,000	

Department of Economic Security

157	SB 1399	Rural food bank project		27,900	
175	SB 1305	Benefits extension pilot demonstration program		52,300	
		Program evaluation		12,500	
206	SB 1227	State's share of retained earnings and AFDC incentives under the proportional distribution of child support		73,086	
		Computer reprogramming for proportional distribution		33,350	
236E	HB 2227	Summer youth employment, education and gang prevention		1,000,000	
250	SB 1273	Planning costs for the establishment of secure care housing for developmentally disabled individuals		15,000	

Department of Education

158	HB 2002	Increased state aid for county jail education programs		822,000	
		Continued placement of peace officers and juvenile probation officers in public schools		2,500,000	
251	SB 1274	Transfer to the Office of Administrative Hearings		(12,950)	

Department of Environmental Quality

78	HB 2525	Water contamination remediation for Lake Havasu		500,000	
232	HB 2197	Calculation of remediation levels for contaminated soil		50,000	
251	SB 1274	Transfer to the Office of Administrative Hearings		(6,000)	

<u>Chapter</u>	<u>Bill</u>		<u>General Fund</u>	<u>Other Fund</u>
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Fiscal Year 1995 - 1996 - continued

State Board of Equalization

249	SB 1271	Hire a full-time chairperson	\$ 85,500	\$
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Gila County

300	HB 2226	Temporary financial assistance	1,876,000	
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Office of the Governor

106	HB 2299	Arizona - Mexico commission	75,000	
246	SB 1258	Study on the need for a statewide telephone service	25,000	
		Governor's telecommunications policy office	252,900	

Graham county community college district

173	SB 1163	Capital construction of a branch campus in Payson [results in a \$200,000 reversion in Laws 1995, chapter 2, 1st Special Session]	1,000,000	
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Department of Health Services

190	SB 1073	Statewide teenage pregnancy prevention campaign	140,000	
		Local community teenage pregnancy prevention campaigns	110,000	
251	SB 1274	Transfer to the Office of Administrative Hearings	(17,450)	

Department of Insurance

251	SB 1274	Transfer to the Office of Administrative Hearings	(88,000)	
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Joint Powers Williams Gateway Airport Authority

298	SB 1368	Infrastructure construction at Williams AFB	1,880,000	
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Department of Liquor Licenses and Control

251	SB 1274	Transfer to the Office of Administrative Hearings	(44,100)	
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Fiscal Year 1995 - 1996 - continued

<u>Arizona Military Airport Preservation Committee</u>			
62	SB 1062	Noise contour surveys of Luke Air Force Base and the Yuma - Marine Air Corps Station	\$ 200,000 \$
<u>State Board of Nursing</u>			
255	SB 1284	Operating Expenses	60,000
<u>Department of Racing</u>			
251	SB 1274	Transfer to the Office of Administrative Hearings	(4,250)
<u>Department of Real Estate</u>			
251	SB 1274	Transfer to the Office of Administrative Hearings	(43,550)
<u>Registrar of Contractors</u>			
251	SB 1274	Transfer to the Office of Administrative Hearings	(183,700)
<u>Department of Revenue</u>			
249	SB 1271	Assistance to county assessors	290,000
251	SB 1274	Transfer to the Office of Administrative Hearings	(47,800)
<u>Santa Cruz County</u>			
300	HB 2226	Temporary financial assistance	231,000
<u>State Board of Tax Appeals</u>			
249	SB 1271	Property tax valuation and appeals	10,000
<u>Department of Transportation</u>			
62	SB 1062	Roadway relocation for runway extension at Davis-Monthan AFB	2,300,000
244	HB 2032	Purchase of Maricopa County's motor vehicle registration functions	5,000,000

<u>Chapter</u>	<u>Bill</u>		<u>General Fund</u>	<u>Other Fund</u>
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Fiscal Year 1995 - 1996 - continued

Department of Water Resources

86	SB 1147	Hydrologic data collection	\$ 100,000	\$
251	SB 1274	Transfer to the Office of Administrative Hearings	(36,700)	

TOTAL FISCAL YEAR 1995-1996			\$ 18,617,290	\$ 5,060,000
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Fiscal Year 1996 - 1997

Department of Education

145	SB 1033	Scotopic sensitivity Irlen syndrome pilot program	90,000	
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Legislative Council

281	HB 2414	Office of the Ombudsman-citizens Aide	215,300	
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State Board of Tax Appeals

249	SB 1271	Property tax valuation and appeals	8,700	
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Department of Transportation

62	SB 1062	Roadway relocation for runway extension at Davis-Monthan AFB	4,300,000	
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TOTAL FISCAL YEAR 1996-1997			\$ 4,605,300	\$ 0
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Fiscal Year 1997 - 1998

Department of Transportation

62	SB 1062	Roadway relocation for runway extension at Davis-Monthan AFB	3,200,000	
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TOTAL FISCAL YEAR 1997-1998			\$ 3,200,000	\$ 0
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TABLE 5

CAPITAL OUTLAY APPROPRIATIONS

<u>Agency</u>	<u>General Fund</u>	<u>Other Fund</u>
<u>Fiscal Year 1994 - 1995</u> <u>{H.B 2007, 1st SPECIAL SESSION}</u>		
<u>Department of Administration</u>		
Capitol Tower Asbestos Abatement	\$ 1,400,000	\$ 0
TOTAL FISCAL YEAR 1994-1995	\$ 1,400,000	\$ 0
<u>Fiscal Year 1995 - 1996</u> <u>{H.B 2002, 1st SPECIAL SESSION}</u>		
<u>Department of Administration</u>		
Maintenance and Repair of State Buildings	7,171,400	1,000,000 *
Capital Projects	5,821,500	2,000,000
<u>Board of Regents</u>		
Maintenance and Repair of State Buildings	19,247,300	
Capital Projects	4,000,000	
<u>Department of Transportation</u>		
Maintenance and Repair of State Buildings		1,150,100
Capital Projects		3,056,400
State Highway Planning & Construction		198,434,000
Airport Planning, Construction & Development		17,750,800
<u>Arizona Coliseum Board</u>		
Maintenance and Repair of State Buildings		673,200

<u>Agency</u>	<u>General Fund</u>	<u>Other Fund</u>
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Fiscal Year 1994 - 1995 - continued

<u>Game and Fish Department</u>		
Maintenance and Repair of State Buildings	\$	\$ 128,300
Capital Projects		519,100
 <u>Lottery Commission</u>		
Maintenance and Repair of State Buildings		13,500
Capital Projects		10,000
 <u>Department of Emergency & Military Affairs</u>		
Capital Projects	53,000	
 <u>Department of Public Safety</u>		
Capital Projects	8,200,000	
 <u>Secretary of State</u>		
Office Renovation	200,000	
 <u>Arizona State Schools for the Deaf and Blind</u>		
Capital Projects	600,000	
 <u>Board of Directors for Community Colleges</u>		
Capital Projects	400,000	
 <u>Department of Health Services</u>		
Capital Projects	175,000	
 <u>Department of Corrections</u>		
Capital Projects		19,850,000
 TOTAL FISCAL YEAR 1995-1996	\$ 45,868,200	\$ 244,585,400

* Appropriated from the Capital Outlay Stabilization Account

SECTION II

SUMMARY OF

LEGISLATION

FIRST REGULAR SESSION

42nd LEGISLATURE

APPROPRIATIONS

ROBERT BURNS - CHAIRMAN

Reed Spangler - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

<u>Bill</u>	<u>Chapter</u>	<u>Short Title</u>	<u>Page</u>
HB 2080	162 [E]	appropriation; named claimants	2
HB 2287	278	state assets committee	2
HB 2297	36	appropriation; secretary of state; election	3
HB 2412	28 [E]	nuclear emergency appropriation and assessment	4
HB 2444	283	state program authorization review; procedures	4
SB 1023	79	appropriation; Yavapai tribe water settlement	6
SB 1143	196	program funding; limitations; applications	6
SB 1163	173	appropriation; Graham community college	7
SB 1274	251	regulatory reform	7
SB 1368	298	*Williams air force base; redevelopment	11

APPROPRIATIONS

HB 2080 - Chapter 162 [E] - appropriation; named claimants

HB 2080 appropriates \$110,459.04 from the general fund to DOA for relief to named claimants for the following agencies:

DOA	\$ 7,124.86
DOC	64,868.46
DHS	24,513.75
DYTR	1,112.35
Department of Insurance	4,391.94
State Treasurer's Office	442.82
Department of Agriculture	7,574.80
ADOT	<u>430.06</u>
TOTAL GENERAL FUND	<u>\$110,459.04</u>

In addition, the sum of \$103,210.42 is transferred from various other fund sources to the general fund to pay claims against the following agencies:

DOC	\$ 5,406.00
Game and Fish Department	1,415.41
DYTR	639.00
Department of Agriculture	5,141.87
Arizona Lottery	<u>90,536.14</u>
TOTAL OTHER FUNDS	<u>\$103,210.42</u>

These appropriations are exempt from the provisions relating to lapsing, except that all monies remaining unexpended as of July 1, 1996 shall revert to the general fund.

HB 2287 - Chapter 278 - state assets committee

HB 2287 establishes a 16-member Joint Committee on State Assets. The Committee shall direct JLBC staff to collect all existing state asset lists and standardize the information for the following state assets that have an individual replacement value of more than \$100,000:

- ▶ unimproved land, excluding state trust lands, state highways and rights-of-way;
- ▶ equipment;
- ▶ buildings listed in the annual statewide building inventory. For those buildings, JLBC staff shall include the following information:
 - age of the structure;
 - maintenance costs during the past three years;
 - number of clients served relative to the building's capacity.

The Committee shall direct JLBC staff to design form options that will facilitate periodic updates of

APPROPRIATIONS

state assets to the Legislature. The JLBC staff shall consult with the OSPB in the process of designing form options for agencies to report assets.

For buildings or other developed properties acquired for right-of-way purposes, with an acquisition price of \$25,000 or more, the Committee shall identify and report on the following:

- ▶ the estimated remaining serviceable life of the asset;
- ▶ cost of building maintenance during each of the past three years, including the cost or allocable cost of associated property management fees;
- ▶ revenues generated by the asset during each of the last three years.

The Committee shall select certain assets and direct JLBC staff to prepare a cost benefit analysis of the designated assets. The analysis shall include a cost estimate of continuing to retain or use the asset, rather than disposing of the asset or diverting it to another purpose. The Committee may:

- ▶ direct JLBC staff to recommend alternate uses for the assets selected by the Committee;
- ▶ utilize JLBC staff, the Auditor General, Legislative Council, and the facilities management division of DOA.

The Committee is to submit to the Governor, President of the Senate, and Speaker of the House its initial recommendations and appropriate legislation by December 31, 1995, and its final recommendations and appropriate legislation by December 31, 1996.

HB 2297 - Chapter 36 - appropriation; secretary of state; election

HB 2297 makes a general fund appropriation of \$106,707 to the Secretary of State in FY 1994-95 to pay for the excess costs of the 1990-1991 runoff elections. The funds are to be distributed as follows:

Pima County	\$ 47,684
Maricopa County	34,335
Coconino County	9,942
Navajo County	7,783
Apache County	3,937
Pinal County	2,317
Yavapai County	709
TOTAL	<u>\$106,707</u>

APPROPRIATIONS

HB 2412 - Chapter 28 (E) - nuclear emergency appropriation and assessment

HB 2412 appropriates \$858,564 from the general fund to the Nuclear Emergency Management Fund for the following agencies:

- appropriates \$266,464 to the Department of Emergency and Military Affairs;
- appropriates \$399,100 to the Radiation Regulatory Agency for off-site nuclear emergency response plans;
- appropriates \$193,000 to Maricopa County for off-site nuclear emergency response planning.

The \$858,564, plus applicable interest, is assessed against each consortium of public service and municipal corporations engaged in the construction or operation of a commercial nuclear generating station in Arizona. The assessment offsets the appropriation from the general fund.

HB 2444 - Chapter 283 - state program authorization review; procedures

HB 2444 makes changes to the budget reform legislation (Laws 1993, Chapter 252) as follows:

- ▶ The Arizona School for the Deaf and the Blind is added to the major budget unit category and will, therefore, be subject to annual appropriation.
- ▶ Moves from FY 1996-97 to FY 1997-98 and thereafter, the requirement that requests for administrative costs be delineated, by budget unit, in the annual budget report.
- ▶ Moves from FY 1996-97 to FY 1997-98 and thereafter, the requirement that a one-page summary of budget unit performance measures for the previous and present budget year be submitted with the annual budget report.

All state agencies shall submit to OSPB by June 1 of even-numbered calendar years the following information:

- ▶ funding formulas and funding conventions;
- ▶ fiscal and performance-measure data for the current fiscal year and the two prior fiscal years.

OSPB shall publish by October 1 of even-numbered calendar years a list of all state government programs and subprograms.

By October 1 of each year, the administrative head of each budget unit shall submit to the directors of OSPB and JLBC a strategic plan for the budget unit. In addition, the administrative head is responsible for developing a strategic plan for each program and subprogram within the budget unit.

APPROPRIATIONS

At a minimum these strategic plans shall extend for three years and contain a mission statement, goals, objectives and performance measures.

HB 2444 establishes a four-year program authorization review process.

The appropriate legislative committees shall consider at least 75 programs over the next four years as follows:

- ▶ 10 during the 1996 legislative session;
 - 1) DEQ - Underground Storage Tanks
 - 2) Department of Agriculture - State Agriculture Laboratory
 - 3) DOA - Enterprise network services
 - 4) DOE - Drop-out prevention
 - 5) DOC - Complex administration
 - 6) DYTR - Diagnostic Services
 - 7) Judicial System - Judicial Collection Enhancement
 - 8) DHS - Medical Malpractice, Primary Health Care and Loan Repayment
 - 9) BOR - Arizona Health Education Centers (AHECs)
 - 10) Medical Student Loan Board

- ▶ 15 during the 1997 legislative session;
 - 1) Parks Board - Arizona Conservation Corp
 - 2) Game & Fish - Sports Fish Management
 - 3) ASDB - Cooperative Programs
 - 4) DOA - Facilities Management
 - 5) U of A - Law
 - 6) ASU - College of Law
 - 7) Corporation Commission - Corporations
 - 8) Judicial System - Juvenile Community Corrections
 - 9) Department of Commerce - International Trade and Investment
 - 10) DPS - Anti-gang Enforcement
 - 11) DOC - Inmate Programs
 - 12) DES - Comprehensive Medical and Dental Programs
 - 13) ADOT - Highway Maintenance
 - 14) DHS - Arizona State Hospital
 - 15) Department of Revenue - Compliance

- ▶ 30 during the 1998 legislative session;
(Unspecified)

- ▶ 20 during the 1999 legislative session.
(Unspecified)

APPROPRIATIONS

The appropriate legislative committees can recommend retaining, modifying or eliminating funding and related statutory references for programs and subprograms. OSPB, in consultation with JLBC, may instruct all budget units to report estimated and actual expenditures in a format consistent with that defined for the program.

The Program Authorization Review (PAR) shall be conducted in the following three phases:

- ▶ The budget unit responsible for the program or subprogram that is subject to review shall submit a program evaluation, constructed from the factors required and agreed on by JLBC and OSPB, to the directors of JLBC and OSPB by July 1, 1995 for 1996 reviews and by the previous April 1 for 1997, 1998 and 1999 reviews.
- ▶ The directors of JLBC and OSPB shall jointly evaluate the program authorization evaluation submitted by the responsible department for the program or subprogram. After review, the two staffs shall jointly produce a report of their findings relating to the agreed upon criteria by November 1, 1995 for 1996 reviews and by the previous October 1 for 1997, 1998 and 1999 reviews. At a minimum, these findings should address background information and program funding, and assess the program's strategic plan, performance measures and performance results.
- ▶ JLBC and OSPB may independently determine whether to retain, eliminate or modify programs or subprograms as part of their budget recommendations.

The PAR process includes provisions regarding the sharing and confidentiality of the Auditor General's or the Office of Excellence in Government's draft findings in the event of a program authorization review taking place concurrently with an audit.

SB 1023 - Chapter 79 - appropriation; Yavapai tribe water settlement

SB 1023 appropriates \$200,000 from the general fund in FY 1995-96 for deposit in the Verde River basin water fund in order to comply with the state's obligations under the Indian Water Rights Settlement of 1994.

SB 1143 - Chapter 196 - program funding; limitations; applications

SB 1143 places in Title 1 and other statutes, language stating that no statute may be construed to impose a duty on an officer, agent or employee of the state that would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation.

The Governor, President of the Senate, Speaker of the House and chairman of JLBC shall be notified by the responsible official for each budget unit of any projected budget deficiencies to assure that expenditures remain within appropriated amounts. The responsible official must submit a report

APPROPRIATIONS

within 10 days of the initial notification. The report shall include the following:

- ▶ an explanation of the causes of the deficiency;
- ▶ a plan to resolve the deficiency within the fiscal year without supplemental appropriations;
- ▶ policy and programmatic implications of the deficiency and the plan;
- ▶ a commitment to provide a progress report if the projected degree of deficiency changes substantially;
- ▶ additional recommendations to resolve the deficiency within the fiscal year.

The bill decouples Aid to Families with Dependent Children (AFDC) from the inflation index applicable to the federal poverty level and freezes AFDC at not less than 36% of the 1992 federal poverty level. This section of the bill has a retroactive date of July 1, 1991.

The consideration of the ASDB pay-equity study for the development of the budget concerning certified personnel salaries is at the discretion of JLBC rather than mandatory.

The GDP deflator is eliminated as the inflationary growth component of K-12 funding formulas including calculations of the Capital Outlay Revenue Limit (CORL) and the Capital Levy Revenue Limit (CLRL). Subject to appropriation, beginning in FY 1995-96 the base level of funding for K-12 education shall now be adjusted by any growth rate as prescribed by law.

The community college funding formula is changed so that only the growth in the number of full-time equivalent students shall be used in calculating the community college budgets.

SB 1163 - Chapter 173 - appropriation; Graham community college

SB 1163 removes the statutory restriction that prevented community college districts from using special community college tax revenues for capital outlay.

The sum of \$1 million is appropriated from the general fund in FY 1995-96 to the Graham County community college district for construction of an Eastern Arizona College branch campus in Payson. This appropriation is exempt from the provisions relating to lapsing of appropriations.

SB 1274 - Chapter 251 - regulatory reform

SB 1274 establishes an 11-member Administrative Rules Oversight Committee (AROC).

The Administrative Rules Oversight Committee shall:

- ▶ receive complaints concerning rules and substantive policy statements that are alleged to be duplicative or onerous;

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- ▶ prepare a report for the Legislature by December 1 of each year that recommends legislation to alleviate the effects of such duplicative or onerous rules and substantive policy statements.

The Committee may:

- ▶ review, hold hearings and comment to the agency, Attorney General, or Governor's Regulatory Review Council (GRRC) on any proposed or adopted rule, summary rule, or substantive policy statement for conformity with statute and legislative intent;
- ▶ designate a representative to testify before the Governor's Regulatory Review Council.

AROC's authority applies to all rules and substantive policy statements, regardless of whether or not they were adopted before or after January 1, 1996. AROC is repealed on December 31, 1998.

In conducting the agencies' statutory five-year review of rules, the agency shall include an analysis of the economic, small business, or consumer impact of the rules compared to the impact statements prepared on the last adoption of rules.

Within two years after the adoption of a rule, a person who may be affected by the rule may file a written petition with an agency on the grounds that either:

- ▶ the actual economic, small business or consumer impact significantly exceeded the initially estimated impact; or
- ▶ the actual economic, small business or consumer impact was not estimated, and the actual impact imposes a significant burden on the persons filing the petition.

The burden of proof is on the petitioner to show that either of these provisions are met. These provisions do not apply to rules for which a court has passed a final judgment based on whether the contents of the impact statement were insufficient or inaccurate.

Within 30 days of receiving the petition, the agency shall re-evaluate the rule and its economic impacts and publish notice of the petition in the Arizona Administrative Register. The agency shall afford persons a minimum of 30 days after publication of the notice the opportunity to submit written statements, arguments, data and views on the rule and its impacts. Within 30 days after the close of the comment period, the agency shall publish a written summary of comments received, the agency's response to those comments, and the final decision of the agency. Within 45 days of publishing its final decision, the agency shall implement its decision.

Any person who may be affected by the agency's final decision may appeal that decision to the GRRC within 30 days after the publication of the agency's final decision. Members of the Council have two weeks to request that an appeal be placed on the GRRC agenda. If requested by at least three members of the Council, the chairman shall place the appeal on the GRRC agenda. Upon placing an appeal on the GRRC agenda, the chairman shall provide written notice and a copy of the appeal to the agency. GRRC shall require an agency to promptly submit a rule package to the GRRC and AROC if the GRRC finds that either:

APPROPRIATIONS

- ▶ the actual economic, small business or consumer impact significantly exceeded the initially estimated impact; or
- ▶ the actual economic, small business or consumer impact was not estimated, and the actual impact imposes a significant burden on the persons filing the petition.

The state agencies shall at least annually publish a directory that summarizes all currently applicable rules and substantive policy statements. By September 30, 1995, the directory, rules and substantive policy statements, and any relevant reference materials shall be open to public inspection at the office of the agency director.

An agency shall not base a licensing decision on a licensing requirement not expressly authorized in statute or by rule or state tribal gaming compact.

Any person may file a request for a review with an agency challenging that an agency practice constitutes a rule. Within 60 days the agency shall deny in writing the petition or initiate rule-making proceedings. A person may appeal the agency's final decision to the Governor's Regulatory Review Council within 30 days after receiving notice of the agency's decision. The appeal is limited as to whether an existing agency practice or substantive policy statement constitutes a rule. Members of the Council have two weeks to request that an appeal be placed on the next GRRC agenda. If requested by at least three members of the council, the chairman shall place the appeal on the GRRC agenda.

Any agency practice or substantive policy statement under consideration by the GRRC shall remain in effect. Should the GRRC find the agency practice or substantive policy statement constitutes a rule, the practice or statement shall be considered void.

SB 1274 establishes, effective September 30, 1995, the Office of Administrative Hearings.

The sum of \$122,400 is appropriated from the general fund in FY 1995-96 to DOA for start-up and other costs related to the Office of Administrative Hearings. On January 1, 1996, a total of \$531,300 and 19.7 FTEs shall be transferred to the Office of Administrative Hearings from agencies employing administrative law judges and support staff.

The director of the Office of Administrative Hearings shall:

- ▶ be appointed by the Governor, for a six-year term;
- ▶ have the necessary experience to serve as the chief administrative law judge of the office;
- ▶ adopt rules;
- ▶ develop, implement and maintain programs to evaluate administrative law judges, and for continuing training and education of the judges;
- ▶ submit a report to the Governor, Speaker of the House, and the President of the Senate by November 1 of each year that details the activities of the office.

The director shall not require legal representation to appear before an administrative law judge. All

APPROPRIATIONS

state agencies shall use the services and personnel of the Office to conduct administrative hearings. The requirement of utilizing the Office of Administrative Hearings applies to all contested cases except for those that are statutorily exempt.

Agencies supported by other funds, as opposed to general funds, shall contract for the administrative hearing services from the office. Each state agency contracting for administrative hearing services shall make its facilities available for use by the hearing office.

The director shall assign judges to agencies, as needed, to preside over contested cases. If the director cannot promptly assign a judge, he may contract with qualified individuals to serve as temporary judges.

The definition of a prevailing party is redefined to include the following provisions:

- ▶ the agency's provision was not substantially justified;
- ▶ the person prevails as to the most significant issue or set of issues, except by meeting this criteria due to intervening change in law.

Reimbursement under this provision may be denied if during the course of the proceedings the party unduly and unreasonably protracted the final resolution of the matter.

The provisions of the bill pertaining to prevailing parties and reimbursement do not apply to any administrative appeal filed by an inmate in an Arizona prison.

The Office of Administrative Hearings is scheduled to sunset on July 1, 2055.

The Joint Committee on Regulatory Reform and Enforcement is amended from two to three members of the House and Senate respectively, of which no more than two shall be from the same political party. The Committee is additionally charged with:

- ▶ conducting hearings and making inquiries as to the extent to which state agencies, boards, commissions, committees and councils;
 - charge fees and fines not authorized by statute;
 - grant conditional permits;
 - for administrative appeals, and examining models for a uniform state administrative appeals process;
- ▶ conducting hearings and making inquiries into the procedures used by and the authority of the Department of Revenue for issuing taxpayer rulings, producing guidance documents and conducting audits pursuant to the program for the increased enhance of revenue (PIER).

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SB 1368 - Chapter 298 - *Williams air force base; redevelopment

SB 1368 appropriates \$3,380,000 from the general fund in FY 1995-96 with the intent of encouraging redevelopment efforts at the former Williams Air Force Base.

- ▶ ASU - East campus shall receive \$1,500,000 for the renovation of buildings and telecommunication linkages at the former Williams Air Force Base.
- ▶ The joint powers Williams Gateway Airport authority shall receive \$1,880,000 to match monies granted by the federal government for construction of infrastructure at the base.

Prior to the expenditure of these monies, ASU - East campus and the joint powers Williams Gateway Airport authority shall jointly present a capital plan to JCCR.

These appropriations are exempt from the provisions relating to lapsing, but any unexpended monies remaining as of June 30, 1997, shall revert to the general fund.

The joint powers Williams Gateway Airport authority and ASU - East campus shall provide an annual report to JCCR. That report shall state the prior fiscal year expenditures made from this appropriation and any federal funds that are received and expended as a result of this appropriation by September 30, 1996, and September 30, 1997.

BANKING AND INSURANCE

SUE GRACE - CHAIRMAN

Chris Gordon - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

<u>Bill</u>	<u>Chapter</u>	<u>Short Title</u>	<u>Page</u>
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HB 2146 - Chapter 222 - accountable health plans

HB 2146 stipulates that a small employer covered under AHCCCS does not qualify for coverage under this article.

Provides that an Accountable Health Plan [AHP] may request health screening and underwriting information for the purpose of setting rates, but may not use this information to deny coverage to a qualified small employer.

Provides that individuals enrolled in health benefits plans who reside in counties with less than 400,000 people do not need to comply with the provisions of this article until the director of DOI makes a determination that a sufficient number of AHPs are serving that county for a competitive market to exist.

Allows accountable health plans that provide an annual open enrollment period of at least 30 days to deny enrollment to a late enrollee until the next annual open enrollment period or require acceptable evidence of insurability.

Allows for an eligible employee who was continuously covered for at least 12 months to receive enrollment as long as the employee's prior coverage ended within 60 days preceding the application for new coverage.

Repeals the use of standard formats for billing information, data collection and electronic data interchange.

Clarifies that AHP medical record information is subject to applicable confidentiality rules and laws.

Allows participating providers reasonable access to relevant medical records that are within the AHP's possession or control.

Clarifies claims submissions that an accountable health plan receives from providers should be based on numeric volume rather than monetary volume.

HB 2435 - Chapter 153 - uniform commercial code; investment securities

HB 2435 provides for the following:

- ▶ Property rights for investors, brokers and other financial intermediaries in the indirect holding system.
- ▶ An investor's "security entitlement," a property right that a person obtains in the contents of a security account with a securities intermediary, may be used as collateral in obtaining credit.

BANKING AND INSURANCE

- ▶ Free transferability of interests in investment securities -- free from adverse claims that are not known.
- ▶ Ambiguities regarding whether stock shares in a closely held corporation, mutual fund shares and limited partnership shares are to be considered securities are addressed through the development of the term "financial asset." Financial asset is defined so that any asset in a security account is subject to the rules on securities, including a certificate of deposit or a negotiable instrument.
- ▶ Simplification of uncertificated securities by removing the specific provisions for an initial transaction statement and registering a pledge.
- ▶ Simplification resulting in easier takings of security interests in securities, securities entitlement and commodities.
- ▶ Incorporates the new term "investment property" which includes securities, security accounts, security entitlement, commodity contracts and commodity accounts. This expanded definition provides for two ways to perfect a transaction: by filing a security statement or by taking control of the investment property.

HB 2459 - Chapter 110 [E] - financial procedures; servicing banks

Replaces "on the first Monday in April" with "no later than the first Monday in March" as the date each year of award that the county boards of deposit must notify qualified servicing banks of the time and place bids will be accepted. Additionally, changes the date the board must meet and receive the servicing bids to no later than the fourth Monday in April of the year of the award.

Changes the term of the award from a maximum of two years to an initial period of not more than three years, with an option to renew for two additional years.

Clarifies payment rules as those which are adopted by the board of deposit.

Changes the requirement for written notice prior to termination of a servicing bank contract to 180 days.

SB 1009 - Chapter 180 - *insurers; retaliation taxes

SB 1009 provides for the equalization of the tax burden between Arizona insurers and insurers from other states or foreign countries.

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SB 1010 - Chapter 2 - joint underwriting associations

SB 1010 eliminates the repealer for the joint underwriting association, thereby allowing it to continue indefinitely.

SB 1043 - Chapter 8 (E) - unnecessary filings

SB 1043 repeals statutes requiring that insurers report to the Department any insurance litigation-related expenses, loss payment projections and rate savings resulting from provisions in SB 1055 (tort reform), and that the Department then report its findings to the Legislature.

SB 1098 - Chapter 122 - *real property rights. reciprocal insurers

SB 1098 provides that a reciprocal insurer is included as a type of insurer that is limited to the amount and type of real property in which they can invest.

Provides that the legal title of eligible real property must be held in the name of the reciprocal insurer.

SB 1099 - Chapter 40 - commercial mortgage bankers

SB 1099 exempts institutional investors from licensure and registration under Arizona mortgage banking and broker statutes as long as the institutional investor makes commercial mortgage loans of more than \$250,000, which are funded exclusively from the investor's own resources.

The bill exempts institutional investors from advance-fee loan broker regulations provided the investor does not advertise, solicit or make advanced-fee or credit loans other than commercial mortgage loans.

SB 1099 additionally provides for a retroactive date of April 1994, which coincides with the effective date of the commercial mortgage banking statute.

SB 1100 - Chapter 155 - mandatory vehicle insurance; financial responsibility

SB 1100 eliminates surety bonds as an option for compliance with motor vehicle insurance statutes.

Removes the requirement that an applicant sign a statement certifying compliance with mandatory insurance laws prior to registration.

Changes the verification process for motor vehicle registration, by requiring MVD to verify insurance coverage of a motor vehicle within 30 days of registration and send the registrant an intent to suspend

BANKING AND INSURANCE

the number plate and registration of the vehicle if the vehicle is found in noncompliance.

Places the motor vehicle liability insurance enforcement fund in the State Treasury rather than the Department of Transportation leaving the administration of the fund with the Department of Transportation.

SB 1292 - Chapter 19 - receivership distributions; priority

SB 1292 adds guaranteed investment contracts to the fourth class of priority for claims against the general assets of an insurer that is subject to delinquency proceedings. Includes assets in separate accounts as special deposits against which owners of claims have priority.

Adds class four claimants to those whose claims are to be satisfied by the general assets of a delinquent insurer before special deposit claimants may share in the general assets; provides that this limitation is subject to the terms of contracts concerning separate accounts that specifically provide for additional guaranty by the general account.

Provides that special deposit claims against the general assets shall not be applied so that they reduce the value of any general account guaranty.

Guaranteed investment contracts may not be satisfied by the Arizona life and disability insurance guaranty fund unless the contract holder exercises an annuity option for individuals on or before the date the life insurance company becomes subject to a delinquency proceeding.

Provides that the legislative intent of this act is to ensure that the priority of the holder of a guaranteed investment contract against the general assets of any domestic insurer subject to receivership proceedings originated on or after the effective date of the bill is not affected by the date the guaranteed investment contract was originally issued.

Provides that this act does not affect currently pending litigation concerning guaranty fund coverage for guaranteed investment contracts or the priority of guaranteed investment contracts issued by an insurer that is the subject of receivership proceedings.

SB 1293 - Chapter 90 - insurer investments

SB 1293 defines a "guaranteed investment contract" as an arrangement in which an insurer agrees to a rate of interest or a future payment, that is payable on a predetermined date, without regard to the continuance of human life.

Allows a life insurer to issue guaranteed investment contracts, and provides that an insurer authorized to issue guaranteed investment contracts may offer an annuity option.

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Upon approval of the director, allows life insurers to pledge separate accounts as collateral to secure the commitments of a third party to pay the obligations of the insurer to contract holders in the event the life insurance company becomes insolvent, becomes subject to liquidation or the investments in the separate accounts are not adequate to discharge the life insurance company's obligations.

Requires the director of the Department of Insurance to hold a hearing to establish criteria for third parties who are eligible to provide credit enhancements for separate accounts and accept assets that are pledged for separate accounts.

Provides for the investment of funds held in separate accounts established for variable life contracts, variable annuity contracts and guaranteed investment contracts, and exempts these investments from statutory quantitative restrictions while maintaining qualitative restrictions.

Provides that separate account investments shall not be acquired by bulk reinsurance, merger or consolidation without the approval of the director, and that the acquired investments not contain the land comprising the insurer's principal office.

Provides that statutory limits on investments which are not authorized, limitations on certain investments, appraisal and cost provisions apply to separate account investments.

Increases the maximum permissible loan-to-value ratio for mortgage loans held by insurers to 80% but continues to exempt mortgage loans guaranteed by the US government.

Changes the maximum permissible total loan-to-value ratio for combined first and second mortgages, on one property, to 80% of the property's value.

Permits life insurers to establish separate accounts for guaranteed investment contracts.

SB 1354 - Chapter 150 - escrow agents; department reports

SB 1354 allows the Superintendent of the Banking Department to waive the statutory deadlines imposed on the board of directors of escrow agents for filing examination reports for 120 days.

Provides for an annual audit by a certified public accountant of an agent's internal control structure.

Requires that auditing CPAs submit a separate report to the Superintendent if conditions are identified that indicate deficiencies in the design or operation of the escrow agent's internal control structure and make recommendations to improve them.

Defines "internal control structure" as an escrow agent's system for safeguarding customer assets and reliably reporting financial information and recording escrow transactions.

COMMERCE

PAT CONNER - CHAIRMAN

Diana O'Dell - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2049 - Chapter 160 - real estate department

HB 2049 makes numerous additions and revisions to the real estate laws with the inclusion of definitions, exemptions from licensure, disclosure requirements and content of listing agreements. The language conforms with current subdivision statutes and provides clarification of liability for real estate licensees in the sale or lease of subdivided lots.

Review of Land Divisions

HB 2049 repeals the current section of law and substitutes identical language, with several clarifications and additions, including the following:

- ▶ stipulates that if a county ordinance requires a legal access of more than 24 feet, the county is responsible for improvement and maintenance of roads. Further, if there is no legal access for emergency vehicles, the county is not liable for any resulting damages.
- ▶ defines legal access as the public or private right of ingress and egress between the lots or parcels being created;
- ▶ contiguous means lots, parcels or fractional interests that share a common boundary.

Definitions

This bill defines designated broker as the natural person designated to act on behalf of an employing real estate, cemetery or membership camping entity licensed as a broker, or a licensed broker doing business as a sole proprietor. Employing broker is defined as a person who is licensed as a broker entity or sole proprietorship, if the sole proprietor is a broker.

The definition of real estate broker does not include any communications media activity that is specifically exempt from real estate licensure, but does include the sale or lease of real property if it is part of, contingent on, or ancillary to the transaction.

Applicability of Article

A residential leasing agent/manager is exempt from licensure when employed by the owner or management agent to perform the following duties:

- ▶ collect and receive rent;
- ▶ deliver notice, when acting on behalf of the owner.

HB 2049 exempts from licensure those communications media primarily engaged in advertising real estate and that perform no other acts requiring a real estate license, as outlined.

Trust Money Deposit Requirements

HB 2049 establishes that an agreement to place monies entrusted to the broker in a depository outside this state is valid, if all conditions are met as follows:

- ▶ all parties to the transaction agree in writing;
- ▶ monies are placed in a trust account that is federally insured/guaranteed;

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- ▶ the property management agreement contains:
 - disclosure that regulatory protection of monies may be significantly hampered;
 - disclosure that the owner may not have access or control of the account, except to audit and review the status;
 - an addendum that has the signed authorization by an appropriately empowered official that the trust account and all related documentation will be open to examination by the Department and the owner.
- ▶ if the monies are not deposited in a property management trust account, the broker discloses to all parties that potential risks may accrue as the result of depositing the monies outside Arizona. In addition, brokers shall not commingle monies entrusted to them with their own monies.

Miscellaneous

HB 2049 modifies statute by adding a section relating to real estate sale/rental listing agreements and outlines specific content. Further, it prohibits the assignment of a listing agreement to another broker without the express written consent of all parties. In addition, the bill prohibits a licensee from procuring an already exclusive listing agreement, unless the seller is notified that this could cause him to be liable for substantial, additional commissions.

HB 2049 provides that no criminal, civil or administrative action may be brought against a transferor of real property or a licensee for failing to disclose that the property is or has been:

- ▶ the site of a natural death, suicide, homicide or any other felony;
- ▶ owned or occupied by a person exposed to or diagnosed with Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) or any other disease that is not known to be transmitted through common occupancy of real estate.

According to the bill, if the superior court declares an appealing party indigent, the Department shall pay costs of transcripts and supply a certified copy of evidence in the administrative record.

HB 2049 clarifies the payment and receipt of out-of-state compensation from a broker and stipulates when a broker's license is required in Arizona.

The bill allows the Real Estate Commissioner to waive all or a portion of the educational requirements, for good cause shown.

The bill increases the bulk sale exemption to six or more lots, parcels or fractional interests to one buyer in one transaction. Further, it allows an exemption if the subdivider has provided to the buyer/lessee, along with the public report, a signed statement that he has reviewed and is in compliance with the exemption terms, or before the transaction, notified the Commissioner of intent to sell/lease lots or parcels. The bill outlines the specific content of the notice and eliminates the \$100 filing fee (\$25,000 fiscal impact).

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HB 2049 enables a subdivider to hold a drawing or contest to induce prospective buyers to visit the subdivision, if certain requirements are met.

HB 2049 establishes that an unlawful act with respect to the sale/lease of subdivision lots requires proof that the licensee knew or should have known that property which he listed or acted as agent on, was illegally subdivided, sold or leased.

Finally, the bill limits to five years the period within which the Real Estate Commissioner may pursue administrative sanctions against licensees for violations of the state subdivision laws.

HB 2054 - Chapter 68 - Arizona professional corporation act

HB 2054 creates statutory provisions for the creation, governance, reorganization, and termination of professional corporations by repealing the general provisions that govern professional corporations as private corporations and amending the professional corporation act.

- ▶ Allows a corporation to elect professional corporation status, unless the professional or business purpose is expressly prohibited by a licensing law, solely for the purpose of rendering professional services.
- ▶ Allows a professional corporation to be a general partner of a partnership entity only if the entity is engaged solely in rendering professional services.
- ▶ Allows a domestic or foreign professional corporation to render professional services in this state only through individuals licensed in this state to render the services.
- ▶ Prohibits a professional corporation from rendering any service or doing any business other than the service authorized by incorporation.
- ▶ Although stated under prohibited activities, a professional corporation is allowed to invest in and/or own any type of investment and property.
- ▶ When naming, requires a professional corporation to follow the general provisions guiding the naming of corporations and to contain language specifically signifying it as a professional corporation.
- ▶ Requires that shares can only be issued, transferred, or pledged to individuals or entities authorized to render the professional service described in the corporation's articles of corporation.
- ▶ Requires that, if a professional corporation is acquiring the shares of a deceased or disqualified shareholder, the price shall be fixed in accordance with the articles of incorporation or by private agreement. If the price is not fixed, the corporation will offer to

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purchase the shares at a fair value price. The disqualified person may accept the offer or demand a court proceeding to appraise the shares. Costs incurred during a proceeding shall be paid by the professional corporation, unless the court finds that the shareholder acted arbitrarily, vexatiously, or not in good faith. In such an instance, the court may assess costs against the shareholder.

- ▶ Allows that shares of a disqualified person not acquired by the procedure above, within 10 months after the death of a shareholder or five months after the disqualification or transfer, shall be immediately cancelled and the only interest a shareholder has is to the fixed rate according to the professional corporation.
- ▶ Requires that one-half of the directors of the professional corporation shall be qualified to issued shares.
- ▶ Establishes that only a person qualified to be issued shares may be a proxy to vote shares.
- ▶ Establishes that a shareholder is personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by anyone rendering services on behalf of the corporation.
- ▶ Enables a professional corporation to terminate its status. Upon termination, the professional corporation must delete references to being a professional corporation, conform its name to a business corporation, and cease delivering professional services.
- ▶ Allows the Attorney General to commence dissolution proceedings if, upon written notification that the corporation has violated a provision of this act, the corporation does not correct each alleged violation.
- ▶ Allows a foreign professional corporation, upon obtaining a certificate of authority and satisfying name, shareholder, and purpose requirements, to transact business in this state. A foreign professional corporation is not required to obtain said certificate if it neither maintains nor intends to maintain an office in this state for the conduct of business or professional practice.
- ▶ All Arizona corporations that were incorporated under, or subject to the professional corporation act that is being replaced, is required to amend its articles of incorporation to comply with this bill on or before April 1, 1996.
- ▶ This bill, inserted in Title 10 as Chapter 20, shall be known and cited as the "Arizona Professional Corporation Act."
- ▶ Provides that subject to the election of a professional corporate status this bill does not apply to any persons who before January 1, 1996, were permitted to render personal or professional

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services by means of a corporation or other business form, or to any corporations or other businesses organized by them.

- ▶ Removes the provision whereby a professional corporation could prove to a licensing authority that alleged violations did not occur under a judicial dissolution leaving the corporation commission as the entity that must receive proof that certain allegations are unfounded.
- ▶ Requires that a statement from the corporate licensing authority indicating that at least one of the corporation shareholders or employees is licensed in the state to render the corporation's professional service accompany a foreign professional corporation's application for certificate of authority.

HB 2056 - Chapter 69 - Arizona business corporation act; corrections

HB 2056 makes corrections to the Arizona business corporation act. The bill expands the definition of entity to include registered limited liability partnerships.

Provides that after a certificate of disclosure has been filed, and a person becomes an officer, director, trustee or controller of 10% of the shares or membership interest and was not the subject of the original disclosure, the corporation must deliver additional disclosure information within 60 days or the Arizona Corporation Commission shall commence administrative dissolution.

Establishes that registered limited liability partnerships are granted the rights and responsibilities given to limited liability companies and limited partnerships.

Failure to comply with certificate of disclosure regulations has been added as grounds for administrative dissolution.

Being a limited partner of a limited partnership or a member of a limited liability company does not constitute transacting business as it is defined by the Commission and applied to foreign corporations.

The name of a foreign corporation shall be distinguishable from an existing corporation or foreign corporation, a nonprofit corporation, the partnership of a limited partnership, a limited liability company, and a registered limited liability partnership. The name must also refrain from the use of symbols or words to denote a number within the names, the use of words as articles introducing names, and variations in punctuation or spelling or in the order in which the words appear.

The foreign corporation appeal commission is repealed, removing the opportunity for foreign commissions to appeal revocation.

The public access fund that was created to purchase, install, maintain and improve the data processing system on the premises of the Commission is repealed because of statutory duplication.

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The public access fund established for the expedited service for the filing, application, and consolidation of articles of incorporation, as well as dissolution, corporate name, and annual reports, has a delayed effective date of December 31, 1997. All other parts of this bill have a delayed effective date of January 1, 1996.

The bill inserts the definition of "newspaper" as defined by statute as a reference for publication.

Finally, the bill provides that the annual fee required with a corporate annual filing be due on the fifteenth day of the fourth month, instead of the third month, after the close of the fiscal year.

HB 2117 - Chapter 26 - equipment dealers

HB 2117 clarifies the definition of net price as the price listed for repair parts in the supplier's price list or catalog, minus all applicable discounts allowed by the supplier. In addition, the bill makes several other technical and clarifying changes.

HB 2118 - Chapter 217 - registrar; property owner's exemption

HB 2118 clarifies statutory language regarding exemption from licensure by the Registrar of Contractors for those individuals who improve or build structures or appurtenances on their own property.

HB 2118 clarifies that the structures are intended for occupancy solely by the owner, not by members of the public as the owner's employees or business visitors and are not intended for sale or rent.

Finally, the bill stipulates that the local issuing authority may require a signed statement by the Registrar to verify any exemption.

HB 2126 - Chapter 219 - *residential landlord tenant act

HB 2126 modifies statutes relating to the Residential Landlord Tenant Act.

Judgment; Writ of Restitution; Limitation on Issuance

HB 2126 establishes that a judgment for the plaintiff shall include all rent which is due through the periodic rental period and all other charges, as stated in the rental agreement. In addition, if the complaint contains the defendant's Social Security number, it shall be included on the judgment.

The bill changes the deadline for issuance of a writ of restitution from five judicial days to five calendar days and states the issuance or enforcement of a writ of restitution shall not be suspended, delayed or otherwise affected by filing a motion to vacate the judgment, unless a judge finds good cause.

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Appeal to Superior Court; Notice; Bond

HB 2126 changes the deadline for appeal to the superior court from five judicial days to five calendar days. Further, the time to appeal shall not be extended or otherwise affected by the filing of a motion to set aside or vacate the judgment.

This bill requires an appeal to superior court from a material and irreparable breach of a rental agreement by the tenant to be treated as an emergency, and a hearing conducted to lift any applicable stay to be conducted within three days.

General Definitions

The bill provides a definition of delivery of possession, which means returning dwelling unit keys to the landlord and vacating the premises. Further, term of lease means the initial term or any renewal or extension of the written rental agreement.

Terms and Conditions of Rental Agreement

HB 2126 provides that if a municipality that levies a transaction privilege tax on residential rent changes the percentage, the landlord on 30 days' written notice to the tenant, may adjust the rent due to reflect the increase. In addition, the rental agreement shall contain the landlord's right to adjust the rent.

Security Deposits

HB 2126 requires that all nonrefundable fees or deposits shall be stated in writing by the landlord and any fee or deposit not designated as such shall be refundable.

The bill stipulates that beginning January 1, 1996, the landlord shall furnish a new tenant with the following:

- ▶ a signed copy of the lease;
- ▶ a move-in form for specifying existing damages to the dwelling;
- ▶ written notification that the tenant may be present at the move-out inspection.

The bill makes an exception for those cases involving eviction for a material and irreparable breach, in which case the landlord has no obligation to conduct a joint move-out inspection if he has reasonable cause to fear violence.

HB 2126 provides that upon termination of tenancy, property or money held as prepaid rent and security may be applied to the payment of all rent, subject to a landlord's duty to mitigate and all charges as specified in the rental agreement, or as otherwise provided by law.

The bill requires the landlord to mail to the tenant within 14 days, an itemized list of all deductions, including the amount due and payable.

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Disclosure and Tender of Written Rental Agreement

HB 2126 requires the landlord to inform the tenant, in writing, that a free copy of the Arizona Residential Landlord and Tenant Act is available through the Secretary of State's Office.

Rules and Regulations

HB 2126 changes from "reasonable" to 30 days' notice, the amount of time a rule or regulation adopted after the tenant enters into the rental agreement, is enforceable against the tenant, if it does not constitute a substantial modification of his rental agreement. The landlord may make immediate amendments to the lease agreement to comply with any new laws or ordinances.

Noncompliance by the Landlord

The bill establishes that if there is a material noncompliance by the landlord, including a material falsification of the written information provided to the tenant, the tenant may deliver written notice to the landlord stating the breach and that the rental agreement will terminate in not less than 10 days (currently 14 days) if not remedied. Further, in cases involving health and safety, the timeframe is five days (currently 10 days).

HB 2126 stipulates that material falsification shall include the following:

- ▶ availability of the unit, except when a holdover tenant is in illegal possession or in violation of the rental agreement;
- ▶ the condition of the premises and any current or future services as represented by the landlord in writing;
- ▶ any future changes regarding the condition of the premises;
- ▶ the provision of utility services and designation of the party responsible for payment.

Self-help for Minor Defects

HB 2126 increases from \$150 to \$300 the amount a tenant may spend on maintenance and is required to be reimbursed by a landlord.

Wrongful Failure to Supply Heat, Air Conditioning, Cooling, Water, Hot Water or Essential Services

HB 2126 adds gas and electricity (if applicable) to the list of essential services that a landlord must provide.

The bill provides a means by which a tenant, upon approval of the utility company, may arrange to pay utilities and maintain service in the event a landlord fails to provide such service because of nonpayment. Further, the bill permits a tenant to deduct costs paid for having services restored.

HB 2126 requires the landlord to provide all utilities and services as specified in the lease agreement and prohibits the transfer of responsibility without the tenant's written consent. The bill allows the tenant to recover damages, costs and reasonable attorney fees and obtain injunctive relief when a landlord violates the provision that requires the payment of utilities.

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Noncompliance with Rental Agreement by Tenant; Failure to Pay Rent; Utility Discontinuation

HB 2126 adds material falsification of information provided by a tenant on a rental application as an additional breach of the agreement. Material falsification shall include the following untrue or misleading information:

- ▶ number of occupants, pets, income, Social Security number, current employment listed on the application or lease agreement;
- ▶ criminal records, prior eviction record, current criminal activity.

If there is a material noncompliance by the tenant, including falsification of written information, the landlord may deliver written notice to the tenant stating the breach and that the rental agreement will terminate in not less than 10 days (currently 14 days) if not remedied. Further, in cases involving health and safety, the timeframe is five days (currently 10 days). For additional acts of noncompliance, the landlord may institute a special detainer action 10 days (currently 30 days) after delivery of written notice.

Rent may not be withheld for any reason not authorized by law. Further, if rent is unpaid and the tenant fails to pay within five days (currently seven days) after written notice, the landlord may terminate the rental agreement by filing a special detainer action. In addition, after a judgment has been entered in a special detainer action in favor of the landlord, reinstatement of the agreement is solely at the discretion of the landlord.

HB 2126 requires the landlord to hold the tenant's personal property for 21 days (currently 60). In addition, the bill allows the landlord to change the locks on the tenant's former unit, if the property is being stored in that unit.

HB 2126 provides for return of property to the tenant within five days after payment of all charges for removal and storage and outlines consequences for destroyed or disposed of possessions, or failure to return property.

The bill establishes that the tenant does not have any right of access to the property being held until all payments are made in full, except to obtain clothing and the tools, apparatus and books of a trade or profession and identification or financial documents.

The bill does not prohibit an agreement between the landlord and tenant to hold property for an additional time period.

HB 2126 requires the tenant to be held responsible for the actions of his guests that violate the lease agreement or rules/regulations, if the tenant did not attempt to prevent those actions to the best of his ability.

Abandonment; Notice; Remedies; Personal Property; Definition

HB 2126 requires the landlord to hold the tenant's personal property for a period of 10 days (currently 60) in the case of abandonment. The landlord may apply proceeds from the sale of

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unclaimed property from an abandonment to recover costs specified in the lease agreement or as otherwise provided for by law and requires excess proceeds to be mailed to the tenant's last known address.

This bill permits the tenant to have access to clothing, tools of trade and documentation relating to immigration status, employment, public assistance and medical care.

HB 2126 expands the definition of abandonment to include the absence of a tenant from the unit for at least five days, if rent is past due and none of the tenant's personal property is in the unit.

Acceptance of Partial Payments

HB 2126 stipulates that a landlord is not required to accept partial payment of rent or other charges and specifies that a written partial-payment agreement must contain the date upon which the balance of rent is due.

The bill specifies that if a nonpayment-of-rent notice has been given prior to the completion of the partial-payment agreement and the tenant breaches the written agreement, a second nonpayment notice is not required.

Miscellaneous

HB 2126 makes the following provisions:

- ▶ clarifies that a landlord may not forcibly remove a tenant or his possessions except as permitted by the Residential Landlord Tenant Act;
- ▶ specifies that service of a special detainer shall be deemed equivalent to having served the tenant in person for the purposes of awarding a money judgment for all rent, damages, costs and attorney fees due;
- ▶ provides that if, after the hearing, the court finds that the material and irreparable breach did occur by preponderance of the evidence, the court shall order restitution in favor of the plaintiff not less than 12 nor more than 24 hours later.

HB 2242 - Chapter 27 - construction liens; professional services

HB 2242 amends statutes relating to mechanic's and materialmen's liens to establish that a person who furnishes professional services is entitled to enforce the lien rights provided for by law, if that person has a written agreement with the owner of the property, or with an architect, engineer or contractor who has a written agreement with the owner of the property.

HB 2302 - Chapter 75 - deferred compensation; process exemptions

HB 2302 clarifies the definition of disposable earnings to include payments to deferred compensation plans.

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HB 2302 exempts deferred compensation plans as qualified under section 457 of the United States Internal Revenue Code of 1986, from any and all claims of creditors of the beneficiary or participant.

HB 2308 - Chapter 76 - department of gaming; establishment

HB 2308 establishes a Department of Gaming, independent of the Arizona Department of Racing. The legislative intent of the Department is to carry out the duties and responsibilities of the State Gaming Agency in compacts executed by the state and Indian tribes of Arizona, pursuant to the federal Indian Gaming Regulatory Act of 1988.

The bill requires the Governor to appoint a director to serve at his pleasure or, in the event of a vacancy, an acting director. In addition, the bill provides for the following:

- ▶ prohibits any financial interest in the gambling industry during the term of appointment;
- ▶ states the employment or financial interest of any relative to the first degree of affinity to the director or any other employee in the gambling industry is grounds for dismissal;
- ▶ prohibits the director or any employee from being employed within the gaming industry or representing another person for compensation before the Department for two years from the last day of employment with the Department.

HB 2308 establishes that all matters, including contracts, orders and judicial or quasi-judicial actions, complete or pending, of the Arizona Department of Racing in connection with its former designation as the State Gaming Agency are transferred and maintain the exact status with the Department of Gaming. Further, the bill provides that rules remain effective and all personnel, property, records, furnishings, equipment, data, investigative findings and unspent and unencumbered appropriated monies for FY 1995-96, are also transferred.

The bill provides for the Department of Gaming to terminate on July 1, 2000.

HB 2414 - Chapter 281 - ombudsman-citizens aide office

HB 2414 creates an ombudsman-citizens aide office to service citizens' complaints by investigating the administrative acts of state agencies. The legislative intent is to assist Arizona citizens to enjoy public service of the highest quality from state agencies.

The bill establishes a nine-member selection committee, with appointment by a two-thirds affirmative vote of each house of the Legislature. HB 2414 provides for a process whereby a candidate may be reconsidered if the Governor disapproves of the prospective person.

The judicial department of state government, the Board of Regents, universities, community college districts, elected state officials and their chief advisors, agency attorneys and legislative staff are exempt from the provisions of the bill.

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Eligibility requirements for candidates include Arizona residency, and a minimum of 25 years of age, with investigatory experience. A person may not serve within one year of the last day served as a state-elected officer. The term of office is five years, and no more than three full terms.

HB 2414 outlines the powers and duties of the ombudsman as follows:

- ▶ investigate the administrative acts of agencies;
- ▶ prepare an annual report to the Governor, the Legislature and public and present the report semi-annually before Legislative Council;
- ▶ adopt rules concerning confidentiality and procedures for receiving and processing complaints, including guidelines to ensure each complainant has exhausted all available alternatives within the agency, conducting investigations, incorporating agency responses into recommendations and reporting findings;
- ▶ appoint a deputy ombudsman and prescribe the duties of staff or contract for services. Staff is exempt from the state personnel system, but subject to conflict of interest laws.
- ▶ notify in writing the chief executive or administrative officer of the agency of the intention to investigate, unless notification would hinder the investigation;
- ▶ at the conclusion of the investigation and notice to the head of the agency, the ombudsman may present his opinion and recommendations to the Governor, the Legislature, the office of the appropriate prosecutor or the public. In addition, the bill requires the agency response to be included.

HB 2414 authorizes an investigation of an agency after receipt of a complaint if there is reason to believe an act was:

- ▶ contrary to law;
- ▶ unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion or unnecessarily discriminatory, even though it may be in accordance with law;
- ▶ based on a mistake of fact, improper or irrelevant grounds;
- ▶ unsupported by an adequate statement of reasons;
- ▶ inefficient, discourteous, erroneous.

Upon receipt of a written complaint, HB 2414 provides for an investigation to find an appropriate remedy, and grants authority for refusal to investigate. In addition, the bill prohibits the ombudsman from investigating complaints filed by those in the custody of the Department of Corrections. The bill states procedures for cases involving confidential information, and stipulates a class 5 felony for unlawful disclosure. Further, it is a class 1 misdemeanor if a person knowingly hinders the lawful actions of the ombudsman or his staff, or knowingly refuses to comply with their lawful demands.

HB 2414 outlines the complaint procedures and requires the ombudsman to notify the complainant within 30 days if an investigation will ensue. The bill grants the following investigative powers:

- ▶ make inquiries and obtain information;
- ▶ enter without notice to inspect agency premises;

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- ▶ hold hearings;
- ▶ have access to all agency records, except those outlined in the bill.

An initial opinion or recommendation is confidential, and if critical of a person or agency, a consultation shall first take place. The bill outlines the provisions for reporting to an agency, such as additional consideration of a matter or needed rule or statute change. Further, it requires notification to the complainant of recommendations and actions taken. If there is reason to believe a breach of duty or misconduct on the part of an agency employee occurred, the ombudsman shall refer the matter to the chief executive of the agency, the presiding officer of both houses of the Legislature, the prosecutor's office or another appropriate agency or official.

HB 2414 establishes the following protections relating to the ombudsman and his staff:

- ▶ A civil action may not be brought for any civil action in the performance of their duties, except for gross negligence or intentional wrongful acts or omissions.
- ▶ A proceeding or decision of the ombudsman may be reviewed in superior court only to determine if it is contrary to the provisions of the bill.
- ▶ They shall not be required to testify in court regarding matters that come to their attention while exercising their duties, except as necessary to enforce the provisions of the bill.

The bill prohibits the ombudsman and staff from engaging in any political activity other than the private expression of an opinion or registration with a political party to vote.

The office shall not be located within the state office building complex or adjacent or contiguous to any other state agency.

The ombudsman is exempt from the provisions of the Administrative Procedures Act until July 1, 1997.

HB 2414 creates an Interim Ombudsman-Citizens Aide Selection Committee whose nomination for a candidate shall be presented to the Forty-Second Legislature, Second Regular Session. The candidate shall begin serving on July 1, 1996.

HB 2414 appropriates \$215,300 for FY 1996-97 from the general fund to Legislative Council for the Office of Ombudsman-Citizens Aide.

The bill has a delayed effective date of June 30, 1996, and terminates the office on July 1, 1998.

HB 2439 - Chapter 282 - unemployment hearings; nonlawyer representation

HB 2439 amends statutes regarding compensated representation in Department of Economic Security unemployment division hearings.

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Current law provides that only an attorney or a duly authorized agent supervised by an attorney may represent a party for compensation at an unemployment insurance appeals hearing.

HB 2439 allows compensated representation by a duly authorized agent who was previously or is currently retained for purposes other than representation in an unemployment hearing. The bill clarifies that this representation is not considered the practice of law.

HB 2461 - Chapter 77 - cemeteries; sales

HB 2461 increases the amount to be deposited into a trust fund for every perpetual or endowed-care cemetery. The amount to be deposited for each sale includes the following:

- ▶ \$ 2.75 per square foot for each grave;
- ▶ \$ 36.00 for each niche;
- ▶ \$120.00 for each crypt.

The bill states that in addition to the required deposits made to the trust fund, a cemetery may deposit up to 15% of the gross sale price of a grave, niche or crypt.

HB 2461 provides that only an employee of the cemetery or designated person may open or close a grave, mausoleum, niche or other place used for the burial of human remains, subject to established cemetery rules.

SB 1040 - Chapter 186 - *spirituous liquors; unlawful acts

SB 1040 increases the powers and duties of the director of the Department of Liquor Licenses and Control. The bill provides statutory language for Arizona compliance with the federal General Agreement on Tariffs and Trade (GATT). Additionally, SB 1040 makes technical and clarifying changes regarding the suspension of juvenile drivers' licenses.

The bill provides the following:

- ▶ allows nonretail Arizona licensees to transport spirituous liquors for themselves, in vehicles they own, lease or rent (GATT);
- ▶ prohibits retailers from knowingly allowing customers to bring spirituous liquor onto licensed premises;
- ▶ authorizes the suspension of juvenile drivers' licenses, whether lawfully issued or false, of this state or any other jurisdiction, in cases involving the violation of liquor statutes.

SB 1040 establishes several changes and additions regarding special event licenses which include the following:

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- ▶ defines vintage wine as one bottled more than 10 years before the date of sale;
- ▶ allows the director to issue a daily off-sale special event license authorizing a charitable wine auction for the sale of vintage wines for consumption off premises;
- ▶ allows a licensee to receive vintage wine from a donor if no payment is made, either directly or indirectly, except for applicable tax benefits;
- ▶ states the organization shall receive at least 75% of the gross auction proceeds and authorizes a maximum 25% for reasonable and necessary expenses;
- ▶ stipulates that all expenses shall be supported by written evidence, which shall be available to the director upon request;
- ▶ limits the annual sales for each special event license to 20 cases of wine.

SB 1047 - Chapter 187 [P] - board of homeopathic medical examiners

SB 1047 makes clarifications, changes and additions to sections of statute relating to the Board of Homeopathic Medical Examiners.

SB 1047 increases the Board to six members with the addition of one public member, and requires an eligible member to be an Arizona resident for at least three consecutive years immediately prior to appointment. The bill stipulates that a member's term of office automatically ends due to absence from the state for more than six months, or failure to attend three consecutive regularly scheduled Board meetings. In addition, the bill states that Board members and employees are immune from civil liability for good faith action to implement the provisions of the bill.

The bill provides additional powers and duties of the Board as outlined in the bill, including the following:

- ▶ appoint an executive director and employ consultants, as necessary;
- ▶ maintain open records for public inspection;
- ▶ compile/publish an annual directory;
- ▶ adopt rules to establish competency or professional review standards for any minor surgical procedure;
- ▶ appoint two or more Board members to a subcommittee that reviews/approves applications and issues permits relating to the following:
 - Homeopathic Medical Assistants and Associated Practical Educational Programs;
 - drugs and device dispensing practices.

SB 1047 establishes that certain practices and treatments are unaffected by the provisions of the bill, including any of the healing arts offered by Indian tribes and the independent practice of acupuncture as a traditional oriental healing art.

The bill makes clarifying and technical changes to the section of law relating to applications and authorizes the Board to require an applicant for licensure to submit to additional written or oral

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information, and may conduct additional investigations, if determined necessary. The bill eliminates the provision that requires examinations to be conducted at least twice annually.

SB 1047 allows the Board, by formal vote at its annual meeting, to establish fees and penalties that do not exceed the amounts outlined in the bill, including \$550 for an application to practice homeopathic medicine. In addition, the bill authorizes the Board to charge additional fees for services rendered, but that are not required by law.

SB 1047 outlines the requirements and procedures for licensure and renewals.

SB 1047 outlines the contents for the annual directory, which includes the names and addresses of the officers and members of the Board, and a list of postgraduate and continuing education courses pertinent to homeopathic medicine, among other information. The bill authorizes the Board to assess a \$100 civil penalty for failure by a licensee, to provide requested information. In addition, the bill stipulates the directory may be sold to the public and licensees for a maximum \$25 charge, and directs monies collected to be transmitted to the State Treasurer for deposit in the Board's fund.

The bill provides for locum tenens (temporary) registration, and outlines the requirements in the bill.

SB 1047 establishes the following as class 5 felonies:

- ▶ practicing without a license;
- ▶ securing a license by fraud or deceit;
- ▶ impersonating a member of the board.

In addition, the bill prescribes a class 2 misdemeanor for using any designation that refers to a homeopathic physician, or using words, initials or symbols that lead the public to believe that an unlicensed person is licensed.

SB 1047 clarifies the definition of "unprofessional conduct" to include performing an invasive surgery not permitted by law, Board rule or licensure. The definition includes the violation of any law relating to the practice of medicine or public health, in addition to others as outlined in the bill.

The bill allows the Board to conduct investigations, suspend a license in order to protect public health, pending the outcome of a formal disciplinary hearing, and outlines specific procedures to be followed.

SB 1047 provides that the Board through the Attorney General or county attorney may apply to the superior court in Maricopa County for an injunction restraining the person who is engaging in a violation of this chapter or Board rule.

The bill provides for the establishment of a program for the treatment and rehabilitation of licensees who are impaired by alcohol or substance abuse, and outlines the requirements for a contract with a private organization.

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SB 1047 requires the inclusion of an instruction sheet for prescription drugs, and states the information that must be included on a prescription order.

This bill provides for a net increase in state revenues as defined in Article IX, Section 22, Constitution of Arizona. It 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.

SB 1056 - Chapter 133 - payment of wages; time

SB 1056 codifies acceptable practices for the delivery of wages to employees remaining in the service of an employer and clarifies the timeframe for payment of wages.

The bill requires an employer to either personally deliver or mail the wages to a continuing employee no later than five days after the end of the most recent pay period. In addition, SB 1056 stipulates that overtime or exception pay shall be paid no later than 15 days after such wages are earned.

SB 1077 - Chapter 154 - technical registration; applicant qualifications; experience

SB 1077 modifies statutes relating to qualifications for professional registration as an architect, engineer, geologist, assayer, land surveyor or landscape architect, by the Board of Technical Registration. In addition, the bill establishes a hearing process for persons practicing without a license and provides civil penalties for violators.

The bill empowers the Board, by a two-thirds majority vote, to allow an applicant, excluding an architect applicant, to receive credit for experience attained without the direct supervision of a registered professional.

SB 1077 establishes that no member of the Board may serve more than two consecutive terms, outlines the termination dates for Board members and provides for the following:

- ▶ authorizes the Board to initiate a hearing, upon receipt of a complaint that a person who is not exempt nor registered, is practicing, offering to practice, or by implication, holding himself out as qualified to practice as a registered professional;
- ▶ states that after the hearing, if the Board determines the person committed a violation, it shall impose a maximum civil penalty of \$2,000 per violation, in addition to any other sanction, action or remedy;
- ▶ outlines the facts that shall be considered in determining the amount of the civil penalty;
- ▶ allows a person to appeal a Board decision to the superior court;

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- ▶ requires the Board to notify the Attorney General of any civil penalty that is unpaid within 30 days, or within 10 days after the superior court enters a final judgment in favor of the Board;
- ▶ authorizes the Attorney General's office to begin a civil action to recover the penalty;
- ▶ allows an action to enforce an order to be combined with a petition for injunction;
- ▶ requires the deposit of all civil penalty monies into the general fund.

SB 1080 - Chapter 295 - accountants; certificates; confidential records

SB 1080 clarifies acceptance of out-of-state certificates, licenses or permits, adds conditions for disclosure of confidential information, and creates exceptions to the public records presumption of Board of Accountancy records.

SB 1080 expands the criteria for issuance of Arizona certificates to practice accountancy to include holders of licenses or permits, in addition to certificates, issued by another state.

The bill allows access by the Board during business hours to examine and copy documents, reports, records or other evidence of a person being investigated by the Board, if they relate to the competence or professional conduct of the registrant being investigated.

SB 1080 stipulates that records the Board maintains are generally accessible and presumed to be public record, except in cases involving the investigation of registrants. Further, the bill establishes that the Board shall treat as confidential all of the following:

- ▶ the complaint;
- ▶ investigation report;
- ▶ testimony;
- ▶ documents submitted in support of the complaint, or gathered in the investigation;
- ▶ the fact that the complaint or investigation is pending;
- ▶ any related correspondence.

The bill prohibits disclosure of the confidential information to any person, except the following:

- ▶ law enforcement authorities;
- ▶ the subject of the investigation, to the extent deemed necessary to conduct the investigation;
- ▶ persons whose complaints are being investigated;
- ▶ witnesses questioned in the course of the investigation.

SB 1080 prescribes that confidential information, excluding that relating to client records of the person being investigated, or information from which the client or his property may be identified, becomes public record if the Board institutes civil enforcement or disciplinary proceedings. If the

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Board dismisses the matter with no disciplinary action, the information may be disclosed that relates to the matter only upon consent of the registrant or entity under investigation.

SB 1096 - Chapter 83 - *committee; age specific community zoning

An informal working group has held at least seven meetings and has met with representatives from the US Department of Housing and Urban Development to discuss issues concerning retirement communities. The group's objective has been to develop a precertification process for senior communities demonstrating compliance with applicable fair housing laws and to develop an alternative form of governance, similar to a special district, for retirement communities.

SB 1096 establishes an 11-member Joint Legislative Interim Study Committee on Age Specific Community Zoning to study issues related to senior citizens and retirement communities, including:

- ▶ the common features that distinguish retirement communities;
- ▶ methods of addressing the specific needs of retirement communities in relationship to local, state and national government; and
- ▶ the relationship between retirement communities and the Arizona Fair Housing Act.

Committee members are not eligible for compensation or reimbursement for expenses. Legislative and executive staff may be made available to the Committee.

The Committee is required to report to the Senate President and the Speaker of the House by December 1, 1995. The Committee terminates on December 31, 1995.

SB 1170 - Chapter 87 - *workers compensation rates; retroactive deviation

SB 1170 allows the director of the Department of Insurance to approve a retroactive adjustment or deviation to rates for workers' compensation insurance if the following conditions apply:

- ▶ The adjustment is based on an agreement between the insured and insurer.
- ▶ The director finds adequate facts to support the adjustment, it is reasonable in regard to the issues raised in the request for hearing, the adjustment is not unfairly discriminatory against other similarly situated insureds and the agreement is not entered into for the purposes of violating statutory rate provisions.

SB 1170 is repealed June 30, 1996.

SB 1175 - Chapter 174 - real estate licensees; fingerprinting

SB 1175 eliminates current statutory language which relates to fingerprinting of licensees by the Department of Real Estate, and codifies that authorization with the addition of a new section.

SB 1175 stipulates that prior to receiving or holding a real estate license, an applicant shall submit a full set of fingerprints and fees to enable the Department of Real Estate to conduct a criminal background investigation to determine suitability for licensure.

The bill requires the Department to submit fingerprints and fees to DPS for a criminal history records check, and authorizes the exchange of information with the Federal Bureau of Investigation.

SB 1175 stipulates that the applicant is responsible for providing the Department with a readable fingerprint card and costs associated with resubmission or unreadable cards. Further, it establishes that all fees collected by the Department for fingerprinting shall be credited to DPS.

The bill allows the issuance of a license to an original license applicant before receiving the results of his background check if no evidence exists that the applicant has a criminal background. In addition, the bill requires the Department to suspend the license if a fingerprint card is returned as unreadable and the applicant fails to submit a new card within 10 days of notification.

SB 1175 clarifies that fingerprinting requirements do not affect the Department's authority to issue, deny, cancel, terminate, suspend or revoke a license.

SB 1175 provides a definition for license applicant, which includes those original applicants and renewals as outlined in the bill.

SB 1199 - Chapter 136 - *close corporations; annual report

SB 1199 makes a technical correction to Laws 1994, Chapter 224, section 5.

SB 1199 provides that close corporations need not file a statement of financial condition with their annual report to the Arizona Corporation Commission.

The bill provides for a delayed effective date of January 1, 1996.

SB 1201 - Chapter 15 - unemployment appeals; collateral estoppel

SB 1201 amends statute by adding a section pertaining to the Department of Economic Security (DES) unemployment insurance compensation hearings or appeals. The bill prohibits any finding of fact or law, judgment, conclusion or final order made by a hearing officer or administrative law judge, to be used as evidence in any separate or subsequent action or proceeding.

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SB 1232 - Chapter 296 - claims against registered professionals

SB 1232 amends statutes relating to the Board of Technical Registration and the Board of Contractors, to require an affidavit completed by an expert within the same discipline be filed for any claim against a registered professional or contractor.

The bill provides a definition for claim to include a legal action in tort brought against a registered professional or contractor that is based on alleged negligence, misconduct, errors or omissions in rendering professional services and that is asserted in a complaint, cross claim, counterclaim or third party action.

SB 1232 stipulates that an affidavit completed by an expert in the same field and competent to testify against the registered professional or contractor shall be filed with any claim and contain the following:

- ▶ the acts or omissions on which the claim is based;
- ▶ the factual basis for each claim;
- ▶ how the acts or omissions directly caused or contributed to the alleged damages.

In the case of a registered professional, the expert may be a teacher in the same discipline at a college or university.

This bill exempts a party if the statute of limitations expires within 10 days after the date on which the claim is filed and the party states under oath that there was not ample time to prepare the affidavit. Further, if the affidavit is not filed with the claim, it shall be filed within 45 days, unless an extension is granted by the court. The bill allows 30 days after the date of filing for the registered professional or contractor to file an answer to the claim.

Finally, SB 1232 establishes that if the party fails to file an affidavit, the court shall dismiss the claim. The bill prohibits a new action for the same claim after the expiration of the applicable statute of limitations, except as outlined in the bill.

SB 1246 - Chapter 89 - rental-purchase agreement act

SB 1246 establishes a new chapter in Title 44 that provides for regulation of rental-purchase and rent-to-own transactions.

SB 1246 defines rental-purchase agreement as one that includes the following:

- ▶ use of personal property by an individual for personal, family or household purposes;
- ▶ an initial time period of four months or less;
- ▶ automatically renewable with each payment after the initial period.

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The bill stipulates that the agreement permits the consumer to continue leasing and become the owner of the property, but does not obligate him beyond the initial period.

SB 1246 provides exclusions as follows:

- ▶ rental-purchase agreements primarily for business, commercial or agricultural purposes;
- ▶ rental-purchase agreements with governmental agencies/ organizations;
- ▶ lease of a safe deposit box;
- ▶ lease of personal property that is incidental to the lease of real property and that provides that the consumer has no option to purchase the leased property;
- ▶ lease of a motor vehicle, manufactured home, mobile home, factory-built building or recreational vehicle.

The bill establishes that statutes relating to retail installment contracts and secured transactions within the Uniform Commercial Code do not apply to rental-purchase agreements.

SB 1246 states that home solicitations and referral sales laws apply to rental-purchase agreements, unless the agreement is made in a telephone communication initiated by the consumer. Further, the bill provides that statutes governing consumer fraud are applicable.

Disclosure

SB 1246 requires disclosure of information to the consumer on or before the consummation of the rental-purchase agreement and shall include the following:

- ▶ The frequency, amount, total number and total amount of all periodic payments necessary to acquire ownership of the property.
- ▶ A statement that the consumer does not own the rental property until the total amount for ownership is paid.
- ▶ A statement advising the consumer of liability for loss or damage to the rental property, which must not exceed fair market value.
- ▶ A brief description of the property, including whether the item is new or used.
- ▶ A statement that the total amount of payments does not include fees, which shall be separately disclosed; and that the person may exercise an early purchase option.
- ▶ A statement that identifies the party responsible for maintaining or servicing the property while leased, in addition to pertinent warranty information.
- ▶ The identities of all parties, date of transaction, with a statement that the consumer may terminate the agreement without penalty by voluntarily surrendering the property, but that he is liable for past due payments and damage, except reasonable wear and tear.
- ▶ A notice of right to reinstate an agreement.

Prohibited Rental-Purchase Agreement Terms

SB 1246 prohibits an agreement from containing a confession of judgment, negotiable instrument, security interest, wage assignment, consumer waiver or any provision authorizing entrance onto the consumer's premises without permission or to commit any breach of the peace in the repossession of

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property. In addition, no provision shall state that mere failure to return rental property constitutes probable cause for a criminal action. Finally, the bill prohibits any provision that requires the consumer to make a payment in excess or addition to regular rental payments to acquire ownership of the property, or reinstatement fee, unless payment is late.

Collection Practices

SB 1246 states that a lessor shall not participate in any unlawful, deceptive conduct, or make untrue or misleading statements to collect payment or repossess rental property.

The bill outlines acceptable communication with a person other than the consumer, for the purpose of acquiring pertinent information about the location of a consumer or rental property. In addition, the bill prohibits communication with a consumer for collection of payment or repossession, at any of the following:

- ▶ the consumer's place of employment;
- ▶ any unusual time or place inconvenient to the consumer, as outlined in the bill.

SB 1246 provides that if the consumer notifies the lessor in writing that he no longer wishes to communicate regarding the rental-purchase agreement, the lessor shall cease communication, except for those reasons as stated in the bill. The bill prohibits harassment, oppression or abuse of the consumer, and outlines specific prohibited conduct.

This bill prohibits the report of any late payment, default or repossession to a consumer reporting agency if the lessor advertises "no credit check" or fails to obtain a consumer credit report before entering into a rental-purchase agreement with that person.

Reinstatement

SB 1246 stipulates that a consumer who fails to make a timely rental payment may reinstate the agreement without losing any rights or options under the agreement by paying charges within seven days after the renewal date of the agreement, including all rent past due, reasonable cost of pick-up and delivery, if applicable, and any reinstatement fee. Further, the bill authorizes reinstatement if certain percentages of total payments have been made, which entitles the consumer to an extended reinstatement period if all conditions as outlined in the bill are met.

SB 1246 allows for the repossession of rental property during the applicable reinstatement period, but the repossession does not affect the consumer's right to reinstatement. Further, the bill requires the return of the same or substitute property of comparable quality and condition.

Receipts

SB 1246 requires a written receipt for each payment made by cash or money order, upon request.

Renegotiations and Extensions

This bill stipulates that a renegotiation occurs if any term of a rental-purchase agreement that is required to be disclosed is changed by agreement and outlines the renegotiation terms.

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Advertising

SB 1246 states that an advertisement for a rental-purchase agreement shall state pertinent information relating to the transaction, including the following, as applicable:

- ▶ that the transaction advertised is a rental-purchase agreement to acquire ownership;
- ▶ total number and total amount of periodic payments necessary to acquire the item;
- ▶ that ownership occurs only upon payment of the total amount necessary.

The bill requires each item displayed for ownership to bear a tag that clearly indicates the required information and exempts certain media and publications from the provisions of the bill.

Enforcement

SB 1246 provides that a lessor who fails to comply with the requirements of the bill is liable to the consumer damaged by that failure in an amount equal to the greater of either the actual damages sustained or 25% of the total of payments necessary to acquire ownership, but at least \$100 and not more than \$1,000. In addition, the bill allows for collection of court costs, expenses and reasonable attorney fees, as determined by the court. Finally, the bill outlines additional rights and actions which may be taken, including an investigation and appropriate action by the Attorney General.

SB 1246 outlines the defenses that may be taken by the lessor, and defines bona fide errors.

The bill stipulates that if a lessor assigns or transfers a rental-purchase agreement to a third party, all of the consumer's rights created by the agreement are preserved.

Notices

SB 1246 provides that a written notice is deemed to have been received on personal delivery or on the third day after mailing to the consumer's or lessor's last known address.

SB 1246 has an effective date of December 31, 1995.

SB 1296 - Chapter 259 - board of chiropractic examiners; omnibus

SB 1296 provides for the establishment of continuing education requirements by the Board of Chiropractic Examiners, and modifies actions to sanction which may be taken by the Board after a hearing. In addition, the bill clarifies, eliminates and replaces archaic language.

SB 1296 provides for the following:

- ▶ eliminates documentation of high school graduation as a requirement for an applicant;
- ▶ specifies that examinations shall include material relating to chiropractors and Arizona jurisprudence, in addition to subjects taught by accredited chiropractic colleges;
- ▶ eliminates the provision that requires a written transcript or tape recording of the examination;
- ▶ requires the out-of-state applicant to present proof that his license was not sanctioned;

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- ▶ requires a minimum grade of 75% on the Arizona jurisprudence exam;
- ▶ allows the Board to reinstate a license if all conditions as outlined in the bill are met.

SB 1296 establishes that after a hearing the Board may issue an order to cease and desist, in addition to current actions to sanction a person.

The bill deletes the reference to procedures for a hearing and judicial review, and substitutes a reference to Board rule. SB 1296 makes the violation of an order issued by the Board, after a hearing, a violation in and of itself.

Finally, SB 1296 authorizes the Board by rule to require each licensee to complete up to 12 hours of continuing education each calendar year as a condition of license renewal. The bill stipulates that courses shall be pertinent to chiropractics and taught by a faculty member of an accredited college or university. Further, the bill requires documentation and states that failure to comply without adequate cause is grounds for probation or suspension of a license.

SB 1298 - Chapter 51 - board of psychologist examiners

SB 1298 amends statutes relating to the Board of Psychologist Examiners.

SB 1298 expands the definition of unprofessional conduct to include the following:

- ▶ sexual intercourse with a current or former client within two years after the termination of treatment;
- ▶ conduct in another jurisdiction that resulted in censure, probation or a civil penalty or in the denial, suspension, restriction or revocation of a license to practice as a psychologist;
- ▶ violating a Board order, consent agreement or term of probation;
- ▶ failing to furnish information to the Board or its investigators in a timely manner.

SB 1298 increases compensation for Board members to \$100 for each cumulative eight hours of actual service, plus reimbursement of all expenses.

The bill requires the exchange of information with other regulatory boards and psychological associations and authorizes investigatory powers for the executive director.

SB 1298 establishes that a majority of Board members constitutes a quorum and a majority vote of a quorum present is necessary to take action.

The bill stipulates that an applicant for licensure shall have completed a doctoral program in psychology from an accredited educational institution that has credited the student for only completed course work as listed on its unaltered, official transcript. Further, the bill allows postdoctoral supervision by a psychologist serving in the United States armed services. In addition, the bill requires the applicant to complete a residency at the institution that awarded the doctoral degree and

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provides clarification of the term other suitable means, relative to the completion of the content area for core programs.

SB 1298 provides exemption from licensure for a supervised individual pursuing a postdoctoral professional experience, under the following conditions:

- ▶ the services are provided under the direct supervision of a licensed psychologist;
- ▶ clients are informed of the training nature of the services provided;
- ▶ the individual has a title that designates his training status.

SB 1328 - Chapter 156 - state veterinary medical examining board

SB 1328 continues the Arizona State Veterinary Medical Examining Board until July 1, 1998. Further, with the addition of one lay person, the bill increases the membership of the Board to eight.

SB 1335 - Chapter 263 - accountable health plans; tax exemption

SB 1335 modifies statutes relating to accountable health plans to exempt those plans issued to small employers from the 2% premium tax levied on the plans' total net charges received from enrollees.

The bill establishes that a 1% premium tax shall be paid beginning July 1, 1996, and eliminates the tax beginning July 1, 1997. In addition, SB 1335 requires each accountable health plan to notify small employers of the reductions.

SB 1337 - Chapter 265 - naturopathic board of medical examiners

SB 1337 amends current statute pertaining to the Naturopathic Board of Medical Examiners.

Heading Change and Definitions

SB 1337 adds the definition of naturopathic medical student to the code and changes the title of the Board from the "Naturopathic Board of Medical Examiners" to the "Naturopathic Physicians Board of Medical Examiners." Further, it expands the definition of unprofessional conduct to include participation in an internship, preceptorship or clinical training program without the supervision of a licensed naturopathic physician or without being approved and registered by the Board for that program.

Powers and Duties

In addition to making several technical and conforming changes to this section, SB 1337 expands the Board's roster of all licensed doctors of naturopathic medicine to include all persons who are licensed, certified or registered by the Board.

Directory and Change of Address

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SB 1337 clarifies language regarding the sale of the Board's directory and transmittance of monies to the State Treasurer for deposit in the NPBOMEX fund.

Grounds for Probation, Suspension, Revocation or Refusal to Issue License, Certificate or Registration

Currently, the Board may investigate any information that appears to show grounds for probation or the suspension, revocation, or refusal to issue a license for unprofessional conduct. This bill expands the Board's power to investigate information involving those persons who are certified or registered by the Board.

SB 1337 allows the Board to issue an advisory letter of concern to a person who is licensed, certified or registered by the Board when there is insufficient evidence to support disciplinary action. This letter shall state the Board's belief that the person should modify or eliminate certain practices and, further, that the continuation of such activities may result in action against the person's license, certificate or registration.

Unlawful Acts

SB 1337 stipulates that it is unlawful for any person to participate in an internship, preceptorship or a clinical training program in naturopathic medicine as a naturopathic medical student unless under the supervision of a licensed doctor of naturopathic medicine. Additionally, a person shall be approved and registered by the Board in order to use a proper title (e.g., naturopathic medical student) while engaged in an internship, preceptorship, or clinical training program.

Naturopathic Medical Assistants

SB 1337 stipulates that a person who wishes to be certified as a naturopathic medical assistant shall submit an application and, upon receipt of certification, may assist a licensed doctor of naturopathic medicine. An individual shall not use the title medical assistant unless he is working as a naturopathic medical assistant.

The Board by rule may prescribe naturopathic medical treatment procedures that a certified assistant may perform under supervision if the Board determines that these procedures:

- ▶ may be competently performed by the assistant;
- ▶ do not exceed the procedures for which the supervising doctor of naturopathic medicine has been licensed to perform.

Further, a naturopathic medical assistant is permitted to perform clerical tasks without supervision.

Naturopathic Medical Student

SB 1337 requires a naturopathic medical student who wishes to engage in an internship, preceptorship or clinical training program to submit an application for registration. Upon registration, an individual may engage in such a program under the supervision of a licensed doctor of naturopathic medicine. Certain proper titles (e.g., naturopathic medical student) shall only be used

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by naturopathic medical students engaged in and registered for an internship, preceptorship or clinical training program.

The Board by rule may prescribe naturopathic medical treatment procedures that a registered student may perform under supervision if the Board determines that these procedures:

- ▶ may be competently performed by the student;
- ▶ do not exceed the procedures for which the supervising doctor of naturopathic medicine has been licensed to perform.

A naturopathic medical student is permitted to perform clerical tasks without supervision.

The registration of a student of naturopathic medicine shall automatically be suspended if he ceases to be enrolled in a school of naturopathic medicine or if the supervising doctor withdraws from supervision of the student.

Finally, SB 1337 provides that for FY 1995-96, the risk management contribution for the Board is \$2,300.

SB 1358 - Chapter 151 - mobile home commissions

SB 1358 makes several clarifying changes and additions to the Arizona Mobile Home Parks Residential Landlord and Tenant Act.

SB 1358 allows a landlord to pay a commission to a licensed dealer or broker in connection with the sale of a mobile or manufactured home or recreational vehicle owned by the landlord.

The bill requires that within 10 days of a written request, the landlord shall notify the seller and prospective buyer of any reasons for withholding approval of the buyer as a tenant.

Finally, SB 1358 prohibits a tenant from removing a mobile home from a space unless he has a clearance from the landlord showing that all monies have been paid, or that an agreement was made regarding the removal. In addition, the bill states that the landlord shall not interfere with the removal of a mobile home for any reason, except nonpayment, even if the term of the rental agreement has not expired.

SB 1378 - Chapter 152 - registrar; civil penalties; filing orders

SB 1378 changes the procedures of the Registrar of Contractor's office regarding superior court enforcement of civil penalty payments associated with cease and desist orders.

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The bill allows a certified copy of any Registrar's order which requires the payment of civil penalties, to be filed in the office of the clerk of the superior court of any Arizona county. Further, the bill requires the order to be handled in the same manner as a superior court judgment and stipulates that it may be recorded, enforced or satisfied in a similar manner. In addition, SB 1378 states that a person who files a Registrar's order is not required to pay a filing fee.

SB 1378 stipulates that if a license is not reactivated within five years, a new application must be submitted unless a contractor applies to inactivate the license for an additional period not to exceed five years and, no contractor may inactivate a license more than twice.

ECONOMIC DEVELOPMENT,
INTERNATIONAL TRADE AND TOURISM

BILL MCGIBBON - CHAIRMAN

Teri Grier - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2053 - Chapter 214 - municipal housing development

HB 2053 permits governing bodies of any incorporated city or town to designate by resolution up to 20% of the geographical area of the municipality as a housing development area. Areas with this designation are eligible for public monies to assist in the development of housing.

The municipality may enter into contracts or leases with developers of property within a housing development area. In addition, the municipality has the authority to purchase, acquire, own, modify, maintain, improve, sell, operate, develop or manage housing development projects and pay the costs of any project from the proceeds of bonds of the municipality.

The bill provides that municipalities may issue bonds, refinance bonds, incur loans, receive grants or federal funds to finance housing development projects. Bonds cannot be general obligation bonds of the municipality that are payable from general taxing power. Municipalities may, however, use their resources to repay bonds or other debts incurred in relation to housing development.

Bonds issued by municipalities shall:

- ▶ be exempt from all taxation;
- ▶ be used to pay principal and interest on any advances for surveys and plans for the developments;
- ▶ be "refunding bonds." These bonds shall be used for the payment or retirement of previously issued bonds;
- ▶ be paid by a pledge, loan, grant or any other contribution from the federal government or any other public or private source, or a mortgage;
- ▶ not constitute debt for the municipality, state or any political subdivisions;
- ▶ be authorized by a resolution of the local governing body, and be publicly sold by the body;
- ▶ be valid if all provisions are met by the municipality;
- ▶ be certified by the Attorney General;
- ▶ not be subject to the provisions regarding sale or issuance of bonds.

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HB 2099 - Chapter 164 - retail installment sales

HB 2099 differentiates between commercial and noncommercial transactions and redefines the late fees assessed for automobiles and goods financed through retail installment contracts.

The bill provides that goods and services financed through retail installment contracts must be categorized as either a commercial or noncommercial transaction. A commercial transaction is defined as a transaction in which the goods or services are intended by the borrower for use primarily for other than person, family and household.

Current law provides that a seller may assess a late fee for each installment not paid in full within 10 days of its due date. The fee is limited to 5% of the installment or \$10, whichever is less. HB 2099 modifies the late fee by establishing a graduated-fee system based on the intended use of the financed item and the amount of the monthly installment payment. The late fee assessed shall not exceed:

- ▶ for noncommercial transactions, \$5 on installment payments of \$25 or less;
- ▶ for noncommercial transactions, \$10 on installment payments over \$25;
- ▶ for commercial transactions, 5% of the unpaid balance of the installment payment.

HB 2140 - Chapter 115 - *surcharge; car rental; spring training

HB 2140 provides for an increase in the surcharge for car rentals in Pima County for the benefit of spring training facilities for major league baseball.

Current law enables the board of directors of a county stadium district to add a car-rental surcharge of no more than \$2.50 for the purpose of retaining, relocating or attracting a major league baseball spring training operation. HB 2140 allows the Pima County stadium district board to increase the car-rental surcharge and limits the amount the board can charge to no more than \$3.50 per car rental.

HB 2299 - Chapter 106 - *border volunteer corps

HB 2299 addresses the Arizona-Sonora Border Area, its governing board and the Border Volunteer Corps (BVC). The bill:

- ▶ redefines the "Arizona-Sonora Border Area" to include the geographic area 10 kilometers south of the Arizona-Mexico border line;
- ▶ clarifies terms of office for initial governing board members appointed for terms of three years or less, by allowing them to succeed themselves for one additional term;

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- ▶ expands the powers and duties of the BVC to allow monies to be used for administrative costs and to also allow the BVC to raise additional monies through the private sector, individual donations, foundations and other sources;
- ▶ clarifies that the BVC shall provide matching monies for post-service benefit awards;
- ▶ increases the total appropriation for the BVC by \$75,000 in FY 1995-96.

HB 2336 - Chapter 144 - apprenticeship advisory council; continuation

HB 2336 continues the Apprenticeship Advisory Council until July 1, 1997.

SB 1039 - Chapter 185 [E] - work recruitment; job training; appropriation

SB 1039 extends the Work Force Recruitment and Job Training Program from December 31, 1995 to December 31, 2000. The bill also modifies the distribution formula for monies appropriated to the work force recruitment and job training fund, and appropriates an additional \$1,500,000 from the general fund for FY 1994-95.

SB 1039 modifies the distribution of monies appropriated to the work force recruitment and job training fund by changing the set aside for small businesses from 20% to 15% of the total allocation and adding an additional set aside of 15% for rural areas. Rural is defined as either a county with a population of less than 400,000, or a census county division with a population of fewer than 50,000 in a county with a population of 400,000 or more.

In addition, on April 1 of each fiscal year, the monies unexpended in the rural and small business set asides that exceed 2% of the total appropriation shall be reallocated and made available to all qualified applicants. On June 15 of each fiscal year, all unexpended monies will be made available to any qualified applicant.

The bill also changes the makeup of the 12-member Work Force Recruitment and Job Training Council. The director of the Department of Economic Security is permitted to designate a representative to serve on the Council in his stead, and the Governor's appointee from the Arizona Employment and Training Council is substituted for the director of the Governor's Office of Employment and Training.

Finally, the bill changes the reporting requirements for the Work Force Recruitment and Job Training Council's annual report. Rather than reporting the number of interviews conducted from the poll of interested businesses, the bill requires reporting the number of applicants to the program.

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SB 1061 - Chapter 11 - small loans; processing fee

SB 1061 permits lenders who administer retirement plans to charge a processing or administration fee for making loans from retirement plans to their participants.

SB 1248 - Chapter 209 - appropriation; NAFTA projects

SB 1248 appropriates \$925,000 in FY 1995-96 from the general fund to the Department of Commerce for NAFTA-related projects.

The projects include:

- ▶ The sum of \$750,000 for a unified border port management pilot project located in Nogales, Arizona. Once either the U.S. Congress or the U.S. Customs Service designates Nogales as the test site, the Arizona Department of Commerce shall distribute the appropriated monies to the Arizona Department of Transportation (ADOT) to administer the program. ADOT shall use the state monies in a way that draws the maximum amount of federal assistance for the project. ADOT in coordination with the Department of Commerce shall identify goods and services that further the intent of the project. Once the goods and services are identified, ADOT shall expend the monies to qualified Arizona suppliers.
- ▶ The sum of \$25,000 to cover the cost of the initiation phase of establishing the CANAMEX multistate trade commission. Monies shall be distributed to the Governor's Mexican Policy Advisor through an interagency agreement. Monies shall be used to pay expenses directly related to the CANAMEX corridor.
- ▶ The sum of \$150,000 for the purposes of hiring a border area infrastructure coordinator. The responsibilities of the coordinator would be to oversee Arizona's efforts related to infrastructure development in the border region. This would include coordination of the Arizona International Development Authority as well as the state's efforts to secure loans and guarantees from the North American Development Bank (NADBank) through the Border Environment Cooperation Commission (BECC).

Finally, the bill provides that monies unencumbered at the end of each fiscal year shall not revert to the general fund.

SB 1317 - Chapter 92 - manufactured housing; trust requirements

SB 1317 allows dealers and brokers to release trust account earnest monies to pay flooring or inventory costs before a manufactured housing sale is consummated or terminated.

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A licensed dealer may release the monies provided:

- ▶ the payment is made no more than 10 business days prior to the completion, termination, or transfer of title of the project;
- ▶ the payment is made directly to the lender;
- ▶ the payment is recorded in the dealer's records and documented by a receipt, payment record, or any other evidence from the lender.

In the event of a terminated transaction, the dealer must replace the amount of the payment in the trust account within three business days after receiving written notification of the termination.

SB 1392 - Chapter 172 - protected property development rights; duration

SB 1392 modifies the procedure for establishing protected property development rights, expands the duration of time a large phased development may be granted rights and allows for county regulation and expansion of roads on private property.

The bill provides that a county board of supervisors may:

- ▶ Establish protected property development rights through the open-meeting process rather than through ordinances or resolutions. Counties may approve the request for establishing or continuing protected property development rights based on type and size of the development. The bill provides that phased developments which contain at least one section of land or gross acreage of more than 640 acres may be granted:
 - protected property development rights of 10 years;
 - an extension of 10 years beyond the original 10 years.
- ▶ Set speed limits, weight restrictions and establish traffic- safety measures on private roadways that are located within any development in unincorporated areas of the county. The board must have written permission from the property owner prior to setting the standards and may require the property owner to pay the costs of the signs that shall be used to post limitations or restrictions.
- ▶ Classify extensions to roads in protected property developments, residential developments and commercial developments as primitive roads provided:
 - the extension or addition is made to connect the primitive road with a road or highway serving a development;

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- the total length of the extension or addition does not exceed one mile;
- the existing portion of the road meets the qualifications for a "primitive road."

EDUCATION

DAN SCHOTTEL - CHAIRMAN

Trisha Korwes - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2002 - Chapter 158 - education programs; detention centers

HB 2002 provides for the education of children under the age of 18 or children with disabilities through age 21 in adult jails and prisons. Additionally, the bill continues the public school safety program.

County Jail Programs

Current statute provides for the education of all school-age children in juvenile detention centers. HB 2002 specifies that the requirement be expanded to include all prisoners under the age of 18 or prisoners with disabilities through age 21 in adult county jail facilities. A county may operate the education program through an existing accommodation school or within the jail system.

HB 2002 establishes funding for education programs not operated through an accommodation school. The funding is based upon the number of days the prisoner has been in the county jail. The funding provisions are modified in FY 1995-96 to support the new and expanded programs.

The bill appropriates \$572,000 for FY 1995-96 for the estimated increased cost of basic state aid as well as \$250,000 to ADE for making grants available to counties for start-up costs.

State Prison Programs

Current statute provides for the education of all school-age children in state prisons. DOC receives funding for the educational programs from the state education fund for committed youth. HB 2002 creates the state education fund for correctional education as a separate fund for the provision of the educational programs within prisons.

HB 2002 establishes funding for DOC educational programs. The bill details guidelines for DOC to calculate a base support level and a capital outlay revenue limit. Additionally, the bill specifies a student count of 164, a weighted student count of 271.051 and a method to determine the count for ED-P (Emotional Disabilities Programs) in FY 1995-96.

The bill appropriates \$40,000 in FY 1995-96 to DOC for capital improvements and construction as well as \$263,054 for the identification, evaluation and placement of pupils with disabilities, and for providing teachers for educational programs.

Public School Safety Program

Current session law provides funding for a public school safety program. HB 2002 continues the program in FY 1995-96. The bill appropriates \$2.5 million to ADE for the placement of peace officers and juvenile probation officers in public schools.

EDUCATION

HB 2019 - Chapter 1 [E] - schools; open enrollment; policies

HB 2019 modifies the open enrollment statutes. Current statutes prescribe specific policies for the implementation of open enrollment programs. HB 2019 requires school districts to establish policies and implement an open enrollment program. Copies of the districts' policies must be filed with ADE.

The bill defines "open enrollment" as a policy that allows a student to enroll in any school within any school district in the state.

HB 2019 provides for the transportation of certain children as follows:

- ▶ A district may provide transportation for children who meet the eligibility requirements for the national free and reduced lunch program.
- ▶ A district must provide transportation for children with disabilities whose Individualized Education Plan (IEP) requires transportation.

Transportation is limited to 20 miles each way to the school of attendance or a pickup point on the regular bus route or for the total miles traveled to an adjacent district.

HB 2058 - Chapter 71 - school districts; fees

HB 2058 grants school district governing boards the discretionary power to assess reasonable fees for optional extracurricular activities and programs conducted when school is not in session. For high school students, fees may be assessed for fine arts and vocational education courses and for optional services, equipment and materials offered beyond those required to successfully complete the basic requirements of any other course. The bill specifies that no fees may be charged for students' use of computers.

The fees must be adopted at a public hearing after notification to the parents of all pupils. The fees cannot exceed the cost of the service, activity, equipment or materials. Principals may waive the assessment of all or part of the fee if it creates an economic hardship for the pupil.

HB 2081 - Chapter 4 [E] - *schools; inventory and needs assessment

Current statute requires JCCR to conduct an inventory and needs assessment for all school districts with a secondary assessed valuation per pupil below the state's median. HB 2081 expands the duties of JCCR to include an inventory and needs assessment for a representative sample of schools above the median. The representative sample must not exceed 37% of schools in districts that are above the state's median assessed valuation per pupil.

EDUCATION

HB 2179 - Chapter 107 - school districts; accounting responsibility

Laws 1991, Chapter 74 extended a pilot program which allows districts with at least 10,000 students to assume responsibility for accounting duties normally performed by the county school superintendent. The pilot program was repealed on June 30, 1994. HB 2179 continues this procedure by placing the provisions of the pilot program in statute.

HB 2179 permits districts with at least 4,000 students to apply to the State Board to assume accounting responsibility. School districts choosing to assume accounting responsibility must apply to be evaluated by the Auditor General. The Auditor General may recommend approval or denial to the State Board. The bill requires school districts to submit an accounting responsibility plan to ADE upon application. The bill specifies that any district that fails to maintain accounting standards as provided by the uniform system of financial records (USFR) and, therefore, has state aid withheld, is not eligible for the program.

School districts must contract with an independent CPA for an annual financial and compliance audit. Additionally, the Auditor General may reevaluate school districts annually to determine compliance with the USFR.

The provisions of the bill are retroactive from and after June 30, 1994.

HB 2210 - Chapter 234 - school tuition; cap; elimination

Current statute provides for the amount of tuition that may be charged to a school district of residence for pupils attending school in a district other than that of their residence. A district may charge tuition equal to the maintenance and operation, capital outlay and debt service per student count. The debt service tuition costs are limited according to the number of students for which the school district of residence pays tuition. HB 2210 increases the limit as follows:

- ▶ 750 pupils or fewer - from \$150 to \$550,
- ▶ fewer than 1000, but more than 750 pupils - from \$200 to \$600,
- ▶ more than 1000 pupils - total debt service.

HB 2210 allows the school district of residence to continue to budget for the current limits attributed to debt service within the RCL. The increased portion may be budgeted outside the RCL. The bill specifies that the primary property tax rate set to fund the amount outside the RCL is not included in the computation of additional state aid ("the homeowners' rebate").

HB 2210 limits the amount of debt service tuition costs that a school district may charge the Superintendent of Public Instruction as follows:

- ▶ 750 pupils or fewer - \$150
- ▶ fewer than 1000, but more than 750 pupils - \$200

EDUCATION

- ▶ more than 1000 pupils - total debt service.

HB 2210 reauthorizes for two years tuition payments for students who reside in an unorganized territory (not within a school district). Tuition is paid to the school of attendance from state school monies.

HB 2403 - Chapter 280 - schools; expulsion of pupils

HB 2403 eliminates the restriction on causes for expulsion.

HB 2403 includes a mandatory one-year expulsion for any student who brings a firearm to school. However, a school district or charter school governing board may grant exceptions to this law on a case-by-case basis.

HB 2443 - Chapter 108 - *teachers; year-round schools; guidelines; deadlines

Current statute allows a teacher a limited amount of time to improve classroom performance after receiving a preliminary notice of inadequacy. HB 2443 requires the State Board to review and establish an equivalent timeframe for teachers who are employed in a school that does not operate on the traditional school year calendar. The State Board must review and establish the timeframe by December 15, 1995. Additionally, the State Board must report by December 15, 1995 other timeframes or deadlines that need to be modified.

SB 1033 - Chapter 145 - scotopic sensitivity Irlen syndrome; pilot

SB 1033 establishes a two-year Scotopic Sensitivity Irlen Syndrome pilot program for selected public schools in the state. Scotopic Sensitivity Irlen Syndrome means perceptual processing distortions and may be compensated for by the use of colored overlays and specialized lenses.

The bill appropriates \$90,000 to ADE to be distributed as grants to schools which participate in the program in FY 1996-97 and FY 1997-98. The appropriation is exempt from lapsing at the end of each fiscal year. The schools must apply by February 1, 1996, to ADE to receive a grant for the pilot program.

The bill requires ADE to conduct a two-year longitudinal assessment of the pilot program. A final report must be submitted to the Governor, the President of the Senate and the Speaker of the House by December 15, 1998.

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SB 1035 - Chapter 184 [E] - schools; career ladders; carry forward

SB 1035 allows school districts to carry forward any unspent career ladder budget capacity at the end of a fiscal year to the next fiscal year. The bill exempts the carry forward amount from the RCL. The career ladder carry forward amount is not included in the allowable budget balance carry forward (3% of the RCL).

SB 1095 - Chapter 191 [E] - school finance; technical corrections

SB 1095 makes the following changes to education finance statutes:

- ▶ Specifies that the growth rate is prescribed by law, subject to appropriation. The bill eliminates the specified time-frame for the Legislature to prescribe a growth rate and the subsequent default to the GDP.
- ▶ Specifies procedures for a county school superintendent to draw warrants from school district accounts maintained by the county treasurer.
- ▶ Specifies two alternatives to a defeated budget override. The governing board must prepare a budget that does not include the proposed total increase or a budget that does not include the portion of the proposed increase that exceeds a prior override amount.
- ▶ Requires the Superintendent of Public Instruction (SPI) to notify a school district if the adopted budget is in excess of the general budget limit or the capital levy budget limit. Current statute requires notification if the budget exceeds both budget limits.
- ▶ Conforms language pertaining to expenditures in excess of the general budget limit, the capital levy budget limit or a section of the budget.
- ▶ Changes the date from October 31 to September 15 for a school district to revise a budget that does not conform with law. The revision is allowable if the budget limits are modified due to legislation enacted or proposed legislation not enacted after May 1 of the previous fiscal year.
- ▶ Clarifies provisions relating to the admission of children residing outside of a school district. The school district of attendance includes the child for the purpose of determining student count except if another district or the SPI is charged tuition or the school of attendance is in another state. Notwithstanding this provision, ADE is required to make tuition payments to school districts in the amount that each was entitled to as of July 15, 1994.
- ▶ Specifies that ADE is required to make tuition payments to school districts in the amount that each was entitled to as of July 15, 1994, notwithstanding the changes made to the certificate

EDUCATION

of educational convenience statutes by Laws 1994, Ninth Special Session, chapter 2 (The School Improvement Act).

- ▶ Simplifies the definition of "cost per student count" by allowing the calculation of actual expenditures for debt service divided by the number of students in the district. Cost per student count is used to determine the amount of tuition payable to school districts of attendance by a school district of residence or the SPI.
- ▶ Clarifies that a year-round school year means a school year that extends from one fiscal year to the next (begins before July 1 or ends after June 30).
- ▶ Rewrites the retirement reduction provisions. The retirement contribution rate will be factored into the computation of the base level.

SB 1095 makes the following changes to education finance session law provisions:

- ▶ Modifies the student revenue loss phase-down. The phase-down is permitted for a reduction in student count as a result of the formation of a joint unified school district. The bill reduces from 70 to 50 the requisite number of students lost to receive an increase in the base support level.
- ▶ Permits a K-8 school district with a student count less than 2000 to reduce its general budget limit due to excess expenditures in FY 1992-93 in the third subsequent year. Current law extends this provision only to union high school districts with a student count less than 2000.
- ▶ Enables school districts to budget for excess insurance costs outside the RCL for FY 1995-96. The allowable amount in FY 1995-96 is 85% of costs greater than a 150% increase over the FY 1984-85 insurance costs, after adjusting for the actual percentage increase in the district's budget limits since FY 1985-86 and after eliminating additional monies available from career ladder or teacher compensation programs. This is phased-out over the subsequent four years.

SB 1112 - Chapter 146 - school district owned property; exchange

SB 1112 permits a school district governing board to exchange unimproved property for unimproved property of substantially equal or greater value without obtaining an authorization by the voters under certain conditions. Voter authorization is not necessary if the board determines that the exchange is for the health or safety of the students.

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SB 1140 - Chapter 42 - ASDB; services; regional programs

SB 1140 codifies in statute an ASDB pilot program previously in session law. The provision expands ASDB services to include regional programs.

SB 1189 - Chapter 201 - *military institute planning committee

SB 1189 establishes a six-member Joint Legislative Arizona Military Institute Planning Committee to study and submit a report to the Legislature by November 30, 1995, regarding recommendations for an Arizona military institute. The Committee terminates on March 30, 1996.

SB 1189 requires the Committee to coordinate with the Arizona Military Institute Commission established pursuant to Executive Order 94-11 in studying and planning the establishment of a military institute in Arizona. The Committee is authorized to meet jointly with the Commission and to undertake joint planning projects.

SB 1189 appropriates \$100,000 to DOA for expenditures related to the planning and development of an Arizona military institute.

SB 1348 - Chapter 268 - A.R.S. title 15; clean-up

SB 1348 makes the following changes to the K-12 education statutes:

State Board of Education (State Board)

- ▶ Eliminates the following State Board duties: adoption and use of an official seal to authenticate acts, establishment of rules for the government of employees, enforcement of laws relating to health and compulsory education and determination of the number of credits necessary for graduation from high school.
- ▶ Specifies that the State Board is the policy determining body of ADE, current statute states that the State Board is the governing and policy determining body.
- ▶ Authorizes, rather than requires, the State Board to collect fees for certain certification services.
- ▶ Eliminates the provision of assistance by the State Board to a school district for instruction on chemical abuse.
- ▶ Transfers the authority to receive and expend adult education monies from the State Board to the State Board for Vocational and Technological Education.
- ▶ Clarifies that the State Board must prescribe a minimum course of study which incorporates the essential skills for K-8.
- ▶ Clarifies that the State Board must prescribe a minimum course of study which incorporates the essential skills for the graduation of pupils from high school. The criteria for graduation may include additional measures of academic achievement and attendance.
- ▶ Authorizes, rather than requires, the State Board to certify school nurses.

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- ▶ Requires the State Board to adopt rules for children instructed at home to participate in interscholastic athletic competition.

Superintendent of Public Instruction (SPI)

- ▶ Specifies that the SPI may establish divisions within ADE in addition to any divisions created by law.
- ▶ Deletes the duties to: call an annual meeting of the county school superintendents and authenticate with the official State Board seal all writings and papers issued from the office of the SPI.
- ▶ Eliminates the responsibility to prepare a patriotic-exercises program.
- ▶ Specifies that the director of special education is not appointed by the SPI.

County School Superintendent

- ▶ Removes the requirement to keep reports of the SPI, school district governing boards and teachers.
- ▶ Eliminates the specification that all official acts be recorded in a book provided by the SPI.
- ▶ Removes the requirement to visit, at least twice a year, each school that does not employ a principal.

School District Governing Boards

- ▶ Provides specific dates for the governing board to hold the organization meeting. The board must meet between January 1 and 15 following an election. The required three-day notice is eliminated.
- ▶ Eliminates the election and duties of a clerk.
- ▶ Removes the requirement to visit every school in the district.
- ▶ Specifies that the board is required to prescribe the curricula and criteria for promotion and graduation of pupils.
- ▶ Eliminates the required State Board approval for the curricula prescribed by the governing board.
- ▶ Specifies that the board must provide adequate supervision over pupils.
- ▶ Removes the requirement that every school in the district prepare a map which identifies the "drug-free school zone."
- ▶ Permits the board to require a period of silence to be observed at the beginning of the school day. Current statute requires the teacher in charge of a classroom to announce a period of silence will be observed.
- ▶ Permits the board to require students to wear uniforms.
- ▶ Eliminates the provisions allowing a board to employ an associate teacher (who does not hold a basic or standard teaching certificate) to teach in grades 9-12 under specified conditions.
- ▶ Removes the restrictions relating to the size of a district for the employment of a superintendent or principal and the appointment of a head teacher.
- ▶ Repeals the statute requiring an oath of office for school employees.
- ▶ Requires school district governing boards to develop a policy to promote parental involvement. The bill specifies the contents of the policy.

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- ▶ Requires school districts to establish policies and implement an open enrollment program before the 1995-1996 school year.
- ▶ specifies that school districts may develop a program that will allow pupils to perform community services as an alternative to suspension.

Teachers and Principals

- ▶ Eliminates the following duties: presentation of a certificate to the county superintendent, notification when taking charge of a school or when closing a term, enforcement of the course of study, supervision of pupils, and preparation of reports. The bill additionally removes the provision that the failure to perform the statutory duties is unprofessional conduct.
- ▶ Repeals the article in statute that provides for the principals' institute advisory committee and administration.
- ▶ Allows a person to submit fingerprints up to 18 months prior to application for certification.

Instruction and Curricula

- ▶ Eliminates references to the essential skills as competency requirements for excellence.
- ▶ Expands the competency requirements for promotion to include science and social studies.
- ▶ Eliminates the mandate that schools provide instruction on the nature and harmful effects of chemical abuse and adopt prevention policies and procedures. The bill removes the specifications for the policies and procedures.
- ▶ Eliminates the mandate that schools integrate environmental education programs into the general curriculum. The bill specifies that programs must be based on current scientific information and include a discussion of economic and social implications. Additionally, the bill repeals the statute that requires each of the state universities to provide training in environmental education skills.
- ▶ Eliminates the mandate that schools provide instruction on AIDS. The bill specifies that DHS or ADE must, upon the request of a school district, review AIDS instruction materials. Current statute requires both departments to review materials.
- ▶ Repeals the statute that requires instruction on the essentials and benefits of the free enterprise system.
- ▶ Repeals the statute that requires testing of children in a home school program. The bill specifies that the pupils will be tested to determine the appropriate grade level for a child who enrolls in a K-12 program.

Other Provisions

- ▶ Repeals the statute relating to the clearinghouse of information on instructional computer software within the ADE.
- ▶ Repeals the Arizona comprehensive school health policy council and the comprehensive school health fund.
- ▶ Eliminates the requirement that schools assemble students and conduct exercises to celebrate Arbor Day.
- ▶ Removes the four representatives of the business and industry community from the State Board for Vocational and Technological Education and repeals the employer-supported vocational and technological education restructuring fund.

EDUCATION

- ▶ Restores the provision requiring public schools to admit children between the ages of six and 21 years who reside in the school district.

SB 1361 - Chapter 273 - charter school; applications; sponsorship

SB 1361 makes the following changes to the charter school statutes:

- ▶ Specifies that a sponsor may approve an application for a charter if the sponsor determines, within its sole discretion, that the applicant is sufficiently qualified to operate a charter school.
- ▶ Clarifies that the State Board of Education and the State Board for Charter Schools may each approve up to 25 charters each year.
- ▶ Requires fingerprint checks for charter school applicants and noncertificated personnel.
- ▶ Authorizes a sponsor to revoke a charter at any time if the charter school breaches one or more provisions of its charter.
- ▶ Requires the sponsor to establish procedures to conduct an administrative hearing upon determination that grounds exist to revoke a charter.
- ▶ States that charter schools do not have the authority to acquire property through eminent domain.
- ▶ Provides immunity from liability for a school district governing board and its agents and employees for the acts or omissions of a charter school. The bill further specifies that a sponsor (including their officers, members and employees) other than a school district is immune from personal liability for all acts done in good faith within the scope of their authority during meetings.
- ▶ Provides for the student count of a charter school to be determined based on actual registration of pupils under the following conditions:
 - it is the first year of operation;
 - subsequent years of operation if the number of grade levels or programs offered increases and the number of pupils accepted increases 5% or more.

A school-district-sponsored charter school is not eligible for this provision until FY 1996-97.

- ▶ Permits a charter school to participate in the Arizona State Retirement System.

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SUE GRACE - CHAIRMAN

Dan Shein - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2188 - Chapter 229 - *coverage extent; underground storage tanks

Expands reimbursement coverage, provided by the Department of Environmental Quality (DEQ), for underground storage tank (UST) corrective action costs incurred in soil and groundwater remediation.

The following provisions are made:

- ▶ Groundwater and soil remediation coverage ceilings are raised to \$1,000,000 for those persons with a \$25,000 deductible policy, effective July 1, 1996. If an owner or operator is undertaking or has undertaken corrective action and they have met the regulatory criteria for prequalification or have incurred reimbursable costs, they are eligible to receive the increased limits once they become effective.
- ▶ Voluntary corrective actions for groundwater and soil remediations are exempted from paying the deductible.
- ▶ Liability is limited to strict liability rather than strict, joint and several. If there is more than one responsible party, liability shall be equitably allocated on a case-by-case basis using a variety of statutory criteria (amount and nature of releases, degree of care, ability to distinguish between releases, duration and percentage of ownership). The allocation of liability shall be determined by mediation; the director may select a mediator if the responsible parties cannot agree on one. Costs are eligible for coverage from the assurance account. An owner/operator is still obligated to take action in response to a release. A person may still bring an action against another person for contribution or reimbursement. This process applies to both DEQ and owner/operator-initiated actions.
- ▶ DEQ is directed to establish a means to expedite payments of liability coverage and to develop clear and concise clean-up standards for soil and groundwater.
- ▶ The State Board of Technical Registration is directed to work with DEQ, the State Fire Marshal, and the Registrar of Contractors to develop a plan for standards of qualifications for professionals practicing in environmental consulting and contracting and submit this plan to the Legislature and the Governor by November 15, 1995. Environmental professionals who meet the standards for qualification are eligible to receive direct payment upon completion of each phase of corrective action.
- ▶ DEQ is required to apply UST upgrade and replacement costs incurred during a corrective action toward the deductible on a dollar-for-dollar basis for compliance with 40 CFR 280.21 regarding corrosion protection and spill and overfill prevention.
- ▶ No grants may be made to any federal or state agencies or USTs used for naphtha-type and kerosene-type jet fuel.

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- ▶ The \$300,000 for DOA and \$375,000 for ADOT for removal and replacement of USTs will be taken from the general fund and highway fund respectively, rather than from the UST fund (1995 appropriations bill).

HB 2193 - Chapter 230 - *water rights; state lands

Water rights on state lands for stockwatering, stockpond purposes, or for domestic use on a farm or ranch are issued in the name of the state except for the following circumstances:

CONDITIONS

RIGHT HOLDER

place of use is state land and
point of diversion is patented land

owner of patent

place of use is state land and
point of diversion is federal land

lessee

water right was perfected on federal land by
lessee prior to transfer to state ownership

lessee

A sever and transfer under the third situation must have the prior written consent of the State Land Commissioner, who may withhold consent if the use of state land for grazing purposes is dependent on the water right. Compensation, based on an appraisal, would be paid if a lessee was denied reasonable use of their water right because the commissioner did not consent to the sever and transfer. The compensation amount may be reviewed by the State Board of Appeals in the State Land Department (five members appointed by the Governor). Once the compensation is made, DWR is to reissue the water right to the person or entity who made the payment.

If ownership is disputed in a general adjudication, the water right is adjudicated in the name of the claimant (other than the state) only if it falls into one of the three situations described above and the Commissioner has been given an opportunity to resolve the claim. The person who first effects beneficial use is the test applied to federal land where ownership of the right is disputed in the adjudication and in situations where DWR approves an application for appropriation on federal land. A water source located on federal land that has been or may be appropriated under state law may be beneficially used on any land.

If a person filed an application with DWR and the permit or certificate was issued to the United States or the state, they may file for reissuance based on the three conditions listed above or the beneficial use test. The process is as follows: a person files a written application for a reissuance of a water right (no fee); DWR provides a notice of the application within 30 days to the state or federal agency that owns the land where the water is used and the owner of the land from where the water was diverted or stored; those receiving a notice have 45 days to file a written objection; (if there are no objections DWR has a total of 90 days to process the application); DWR would hold a hearing

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if there was a written request for one or if an objection was received; a person could appeal DWR's decision to the superior court with jurisdiction over the water right as part of the general adjudication.

If DWR approves an application for appropriation on state land, it must conform to conditions listed above. If the Commissioner and a person asserting a right stipulate ownership of the right, the agreement has to be accepted by DWR.

No person has the right to lease state land based solely upon the ownership of the water right.

Evidentiary presumptions do not apply to resolution of conflicts of prior filings between the state and a private party. Following the determination of ownership by the master of court, the evidentiary presumptions apply to the remaining attributes of the right.

HB 2196 - Chapter 231 - environmental enforcement policy

ENVIRONMENTAL NUISANCES

General:

The nuisance statute is made more explicit by stating certain conditions are nuisances to the extent they are not otherwise subject to regulation under title 49; a nuisance is defined as the creation or maintenance of a condition in the soil, air or water that causes harm to the public health or environment.

Abatement Orders:

Cease and desist orders are replaced with abatement orders with discretionary (rather than mandatory) authority given to the director to issue such an order;

- ▶ DEQ may abate the nuisance and recover reasonable costs if the person fails or refuses to comply with the order;
- ▶ the order becomes final unless an appeal is made within 30 days through the Administrative Procedures Act.

CITIZEN SUITS

I. Water Quality

Citizen suits may only be made against the director of DEQ and not against any person, this state or any political subdivision. Suits cannot be filed: 1) if the director determines that no violation has occurred or the Department has initiated an administrative enforcement action; 2) if the Attorney General or county attorney has already undertaken civil action; 3) before giving the Department and alleged violator 60 days' notice,

The court may no longer provide for injunctive relief or assess civil penalties.

II. Air Quality

This section parallels water quality.

UNDERGROUND STORAGE TANKS

Rules:

- ▶ can be no more stringent than the federal regulations.

Enforcement: a compliance order that is the subject of a hearing becomes final and subject to appeal once DEQ decides to uphold the order;

- ▶ a person becomes the subject of an enforcement proceeding when a compliance order becomes final;
- ▶ reimbursement from the UST assurance fund will be withheld for a site that is the subject of a compliance order; any reimbursement costs incurred prior to a compliance order becoming final and that are not directly associated with the subject of the compliance order remain eligible for reimbursement.

HB 2197 - Chapter 232 - environment; uniform cleanup standards

DEQ is to approve remediation levels for contaminated soil:

- ▶ Establish predetermined risk-based standards by rule for residential and nonresidential exposure assumptions; until formally adopted by rule (due August 1, 1996) interim standards shall be the DHS health-based guidance levels for total petroleum hydrocarbons as modified to reflect EPA assumptions; initial adoption of interim standards is to be effective by December 15, 1995, and they will remain in effect until the formally established rules are adopted. (They are deemed to be emergency rules, but DEQ must still provide notice and allow persons an opportunity to submit comments.)
- ▶ Issue guidance for calculating case-by-case site-specific risk-based remediation levels in accordance with accepted scientific-risk assessment.
- ▶ Residential use is use of property where there are dwellings where the residents are reasonably expected to be in frequent repeated contact with the soil, and also include child care centers and elementary schools.

If contamination remains on property at or above predetermined risk-based remediation standards for other than residential exposure assumptions or concentrations resulting in a hazard index greater than one, and remediation was for nonresidential uses, the owner must record an environmental mitigation use restriction with the county limiting the area necessary to protect the public health and the environment. The use restriction would be cancelled if the property met the standards for residential

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exposure assumptions or the risk-based hazard index was equal to or less than one. DEQ has 60 days to make the determination for cancellation. The text of the use-restriction and cancellation forms are in the statute.

A repository listing sites and other information is to be established in DEQ, and \$50,000 is appropriated in FY 1995-96 for this purpose.

An owner of property that has been subject to soil remediation must give written notice to the purchaser prior to transferring ownership if they had actual knowledge the property was remediated. This is not required if the remediation attains standards for residential uses.

HB 2198 - Chapter 233 - state hazardous air pollutants program

DEQ's adoption of the federal hazardous air pollutants program (HAP) is delayed from November 1, 1993 until after EPA issues guidance for implementation of the program. The state HAP program is delayed from November 1, 1993 to the completion of the DEQ report (due September 1, 1995) on an evaluation of risk to the public health (from the 1992 state law). Provisions in the county air statutes parallel these provisions.

A county board of supervisors shall not adopt a rule or ordinance relating to the federal HAP program until after EPA has issued its guidance.

The Motor Vehicle Division of ADOT is authorized to provide information to DEQ's contractor for the random on-road testing program for vehicle emissions.

HB 2214 - Chapter 235 - DEQ; statutory corrections

Several provisions are modified in Title 49:

- ▶ strikes duplicate provisions which appear in ARS 49-250 relating to exemptions from aquifer protection permits;
- ▶ technical correction to an error in reference to the Clean Air Act;
- ▶ changes submittal date for the state list of designated special wastes and the list of other states' special or hazardous wastes. (Laws 1994, Chapter 95 had the dates 1/1/95 and 12/1/95 respectively, and Chapter 273 had the dates as 1/1/97 and 7/1/97. HB 2214 changes those dates to 1/1/97 and 12/1/97);
- ▶ changes loan account to grant account in the UST program.

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HB 2236 - Chapter 74 - chlorofluorocarbons; permitted use

Allows for the possession, use, manufacture, purchase and installation, etc., of chlorofluorocarbons (CFCs) without the threat of punitive measures being imposed.

HB 2240 - Chapter 124 - water system plans

The law clarifies the statutory exemption for drinking water system plan review by DEQ:

- ▶ the exemption includes approval to construct;
- ▶ a registered professional engineer must seal the design if the project cost is between \$12,500 and \$50,000.

Also, a notice of compliance with any exemption conditions must be submitted to DEQ.

HB 2274 - Chapter 243 - *holistic resource management; environmental education

I. The environmental special place fund is moved from the Department of Education to the State Land Department (SLD) beginning October 1, 1996. Each Natural Resource Conservation District (NRCD) education center shall receive \$5,000 annually and the remainder shall be distributed as grants by the Arizona Advisory Council on Environmental Education (AACEE). The NRCDs are eligible for a maximum of one-half of the total fund in any given year.

II. NRCDs may request up to \$30,000 biennially through the SLD budget (previously the limit was \$10,000 annually); NRCD education centers are formally authorized by statute and may request up to \$60,000 biennially. The SLD may request audits from the NRCDs.

III. The AACEE will consist of ten (previously nine) members.

IV. The new duties of the Council will be as follows (beginning October 1, 1996):

- ▶ devise a system for evaluating funding requests from urban and rural schools and resource centers;
- ▶ award grants to be used for environmental education projects to schools, NRCDs and private organizations who have established joint research ventures with schools; the maximum grant is \$10,000; agencies or organizations who received either Game and Fish or State Parks Heritage Fund monies within the prior year are not eligible to receive these grants.

V. Environmental education (courses or programs for the general public provided by state agencies in a formal setting covering the relationship of people to their natural and artificial

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surroundings) must be based on current scientific information and include a discussion of economic and social implications.

VI. The State Land Commissioner may coordinate the development of a process using holistic resource management (HRM) planning to alleviate the need for critical habitat designations in Arizona through specific area plans and conservation agreements with the US Fish and Wildlife Service (USFWS). The SLD is the central repository for all HRM plans. If an HRM program is developed, the Commissioner is to report to the Speaker of the House, President of the Senate and Governor annually on the status of the plans and the conservation agreements with the USFWS.

HB 2431 - Chapter 293 - air quality; fireplace penalty

Maricopa County was given the authority to enact ordinances to regulate residential wood burning as one of the air quality control measures in the state implementation plan for carbon monoxide.

HB 2431 tiers penalties for those in violation of no-burn restrictions; the first violation is a warning, the second is a \$50 fine and subsequent violations are a \$100 fine. (This parallels the county ordinance.)

SB 1038 - Chapter 97 - air quality; employee information form

I. Employee Compliance with the Vehicle Emissions Program

Current law (1993, Sixth Special Session) requires all major employers (100+ employees) in the Maricopa Nonattainment Area (NAA) to notify their employees who work or attend school in the Maricopa NAA of the requirement to have their vehicle emissions tested. This law removes the requirement for employees to annually sign a form stating their compliance.

This law also requires the Motor Vehicle Division of ADOT to change their registration forms to include a statement indicating that individuals may be subject to the vehicle emission testing requirement.

II. Motor Vehicle Dealers Outside Area A

A motor vehicle dealer whose principal place of business is within 50 miles of the outer boundary of Area A (Maricopa) and who certifies to DEQ that customers who reside in Area A are its primary source of business may apply for a fleet emissions inspection station permit. This would allow them to become part of the same program as used car dealers in Area A for those vehicles required to be registered in Area A. (A customer whose vehicle failed the IM-240 test within three days of purchase can go back to the dealer for a refund, repair or other adjustment.) These dealers are also required to provide a written summary of the requirements of the vehicle emissions program.

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SB 1130 - Chapter 194 - waste tires; program revision; continuation

- ▶ The scheduled repeal of the waste tire fee and fund is extended from December 31, 1995 to December 31, 1997.
- ▶ A conditional provision would prevent Maricopa County from collecting waste tire fees and receiving subsequent monies from the waste tire fund. This would occur if the county failed to meet either of the following conditions by June 1, 1995:
 - 1) processing 100 tons of waste tire shreds per day pursuant to a contract with a private enterprise or construction and operation on its own;
 - 2) contracting for waste tire processing services pursuant to emergency authority.
- ▶ If Maricopa County satisfies either of the above conditions on or before June 1, 1995, it would continue fee collection and keep its eligibility for waste tire funds.
- ▶ If Maricopa County does not meet either condition it must repay monies to the waste tire fund it received between May 1, 1995 and the general effective date, and it would have discretionary authority to implement a waste tire program.
- ▶ If Maricopa County fails to meet either condition there are two other provisions which would become effective:
 - 1) All vehicles (sold by a manufacturer or retailer) where the cost of the tires was not listed as a separate item would pay a maximum of \$1/tire. Previously, this applied only to vehicles less than 10,000 GVW.
 - 2) The annual report to DEQ from the counties is moved from July 31 to September 1 and DEQ would provide forms to report certain information.

SB 1193 - Chapter 202 - department of environmental quality; funds

I. Solid Waste Fund

This new fund is comprised of the sources listed below.

3.5% from tire fund for monitoring/enforcement
solid waste landfill registration

private consultants expedited plan review
plan processing and review
one-half of used oil fees
special waste management plan processing
special waste management fee

Previous Fund

tire fund
WQARF

special waste
general fund
used oil management
general fund
special waste

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II. Water Quality Fund

This new fund is comprised of the sources listed below.

sewage collection, treatment, disposal; garbage	general fund
aquifer protection permit fees	WQARF
other water quality fees not related to permits	WQARF
individual APP registration based on influent/discharge	WQARF
dry well registration	general fund
potable water system plan review	general fund
inspections of on-site wastewater treatment facilities	general fund

III. Other items

- ▶ the lesser of 5% or \$250,000 from the waste tire fund may be used for tire fire clean ups if no other funds are available;
- ▶ there is to be certification and audit of self-reported fees and interest on unpaid fees;
- ▶ the maximum annual payments by mines to WQARF is repealed;
- ▶ DEQ will determine payment schedules for: used oil fees, 25 cents/ton landfill disposal fees, special waste management fees and hazardous waste fees;
- ▶ the ability to recover costs for services and publications is in the general powers and duties of the Department and the fees are deposited in the corresponding program fund;
- ▶ there is an additional use of WQARF money: compliance, monitoring, investigation and enforcement activities pertaining to hazardous waste, with the expenditure limited to the amount received in the prior fiscal year for the hazardous waste facility registration fee;
- ▶ eliminates previous limit of the greater of \$250,000 or one-half the monies in WQARF being available to political subdivisions;
- ▶ provisions are effective July 1, 1996.

SB 1212 - Chapter 203 - *heritage fund; endangered species; land disposition

The Game and Fish Commission may dispose of any lands acquired for use as habitat by endangered, threatened or candidate species when the species no longer qualifies for such listing.

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An additional stipulation would require purchasers of such sensitive habitat land to enter into an agreement with the Game and Fish Commission to adopt management practices which address the preservation of the species of concern.

SB 1212 also clarifies that Game and Fish Heritage monies designated for public access and management of sensitive habitat include maintenance and operations costs. Maintenance costs are also to be part of the 4% management expenses used by State Parks for natural areas.

SB 1249 - Chapter 210 - ADEQ; technical review privatization

Current law stipulates that all DEQ on-site wastewater treatment facilities must receive design approval and construction inspections.

SB 1249 expands the authority given to DEQ in 1994 to contract with private consultants for APP reviews by including on-site wastewater reviews and inspections in a similar program. Accordingly, private consultants could be contracted for on-site wastewater treatment facility reviews or inspections provided that the cost to the applicant would not be greater than the fee charged by DEQ. Reviews can be expedited provided that the facility owner pays DEQ for the additional costs.

SB 1318 - Chapter 261 - solid waste amendments

DEFINITION MODIFICATIONS

Inert material (modification) means material that:

- (a) is not flammable;
- (b) will not decompose;
- (c) will not leach substances in concentrations that exceed applicable aquifer water quality standards established pursuant to Section 49-223 when subjected to a water leach test that is designed to approximate natural infiltrating waters.

Inert material includes broken concrete, asphaltic pavement, brick, rock, gravel, sand and soil, but does not include special waste, glass or metal that is not contained in concrete.

Solid waste (modification): the definition of solid waste is moved to a different section (with no changes) and the exemptions are listed out based on those already exempted in the current solid waste and APP statutes; DEQ can add to this list if a substance is incapable or unlikely to cause or substantially contribute to a threat to the health or environment.

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Solid waste facility:

- (a) (modification): removes collection, source separation, transportation and transfer of solid waste;
- (b) (new): excludes a site at which less than one ton that is generated on site is stored, processed, treated or disposed as long as there are controls for: (1) wind dispersion and discharges of hazardous substances which create a public nuisance or imminent and substantial endangerment to the public health or environment; and (2) vector breeding and fire hazards.

Storage (modification): eliminates minimum 90-day holding period in lieu of a 90-day maximum.

A new definition is added for "closed solid waste facility" (which would not be considered a solid waste facility and therefore not subject to plan approval, but would be subject to best management practices): (1) ceased operation before the effective date of DEQ rules; (2) ceased receiving solid waste at certain times and under certain conditions; (3) a public composting plant or public incinerating facility that closed in accordance with the approved plan.

Expands the list of facilities which are not solid waste facilities (also not subject to plan approval but are subject to BMPs):

- (1) closed solid waste facility;
- (2) a landfill under post-closure care via an approved plan;
- (3) a closed landfill performing a one-time removal;
- (4) a temporary site for the storage of street sweeping activities;
- (5) waste generated at a water treatment facility prior to disposal at an approved solid waste facility;
- (6) a closed landfill where excavation is performed for maintenance and repair if certain conditions are met.

GROUNDWATER PROTECTION STANDARDS

Do not apply to an owner or operator of a facility (other than a municipal solid waste landfill - MSWLF) if they have submitted a complete application for an aquifer protection permit (APP) prior to submitting a solid waste facility plan.

State rules for non-MSWLF cannot have performance standards that are more stringent or conflict with federal regulations (40 CFR part 257) except for groundwater standards which are to be consistent with the APP or special waste programs; the same is true for nonprocedural standards for MSWLF (40 CFR part 258).

OTHER ITEMS

The timeframe for DEQ to provide the owner or operator of a solid waste or special waste facility a copy of the inspection report is extended from 30 to 45 days; the owner or operator of any facility which is the subject of an investigation for a violation has the opportunity to have one of its representatives accompany DEQ on the inspection and must receive a copy of the inspection report within 45 days.

Eliminates the ability of DEQ to adopt rules which are necessary or desirable to govern its procedures and business.

The ability of DEQ to adopt rules to govern its procedures is defined to be those rules which are necessary to implement its authority under Title 49 and which are consistent with those provisions;

The requirement for local governments to provide solid waste services is clarified to state it need not duplicate a service provided by a private enterprise or another political subdivision.

Clarifies rules relating to those operations which are solid waste facilities and subject to plan approval and those which are not subject to plan approval but which are subject to BMPs.

Removes the October 1, 1995, sunset on household hazardous waste collection facilities accepting used oil; requires political subdivision which accepts oil from a small business to have approval from DEQ; cannot exceed 110 gallons per month per business and all used oil must be transferred to a marketer; must keep log of the quantities and transfer used oil to a marketer.

State hazardous waste rules for nonprocedural standards cannot be more stringent or conflict with the federal regulations.

DEQ is to initiate rulemaking for financial assurance requirements within 30 days of adoption by EPA and the rules will be effective the later of EPA's effective date or publication of DEQ rules in the Arizona Administrative Register. MSWLFs operating on the date the rules become effective are required to comply with those rules.

SB 1321 - Chapter 262 - aquifer protection permits

I. The process for DEQ adopting an EPA maximum contaminant level (MCL) is changed from automatic adoption to one where the director must open a rule-making docket. If there is substantial opposition (information which explains with reasonable specificity why the MCL is not appropriate) the burden is on DEQ to prove otherwise. The agency must consider whether the EPA assumptions about technologies, costs, analytical methodologies and risk reduction are appropriate. The director is also given the ability to modify the standard if it is inappropriate for Arizona.

ENVIRONMENT

II. For purposes of assessing compliance with aquifer water quality standards for APPs and enforcement, DEQ shall identify sampling and analytical protocols appropriate for detecting and measuring the pollutant in the aquifers. Aquifer water quality protection provisions, including monitoring requirements, may be imposed only for pollutants for which standards have been established that are likely to be present in a discharge.

III. DEQ may establish compliance monitoring points in another aquifer in lieu of monitoring in the uppermost aquifer if the aquifer has no existing or reasonably foreseeable drinking water beneficial use.

IV. Another point of compliance for hazardous substances other than the pollutant management area may be approved by DEQ if the facility owner or operator can demonstrate it is inappropriate considering the likely fate or transport of a pollutant in an aquifer.

V. A general permit is issued for tanks designed, constructed operated and maintained so as not to discharge; these tanks must be inspected annually and there must be a log documenting such action.

VI. Additional categories of general permits:

- ▶ disposal in vadose zone injection wells of storm water mixed with reclaimed wastewater or groundwater or both from manmade bodies of water from golf course, parks and residential common areas that meet certain conditions;
- ▶ subsurface discharges from the same sources that meet certain conditions;
- ▶ point source discharges to waters of the United States from the same sources that meet certain standards.

VII. Exempts the following from the APP requirement:

- ▶ storage, treatment or disposal of inert material (will not leach substances in concentrations that exceed aquifer water quality standards; includes concrete, pavement, brick, rock, gravel, etc.);
- ▶ structures designed and constructed not to discharge that are built on an impermeable barrier that can be visually inspected;
- ▶ pipelines designed, constructed, operated and maintained so as not to discharge.

GOVERNMENT OPERATIONS

NED KING - CHAIRMAN

Lisa Barnes - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2020 - Chapter 159 - recall elections; schedule

HB 2020 clarifies and amends the procedures for recall elections, as follows:

- ▶ HB 2020 deletes the statutory provision making it a class 1 misdemeanor for failure to file a recall petition (including a petition that doesn't contain the minimum number of signatures for a recall election), or an affidavit stating that the petition was never circulated, within 120 days after applying for the recall petition.
- ▶ HB 2020 changes from 10 working days to 10 calendar days the period during which the receiving officer determines if a recall petition has a sufficient number of signatures prior to transmittal to the county recorder for certification.
- ▶ HB 2020 extends from 24 to 48 hours, excluding Saturdays, Sundays and other legal holidays, the notification period within which the receiving officer informs a person of the grounds on which a recall petition was filed and their right to prepare and have printed on the ballot a statement defending their official conduct.
- ▶ HB 2020 clarifies that an order calling for a recall election must be issued within 15 days of the close of the five-day period in which the person being recalled has to resign.
- ▶ HB 2020 extends the time period during which a recall election must be held from within 100 to 120 days to 75 to 120 days after a recall election is ordered.
- ▶ HB 2020 provides that if a regularly scheduled election is held within 180 days of an order for a recall election, the recall election may be held in conjunction with the regularly scheduled election.

HB 2229 - Chapter 166 - private property; zoning, platting, permitting

HB 2229 adds substantially equivalent provisions under the titles of law governing municipalities (Title 9) and counties (Title 11) to prescribe a process by which private property owners may appeal dedication or exaction requirements on approvals of the use, improvement or development of real property. The city, town or county, as appropriate, must notify the property owner of their right to appeal a dedication or exaction and provide a description of the appeal procedure.

The governing body shall not request the property owner to waive the right of appeal or trial de novo at any time during consideration of the property owner's request for the use, improvement or development of real property.

GOVERNMENT OPERATIONS

The appeal procedures do not apply to dedications or exactions required by a legislative act of a city, town or county that does not give discretion to an administrative agency or official to determine the nature or extent of the dedication or exaction being required.

Appeals shall be in writing and filed with a designated hearing officer within 30 days after a determination is made concerning a dedication or exaction. No fee shall be charged for filing an appeal.

A hearing shall be scheduled within 30 days of receiving the written appeal and the property owner must be given at least 10 days' notice of when the appeal will be heard.

Under the appeals process, if a city, town or county requires a condition before approving the use, improvement or development of real property, that government entity must prove that the dedication or exaction being required is roughly proportional to the impact of the proposed use, improvement or development of the property and that there is an essential nexus between the dedication or exaction and a legitimate governmental interest. If more than one parcel is involved, this determination applies to the entire property.

The hearing officer must decide the appeal within five working days after the hearing. If the government entity fails to meet its burden of proof, the hearing officer must modify or delete the required dedication or exaction. Within 30 days of the hearing officer's final decision, a property owner aggrieved by the decision may file a complaint for a trial de novo in the superior court on the facts and the law regarding the issues of the condition or requirement of the dedication or exaction. The court may exercise legal and equitable interim remedies that will permit the property owner to use the property subject to the dedication or exaction by that will not render moot any decision upholding the dedication or exaction. The court has the authority to award reasonable attorney fees to the prevailing party and may further award damages to compensate the property owner for direct and actual delay damages on a finding that the city or town acted in bad faith in requiring the dedication and exaction.

Appeals of exaction and dedication requirements shall have preference on the court calendar on the same basis as condemnation matters.

Additionally, HB 2229 requires the agencies or instrumentalities of any city, town or county to comply with the United States Supreme Court decisions in Dolan v. City of Tigard, Nollan v. California Coastal commission, Lucas v. South Carolina Coastal Council, and First Evangelical Lutheran Church v. County of Los Angeles and any federal or Arizona appellate decisions interpreting these cases.

HB 2229 further requires every county and every city and town with a population over 2,000 persons to submit a report to the Governor and the Legislature by November 1, 1995 outlining ordinances, rules and administrative procedures related to the enforcement of the above-mentioned Supreme Court decisions.

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Finally, HB 2229 establishes a six-member Joint Legislative Study Committee on the Constitutional Regulation of Private Real Property to review the reports submitted by cities, towns and counties and study legal and administrative procedures necessary to secure the constitutional rights of private property owners. A report of the Committee's findings and recommendations shall be submitted by December 15, 1995.

HB 2268 - Chapter 241 - statutory corrections; 1995

HB 2268 corrects multiple, defective and conflicting legislative dispositions of statutory text.

[HB 2268 is the annual statutory corrections bill that incorporates recommendations made by Legislative Council for remedying strictly technical problems resulting from legislation passed during the previous legislative session.]

HB 2319 - Chapter 143 - *governor appointments

HB 2319 provides that notwithstanding any law to the contrary, all officers appointed by the Governor after the effective date of HB 2319, including officers subject to Senate confirmation and those appointed to a fixed term, shall serve at the pleasure of the Governor who appointed them.

There are 30 exemptions, including persons appointed to fill a vacancy in an elected office, judicial officers, officers whose conditions for removal are prescribed by law, members of the Arizona court of military appeals, and members of various boards, including the Arizona Board of Regents.

HB 2370 - Chapter 95 - voter registration; law enforcement officers

HB 2370 adds a new section of law to allow Supreme Court Justices, Judges of the Court of Appeals, Superior Court Judges and Commissioners, municipal court judges and peace officers to file an affidavit requesting a court order to prevent the general public from accessing their residential address, telephone number and voting precinct number contained in their voter registration record. The affidavit must contain the person's name, their current position and duties and the reason they believe sealing their voter registration information will serve to protect them from danger to their life or safety.

Affidavits shall be filed with the presiding judge of the Superior Court in the county in which the affiant resides. [To prevent multiple filings, peace officers will submit affidavits to their commanding officer who, in turn, shall file all affidavits quarterly with the presiding judge of the Superior Court, unless a request for immediate action is supported by facts warranting early consideration.] The presiding judge shall then file a petition attached to the affidavits with the clerk of the court quarterly unless a request for immediate action is supported by facts warranting earlier consideration.

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The presiding judge shall review the petition and accompanying affidavits to determine whether a person's voter registration information should be sealed.

An order to seal the affiant's address, phone number and voting precinct number contained in their voter registration information shall be filed with the county recorder who, in turn, shall seal such information for those persons listed in the court order within 150 days of receipt of the order.

An affiant whose request is denied may request a court hearing to be conducted by the court where the petition was filed.

These provisions apply only to affidavits filed after the effective date of HB 2370 and do not require the removal, replacement or modification of any information regarding voter registrations if a court order has not been obtained.

HB 2402 - Chapter 60 - pay-in vouchers; preparation

Current law requires the heads of budget units to prepare a pay-in voucher (PIV) form when remitting money to the account of the State Treasurer. The PIV shows the amount, the source from which the money accrued and the fund into which it is paid.

PIVs are currently prepared in triplicate (or more if necessary) and distributed as follows:

- ▶ the original goes to the State Treasurer together with the remittance;
- ▶ the duplicate goes to DOA; and
- ▶ the triplicate is retained by the issuing office.

PIVs are numbered consecutively and issued to budget units by DOA. The administrative head of each budget unit is responsible for each PIV issued and recorded.

HB 2402 amends the PIV process as follows:

- ▶ References to "pay-in voucher" were changed to "treasurer's deposit."
- ▶ Treasurer's deposits will still be prepared in triplicate; however, all copies will go to the State Treasurer together with the remittance, after which time a validated copy will be returned for retention by the issuing office. DOA will no longer receive a copy.
- ▶ DOA will no longer be required to number treasurer's deposits consecutively nor record the numbers issued to each budget unit.
- ▶ Each budget unit will be accountable for each deposit (rather than for each form issued and recorded).

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HB 2421 - Chapter 168 - veterans; employment preference

Current law requires that a 10-point preference be given to any honorably separated veteran who takes an examination for state employment (or employment with a political subdivision under a merit system) if the veteran has a service-connected disability as a result of active military duty and is receiving compensation or disability retirement benefits under laws administered by the Veterans Administration, the army, navy, air force, coast guard or public health service.

HB 2421 changes the "and" to an "or" so that the preference shall be given to a veteran who has a service-connected disability or who is receiving compensation or disability retirement benefits.

HB 2424 - Chapter 169 - municipal zoning adjustments

Under current law, any person aggrieved or affected by a municipal board of adjustment's decision can file a complaint for special action in superior court. Further, in municipalities having more than 100,000 persons, a person aggrieved by a decision of the local board of adjustment, or a taxpayer, officer or department of the municipality affected by a decision of the board may file an appeal with the clerk of the legislative body within 15 days of the board's decision. The legislative body is required to hear the appeal and may affirm or reverse, in whole or in part, or modify the board's decision. [This appeals process can be in lieu of or in addition to an appeal to superior court, which is available to aggrieved or affected persons, regardless of the municipality's population.]

HB 2424 instead makes the current process of appealing to the legislative body in a municipality having more than 100,000 persons contingent on the adoption of an ordinance to provide appeal procedures to the municipality.

HB 2460 - Chapter 284 - community colleges; optional retirement plan

HB 2460 allows a community college district board to establish an optional retirement plan for employees of the college. Criteria to initiate the plan and guidelines for participation in the plan are prescribed. New employees and current participants in the Arizona State Retirement System may elect to participate in an optional retirement program if that election is made within 90 days. Employer contribution rates are established and the district board is authorized to establish the employee contribution rate.

HB 2460 requires community college district boards to establish a central administrator for the optional retirement program through intergovernmental agreements and outlines the components for administering the program.

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HB 2532 - Chapter 290 - county officers; salaries

The salaries of county officers are statutorily set through 1996. HB 2352 increases county officer salaries as follows:

For county officers in counties having a population of 200,000 or more persons:

<u>Officer</u>	<u>1995/1996</u>	<u>Effective January 1, 1997</u>
Attorney	\$75,000	\$92,000
Assessor	\$42,000	\$52,000
Recorder	\$42,000	\$52,000
Sheriff	\$65,000	\$75,000
School Superintendent	\$42,000	\$52,000
Supervisor	\$42,000	\$52,000
Treasurer	\$42,000	\$52,000

For county officers in counties having a population of less than 200,000 persons:

<u>Officer</u>	<u>1995/1996</u>	<u>Effective January 1, 1997</u>
Attorney	\$72,000	\$92,000
Assessor	\$37,500	\$47,500
Recorder	\$37,500	\$47,500
Sheriff	\$52,000	\$75,000
School Superintendent	\$37,500	\$47,500
Supervisor	\$37,500	\$47,500
Treasurer	\$37,500	\$47,500

SB 1049 - Chapter 39 - department of weights and measures

Rather than requiring that a hearing be held before the imposition of a civil penalty, SB 1049 instead provides that a person against whom a civil penalty is imposed by the Department of Weights and Measures may request a hearing to review the imposition of the penalty and provides that the hearing be conducted pursuant to the provisions of law governing adjudicative proceedings under the Administrative Procedure Act.

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SB 1053 - Chapter 80 - ASRS; investment authority

SB 1053 liberalizes the current investment limits prescribed for the Arizona State Retirement System, as follows:

- ▶ the amount of ASRS assets that may be invested in corporate stocks or equities is increased from 60% to 80%, and
- ▶ the amount of ASRS assets that may be invested in foreign securities is increased from 15% to 20%. [SB 1053 clarifies that foreign investment in securities is limited to equities.]

SB 1062 - Chapter 62 - *military airports; preservation; noise attenuation

SB 1062 declares that it is in the best interest of the economy and the general welfare of this state and of the national defense of the United States for Arizona's military airports to be protected from encroachment resulting from residential land development within specified noise contours of a military airport.

Further, SB 1062's stated purpose is to encourage the long-term preservation of the mission viability of military airports as well as protect the private property rights of property owners in the vicinity of military airports.

As such, SB 1062 does the following:

- 1) amends the article of law governing airport zoning to prescribe sound attenuation standards and public disclosure requirements;
- 2) adds a new section of law creating the Arizona Military Airport Preservation Committee;
- 3) appropriates \$9.8 million over the next three fiscal years to assist and support the mission viability of Davis-Monthan; and
- 4) appropriates \$200,000 to the Military Airport Preservation Committee to conduct engineering surveys in order to develop legal descriptions for land within the noise contours of Luke Air Base and the Marine Air Corps Station -- Yuma.

Planning and zoning compatible with military airports

Current law requires political subdivisions having territory in the vicinity of a military airport to adopt land use plans and enforce zoning regulations to assure development compatible with the high noise and accident potential generated by military airport operations.

A definition for "territory in the vicinity of a military airport" is added to refer to property located in zones based on flight patterns utilized by the respective bases, as follows:

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- ▶ Counties with populations of at least 1.2 million persons--10 miles to the north, south and west and four miles to the east from the center of the main runway of a military airport. (Luke)
- ▶ Counties with populations between 500,000 and 1.2 million persons--four miles to the northwest, one and one-half miles to the northeast and southwest perpendicular to the main runway and five miles to the southeast. (Davis-Monthan)
- ▶ Counties with populations of 500,000 or less persons--five miles to the north, south and west and 10 miles to the east of the center of the main runway of a military airport. (Marine Corps-Yuma)

Sound Attenuation Standards

Political subdivisions that have territory in the vicinity of a military airport must adopt an ordinance by July 1, 1996 to incorporate into any current or subsequent building code sound attenuation standards for property within the 65 LDN to ensure noise level reduction in the design and construction of new development or alterations for first occupancy after October 1, 1996 in order to achieve a maximum interior noise level of 45 decibels.

Political subdivisions are prohibited from adopting more stringent sound attenuation standards than those prescribed.

The prescribed sound attenuation standards do not apply to ancillary buildings used in agricultural land use.

If the floor area of a structure or project is expanded by less than 50%, the prescribed sound attenuation standards apply only to the expanded area. If the area is expanded by 50% or more, the sound attenuation standards apply to the entire structure, except for single-family homes, mobile homes, manufactured housing units, duplex dwellings or any multifamily property used for residential purposes.

When adopting sound attenuation standards, political subdivisions having 1,200,000 or more persons are to use the 1988 noise contours developed and recognized by the county's regional planning agency and counties with less than 1,200,000 persons must use the most recent AICUZ (Air Installation Compatible Use Zone) Report recognized by the military airport and political subdivisions located in the county.

Public Disclosure/Information Requirements

Any transfer of residential real property located in the vicinity of a military airport shall include a statement that the property is located in the vicinity of a military airport.

Additionally, substantially equivalent provisions are added to the sections of law governing the subdivision of lands and the sale or lease of unsubdivided lands to require that a statement be included

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in the information submitted to the State Real Estate Commissioner noting whether all or any portion of the land is located in the vicinity of a military airport.

By December 31, 1996 and every two years thereafter, the State Real Estate Department is required to compile (or have compiled) a document containing the legal descriptions of real property located in the vicinity of a military airport. The document is to be located in the county recorder's office of every county in which such real property is located.

The State Real Estate Department is further required, in conjunction with political subdivisions having territory in the vicinity of a military airport, to request that military airports provide a registry of information, including maps of military flight operations, and a list of contact persons at each military airport who are knowledgeable about the impact of military flight operations. The Department of Real Estate shall maintain the registry and make it available for public inspection. The registry shall be used to enforce the prescribed sound attenuation and public disclosure requirements.

Arizona Military Airport Preservation Committee

The Arizona Military Airport Preservation Committee is established for the purpose of encouraging the preservation of the long-term viability of military airports and protecting the private property rights of property owners in the vicinity of military airports.

The Committee, in conjunction with the State Land Department, is charged with:

- 1) making recommendations to the Legislature that will preserve the long-term viability of Arizona's military airports and protect the private property rights of property owners in the vicinity of military airports;
- 2) considering the purchase or exchange of land or development rights as a method of preserving the long-term viability of military airports and protecting the private property rights of property owners in the vicinity of a military airport;
- 3) working in consultation with political subdivisions and the Department of Commerce to encourage development that is compatible with military airports by recommending non-residential uses and other economic development strategies for property within the vicinity of a military airport, including taxation policies for property within the 65 LDN;
- 4) studying and promoting a constitutional mechanism for exchanging state trust lands with private or public lands of equal or greater value to assist in preserving Arizona's military airports;
- 5) creating a database of current ownership and purchase date of property located within the 65 LDN in the vicinity of a military airport; and
- 6) annually reporting by December 15 its progress to the Legislature in a public report.

Political subdivisions are required to notify the Committee of any proposed residential development of property located within the 65 LDN in the vicinity of a military airport.

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The Committee consists of 13 voting members, including the Governor, the Senate President, the Speaker of the House and the House and Senate minority leaders, or their designees.

The Committee is scheduled to terminate on July 1, 2005 as part of Arizona's "sunset review process."

Appropriations

The amount of \$200,000 is appropriated in FY 1995-96 from the general fund to the Military Airport Preservation Committee to conduct engineering surveys and cover related expenses to assist in the development of legal descriptions for land within the noise contours of Luke Air Base and the Marine Air Corps Station -- Yuma.

Additionally, the following amounts are appropriated from the general fund to ADOT over the next three fiscal years for use in land acquisition, land clearance, and roadway relocation to extend the runway at Davis-Monthan:

FY 1995-96 = \$2.3 million;
FY 1996-97 = \$4.3 million; and
FY 1997-98 = \$3.2 million.

ADOT shall retain all appropriated monies until the federal government makes a final determination in 1995 to continue the approximate level of personnel and activities at Davis-Monthan. If the federal government significantly reduces the current level of personnel or activities, monies appropriated revert to the general fund.

Prior to expenditure, the City of Tucson and Pima County shall match the sums appropriated and JLBC shall receive written confirmation from the federal government regarding federal expenditures for its portion of the runway extension.

All monies appropriated from the general fund are subject to review by JLBC prior to expenditure. Unexpended and unencumbered monies that remain after completion of the runway relocation (except matching monies provided by Tucson and Pima County) revert to the general fund.

SB 1065 - Chapter 12 - unclaimed money

SB 1065 amends the provisions of law governing unclaimed property and unclaimed money, as follows:

Unclaimed Property

SB 1065 authorizes lost personal property turned over to a government entity to be awarded to the finder if all of the following conditions apply:

- ▶ the property is not contraband;

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- ▶ no other disposition of the property is specifically prescribed by law;
- ▶ the property remains unclaimed for 90 days after reasonable efforts have been made to locate the owner; and
- ▶ the individual who found the property is not a government employee who found the property in the course of performing their employment duties.

Unclaimed Money

SB 1065 increases from 33.3% to 100% the finder's reward paid to individuals who turn lost money over to a state, county, city or town officer in the event the money remains unclaimed.

SB 1066 - Chapter 81 - auditor general; special audits; funding

SB 1066 amends the section of law prescribing the powers and duties of the Auditor General to require the Auditor General to perform special audits designated pursuant to law if sufficient monies have been appropriated for the completion of the audit. The Auditor General must notify the Joint Legislative Oversight Committee if appropriated monies are inadequate.

SB 1069 - Chapter 99 - flood protection districts; reduction

Statutory procedures are currently in place to add contiguous parcels to the boundaries of a flood protection district; however, no procedures are prescribed to reduce district boundaries, only to disband the district entirely.

SB 1069 prescribes substantially equivalent procedures for a flood protection district located in a county that contains four or more flood protection districts to:

- 1) transfer lands to another flood protection district; or
- 2) exclude lands from its jurisdiction, in which case excluded lands become part of the county flood control district.

SB 1069 prescribes certain conditions to be met and procedures to be followed when a flood protection district transfers lands to another flood protection district or excludes lands from its jurisdiction, as follows:

- ▶ five or more property owners in a flood protection district file a sworn petition with the district's board of directors that describes the lands affected, the desired action and the reasons for the action;
- ▶ at the time the petition is filed, an amount sufficient to cover the estimated expenses of publishing notice and holding a hearing is submitted by the petitioners to the secretary of the district;

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- ▶ all lands remaining in the flood protection district constitute a single contiguous parcel;
- ▶ the releasing flood protection district has no outstanding obligations;
- ▶ the flood protection district's board of directors adopts a resolution approving the transfer or exclusion of land after public notice is given and a hearing is held;
- ▶ in the case of a flood protection district transferring lands to another flood protection district, the receiving district adopts a resolution (after notice is given and a hearing is held) containing a legal description of the lands to be transferred and approving receipt of the land; and
- ▶ a pro rata share of monies held in reserve by the flood protection district are transferred to the receiving flood protection district or, in the case of excluded lands, to the county flood control district to be used solely for the benefit and flood protection of the transferred or excluded lands.

The transfer of lands to another flood protection district is complete upon the receiving district's resolution being recorded in the county in which the lands are located, whereas the exclusion of lands is complete upon the releasing district filing its resolution with the county recorder.

Final actions of the board of directors of a flood protection district to transfer or exclude lands may be appealed to the superior court of the county in which the affected lands are located pursuant to existing statutory provisions.

For the purposes of transferring or excluding lands, a "flood protection district" means any flood protection or flood control district organized pursuant to or prior to the enactment of the article of law governing flood protection districts but does not include a county flood control district.

SB 1106 - Chapter 37 - governor's regulatory review council; continuation

The Governor's Regulatory Review Council (GRRC) reviews and approves or rejects rules, preambles, economic, small business and consumer impact statements and summary rule packages submitted by state agencies pursuant to the rulemaking process under the Administrative Procedure Act (APA).

SB 1106 extends from July 1, 1996 to July 1, 1997, the termination date of GRRC under Arizona's "sunset review" process.

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SB 1108 - Chapter 134 [E] - ASRS; omnibus

SB 1108 makes the following changes to the statutes governing the administration of ASRS:

- ▶ Instead of being compensated for each day the ASRS Board meets, Board members will be eligible for compensation for days spent performing their duties, thereby increasing the days for which members are compensated. [ASRS Board members are presently eligible for compensation of \$50 for each day the Board meets, up to \$1,000 per fiscal year. The Board meets 12 times each year, for a total of \$600 per member. This change is likely to increase each member's compensation to the \$1,000 annual cap.]
- ▶ The term of the ASRS director is modified such that reappointment is required by the Board every year and removal of the director shall be for cause. [The director presently serves at the pleasure of the Board.]
- ▶ Accounts with less than \$1,000 and for which there has been no communication between ASRS and the member for at least three years are excluded from the definition of "inactive accounts." The remaining definition of an inactive account is one to which contributions have not been paid for at least six months.
- ▶ The length of time in which members who elect to receive credited service for a qualified leave of absence are required to remit employer and employee contributions, plus interest, for the period of the leave is extended from 180 days to five years.
- ▶ Members who purchase credited service pursuant to existing statutory authority (employment reinstatement, out-of-state service, leave of absence, military service and transferred system members), are required to remit payment in a lump sum. Payments remitted in any fiscal year may not exceed the lesser of \$30,000, 25% of the maximum compensation limit or 25% of the member's annual compensation.
- ▶ The ASRS member outreach education program currently scheduled to terminate on September 30, 1995, is continued. [The outreach education program requires a presentation on basic retirement planning to be made at least once each year in each county. The annual cost of this program is approximately \$600,000, funded from transfers from the investment account to the administration account.]
- ▶ Changes are made to the section of law prescribing benefit options for members of the "old System" who transferred to the ASRS Plan to preserve the rights of transferred System members and to conform to the IRS requirement that members be treated equally with regard to available retirement options and nondiscrimination rules related to highly compensated employees applicable on January 1, 1996. SB 1108 requires that transferred System members have until December 31, 1995, to make an

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irrevocable decision to receive System benefits under a defined contribution plan or to receive benefits under the ASRS defined benefit plan.

- ▶ The ASRS Board is required to review domestic relations orders submitted by members and to pay legitimate benefits, as applicable, pursuant to an order. Unless expressly addressed by a domestic relations order, revocable arrangements made prior to termination of a member's marriage are revoked at the time of a member's divorce or annulment. [Conforms to administrative practice.]
- ▶ The section of law authorizing the purchase of out-of-state service credit at the time of retirement for service as a teacher, professor, instructor or school administrator of a school district, community college or university was amended to allow purchase at any time. A provision was added clarifying that a person who purchases out-of-state service as a teacher, professor, instructor or school administrator cannot be receiving retirement benefits from another system for the same service period.

Additionally, the provisions of SB 1107, establishing a separate self-insured long-term disability program were incorporated in SB 1108.

The Arizona State Retirement System is currently at risk of losing its designation as a qualified plan under the IRS because there is the potential for benefits received under ASRS's Long Term Disability program to exceed retirement benefits. Available options to remedy this situation include reducing LTD benefits or adopting a separate self-insured program while maintaining current LTD benefits.

As such, a separate self-insured long-term disability program is established under ASRS while maintaining existing benefit levels. Effective October 1, 1995, all members in the current LTD program are transferred to the separate self-insured program.

Unlike the current program which is administered by an insurance company, ASRS's Board is required to administer the new LTD program and is authorized to contract for services.

Beginning July 1, 1996, the cost of providing long-term disability benefits and of administering the program shall be shared equally between employees and employers who shall make contributions based on a percentage of employee compensation.

- ▶ For FY 1995-1996, the retirement contribution rate is set at 3.36% and a separate LTD contribution rate is set at .49%
- ▶ Thereafter, ASRS's Board shall annually determine the necessary contribution rates in consultation with its actuary.

Employee contributions for the LTD program are not refundable and shall not be included in the survivor benefit calculation.

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SB 1109 - Chapter 32 [E] - ASRS statutes; technical rewrite

SB 1109 recodifies the provisions of law dealing with Social Security for public employees and the Arizona State Retirement System (ASRS) in an effort to eliminate obsolete statutory references and language, more logically reorganize existing law and technically clarify statutory inconsistencies and incomplete specifications.

Specifically, SB 1109 does the following:

- ▶ eliminates obsolete language relating to Social Security for public employees and updates the corresponding references;
- ▶ consolidates the ASRS statutes into a single article and eliminates statutory references to the old defined contribution retirement program ("the System");
- ▶ adds retirement definitions to eliminate confusion between System and Plan terminology and to conform to administrative usage;
- ▶ eliminates ASRS statutory inconsistencies in the definition of "average monthly compensation";
- ▶ for the purpose of determining retirement benefits, specifies that if salary or wages directed to be paid by a court order, compromise settlement or agreement is less than the actual salary or wages that would have been paid, "compensation" is the amount that would have been paid;
- ▶ specifies the authority of the ASRS director to appoint a deputy;
- ▶ specifies that the ASRS depository is established by the Board;
- ▶ replaces a random statutory reference with the Board's authority to prescribe employer payment delinquency dates;
- ▶ specifies that applicable post-retirement increases are included when an annuity adjustment is made to accommodate the naming of a different contingent annuitant under the joint and survivor retirement option;
- ▶ for practical administration, incorporates references to members submitting retirement applications to ASRS;
- ▶ contains a savings clause regarding the rights of members of the State Highway Patrol Retirement System and the Arizona State Retirement System; and

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- requires ASRS to maintain the beneficiary longevity reserve account for continuing benefits to retired System members.

SB 1115 - Chapter 13 - veterans' service commission; membership; duties

SB 1115 modifies the statutes governing the Veterans' Service Commission, as follows:

Veterans' Service Commission membership

SB 1115 increases the Veterans' Service Commission membership from five to seven persons, limits members to serving no more than two consecutive three-year terms, expands the qualifications for membership to include members of veterans' organizations recognized as actively involved in supporting veterans' programs, and increases from one to two the number of Commission members who can be from the same veterans' organization.

Additionally, SB 1115 specifies that at the Commission's first meeting held after July 1 of each year, a chairperson and vice-chairperson shall be selected and the director of Veterans' Affairs shall serve as the executive secretary. The Commission is required to meet on the call of the chairperson and at least once every three months, and no actions may be taken without a quorum present.

Powers and Duties

SB 1115 repeals and rewrites the section of law prescribing the powers and duties of the Veterans' Service Commission. Existing provisions are incorporated (either verbatim or similarly), with the following exceptions:

- the statutory provisions requiring the Commission to provide emergency relief for veterans and their dependents was eliminated; and
- the authority to conduct administrative reviews and, if possible, correct abuses or prevent exploitation of veterans and their families or dependents and recommend corrective legislation was added.

Veterans' Home

SB 1115 requires the Veterans' Service Commission to operate and maintain the Veterans' Home as a self-supporting facility in which to provide long-term care services and skilled nursing care to veterans and their spouses.

The Commission shall establish eligibility guidelines for admission and fees to be paid by residents in order to qualify the Veterans' Home to receive federal financial assistance.

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SB 1132 - Chapter 135 - EORP; retired members; pension eligibility

Current law provides that if a retired member of the Elected Officials' Retirement Plan subsequently becomes an elected official, they continue to receive their pension amount while holding office. They do not, however, make retirement contributions nor does credited service accrue.

SB 1132 instead provides that if a retired member of EORP subsequently becomes an elected official to the same office from which they retired, they will not receive their pension income, retirement contributions will not be made nor will service accrue during their term of office. When they cease to hold office, they will receive the same pension they were previously receiving. [Therefore, if a retired member of EORP is subsequently elected to a different office from which they retired, they would still receive their pension while holding office, however contributions would not be made nor would credited service accrue.]

These provisions do not prohibit a retired judge called by the Supreme Court to active duties of a judge from continuing to receive retirement benefits.

SB 1141 - Chapter 195 - improvement districts; inclusion of territory

SB 1141 authorizes the governing body of a municipality to adopt a resolution adding adjacent territory to municipal improvement districts formed to provide for the operation, maintenance, repair and improvement of pedestrian malls, parkways and off-street parking facilities if the following conditions are met:

- ▶ improvements that meet the standards and specifications established by the improvement district's governing body have been constructed in the territory and will be used for the purposes of the district;
- ▶ any required public dedications of property have been made or will be made prior to inclusion of the territory in the district;
- ▶ inclusion of the territory will not adversely affect the district; and
- ▶ public notification requirements are complied with and a public hearing is held to consider inclusion of the territory. [Public notification requirements include publication in five consecutive issues of a daily newspaper or two consecutive issues of a weekly or semiweekly newspaper of general circulation published in the affected municipality. Further, notice and a map designating the new territory to be included must be sent by first class mail to each affected property owner that is currently or would be subject to taxation upon the inclusion of new territory. Notice is to be sent at least 10 days before a hearing is held to add new territory. Within 30 days of a request by the district, the county assessor and DOR shall furnish the district with a list of the names and addresses of all affected property owners.]

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New territory shall not be added to the district if a majority of the property owners within either the original district or the adjacent territory file written objections to the inclusion of new territory.

Within 10 days of adoption, a resolution adding adjacent territory must be filed in the county recorder's office in such a way as to give notice of the inclusion of the territory to all property owners in the district.

SB 1146 - Chapter 85 - ASRS; eligibility; temporary legislative employees

Under current law, temporary legislative employees (those who work less than six months) are ineligible from participating in the Arizona State Retirement System. If, however, a temporary legislative employee remains employed beyond six consecutive months, they are required to establish membership in ASRS retroactive to the start of the six-month period of temporary employment. The employer is then required to contribute the amount both the employee and employer would have otherwise contributed if the employee had been a member of the plan for the initial six-month period.

SB 1146 allows legislative employees hired on a temporary basis who continue employment beyond six consecutive months the option of either:

- 1) receiving credit for service for the temporary period of employment by establishing membership in ASRS retroactive to the start of the six-month temporary-employment period, in which case both the employee and employer are required to contribute within 45 days an amount that otherwise would have been contributed if the employee had been a member during the six-month period; or
- 2) becoming a member of ASRS on the day following the end of the six-month temporary-employment period.

SB 1156 - Chapter 14 [E] - procurements; aggregate amounts; extension

In 1993, the Legislature increased until July 1, 1995, the applicability of the formal bidding procedures under the State Procurement Code from \$10,000 to \$25,000. That is, until July 1995, procurements above \$25,000 would follow formal bidding procedures prescribed in statute, and procurements \$25,000 or below would follow informal bidding procedures promulgated by the Department of Administration.

The legislation further required DOA to adopt rules establishing minimum notification requirements for any procurement with an aggregate amount exceeding \$10,000 but less than \$25,000. Rules to establish the notification process for procurements between \$10,000 and \$25,000 were formally adopted in July 1994, but have not been widely implemented due to a number of reasons. The notification process is commonly referred to as "Fax-on-Demand," and allows interested parties to call a centralized phone number and download contract information to a fax machine through the use

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of a voice- menu system. While specifically required for procurements exceeding \$10,000 but less than \$25,000, the applicability of Fax-on-Demand can be extended to all procurements. [The Legislature also required that procurements under \$10,000 be restricted, where practicable, to being awarded to small businesses. This provision does not expire on June 30, 1995.]

SB 1156 extends from July 1, 1995 to July 1, 1997, the applicability of formal solicitation procedures under the State Procurement Code to procurements above \$25,000. [That is, SB 1156 keeps current law in existence until 1997.]

SB 1184 - Chapter 171 - state lottery commission membership; games

SB 1184 amends the statutes governing the Arizona State Lottery, as follows:

- ▶ SB 1184 removes the requirement that the State Lottery Commission have a Security and Licensing Division under the supervision of an assistant director who shall have at least 10 years' experience as a law enforcement officer. Instead, the Lottery Commission is required to maintain operations responsible for security and the Lottery director is required to appoint a security officer to supervise the security operations of the Commission.
- ▶ The Lottery Commission currently consists of five members, appointed by the Governor, to oversee the operation of the State Lottery. At least two of the members have a minimum of five years' experience in law enforcement and at least one of the members has at least five years' experience as a CPA. SB 1184 replaces one of the two law enforcement members with a member who has a minimum of five years' experience in either marketing or advertising, or both.
- ▶ The prohibition against the State Lottery conducting any game using the theme of bingo is deleted.
- ▶ The requirement that Lottery drawings be witnessed by an independent CPA is replaced with the requirement that noncomputerized on-line game drawings be witnessed by an independent observer.
- ▶ The provision requiring that all drawings be held in public is changed to require all drawings be open to the public.
- ▶ SB 1184 authorizes the State Lottery to change the payout ratios on individual games while maintaining the prescribed 50% payout required by statute.

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SB 1221 - Chapter 205 - *corrections officers retirement plan

SB 1221 creates a 14-member joint legislative study committee to conduct a comprehensive review of retirement benefits and establish guidelines for analyzing future retirement enhancements under the four state retirement systems. Specifically, the study committee is required to recommend areas in which the benefits and other provisions under each of the four state retirement systems should be equalized and determine those areas where differences are justified. In so doing, the study committee shall consider:

- ▶ retiree health insurance premium subsidy amounts;
- ▶ minimum benefit amounts;
- ▶ normal and early retirement qualifications;
- ▶ post-retirement benefit increases;
- ▶ benefit calculation formulas; and
- ▶ transfer provisions.

The study committee shall also look at:

- ▶ the policy of providing "tax-equity" benefit increases in response to the taxation of pension income;
- ▶ whether the State of Arizona should consider establishing defined contribution plans; and
- ▶ the policy of providing early retirement incentives ("windows").

The study committee is to issue a final report of its findings and recommendations by October 31, 1995.

SB 1221 also makes the following changes to the four state retirement systems:

Arizona State Retirement System (ASRS)

- ▶ The determination of post-retirement benefit increases under ASRS is modified so that the aggregate amount of benefit increases shall be determined using the change in the full CPI (rather than one-half of the CPI) or 3%, whichever is less.

Corrections Officer Retirement Plan (CORP)

- ▶ The "Rule of 80" is added as a method of achieving normal retirement. (The "Rule of 80" refers to the time at which a member's age and years of credited service total 80.)
- ▶ Technical, conforming and clarifying changes are made.

Public Safety Personnel Retirement System (PSPRS)

- ▶ A "tax equity" benefit adjustment of 2% is extended to members who retire(d) between October 30, 1992 and November 1, 1995 and effective January 1, 1996, the statutory provision establishing a "tax equity" benefit adjustment for PSPRS retirees is repealed.

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- ▶ The exception to normal retirement requirements enacted last year for members subject to a federally mandated retirement date are extended from March 1, 1997 to May 1, 2003.
- ▶ Membership eligibility is expanded to include Department of Liquor License and Control investigators who are certified peace officers.
- ▶ Technical, conforming and clarifying amendments are made.

Elected Officials' Retirement Plan (EORP)

- ▶ Members are authorized to "buy-back" at the actuarially determined rate up to 48 months of military service that is not on account with another retirement system.

SB 1235 - Chapter 208 - *cross-culverts; underground facilities

Current law requires owners of underground facilities, such as fiber optic wires, natural gas lines and sewage pipes, to file location information with the Arizona Corporation Commission and establish membership with a one-call notification center to provide advance notification of excavations to all underground facilities owners. Persons excavating in an area where underground facilities are located are required to notify the center which in turn notifies facility owners of the excavation who are required to locate and mark their facilities within two days.

SB 1235 excludes cross-culverts or similar roadway drainage facilities and landscape irrigation systems of one inch or less located in dedicated public rights-of-way or a state highway from the definition of "underground facility." As such, the owners of cross-culverts or similar drainage facilities and landscape irrigation systems of one inch or less located in dedicated public rights-of-way or a state highway are exempt from the locating and marking requirements prior to the excavation of an underground facility.

"Cross-culverts or similar roadway drainage facilities" is defined as transverse drainage structures where both ends or openings are visible, including box culverts, drainage pipes or other covered structures.

SB 1235 also extends the time period for which markings of underground facilities are valid from five working days for nonpermanent surfaces and 10 working days for permanent surfaces to 15 days for all surfaces.

SB 1258 - Chapter 246 - telecommunications office; studies; appropriation

SB 1258 establishes a Governor's Telecommunications Policy Office for the purpose of providing comprehensive oversight and development of communications in Arizona and creates an interim Joint Legislative Study Committee on Competitive Telecommunications Services to review the methods by which the State can assist in the transition to a competitive telecommunications marketplace.

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Telecommunications Policy Office (TPO)

SB 1258 establishes the Governor's Telecommunications Policy Office to do the following:

- ▶ establish and coordinate a statewide telecommunications policy, including telemedicine;
- ▶ coordinate public and private industries to address shared telecommunications issues;
- ▶ assist in the development of plans for public and private telecommunications systems, including telemedicine;
- ▶ study, evaluate and advise the Governor, the Legislature and other public and private agencies on telecommunications and telemedicine policy, services, systems and procurement practices;
- ▶ assist in the development of telecommunications and telemedicine legislation;
- ▶ coordinate telecommunications grant requests to the federal government;
- ▶ support national information infrastructure telecommunications proposals;
- ▶ serve as an information clearinghouse for the public and private sectors about innovative telecommunications projects and telemedicine programs and demonstrations;
- ▶ advocate economic development, state agency and higher education concerns in proceedings before the Arizona Corporation Commission; and
- ▶ coordinate economic development and NAFTA issues relating to telecommunications.

The TPO is additionally required to: 1) adopt rules, employ necessary staff, contract with outside advisors, consultants and aides as necessary, make contracts and incur obligations within the general scope of its activities subject to the availability of monies; 2) contract with or assist other government entities; 3) accept, spend and account for grants and monies from public and private sources and other grants of money or property; and 4) contract and enter into interagency and intergovernmental agreements with any private party or public agency pursuant to law.

TPO's director shall be appointed by the Governor, subject to Senate confirmation, and serves at the pleasure of the Governor. He is eligible to receive compensation pursuant to law.

The TPO is added to the July 1, 2000, sunset schedule for termination.

SB 1258 makes two appropriations from the general fund in FY 1995-1996 to the Governor for the TPO, as follows:

- ▶ the sum of \$252,900 to establish and operate the Telecommunications Policy Office; and
- ▶ the sum of \$25,000 to contract for a study on the need for a statewide universal telephone service program to ensure that basic telephone service is available at reasonable cost in all areas of the state. The study shall look at the following:
 - inter-industry subsidies;

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- the need for additional telephone service carriers outside of the regulated carrier environment;
- the service, product and cost implications of universal telephone service; and
- other related issues.

A report of the study and recommendations shall be submitted to the Governor, the Senate President and House Speaker by December 1, 1995

Joint Legislative Study Committee

SB 1258 creates the Joint Legislative Study Committee on Competitive Telecommunications Services consisting of six legislators and the ACC's chairman or his designee who shall serve as an advisory member. The Committee is charged with analyzing ways in which to encourage new telecommunications entry, maintain a fair competitive telecommunications marketplace and provide safeguards to assure end-user protections. For example, the Committee shall study ways in which to:

- ▶ lessen government regulations on dominant telecommunications carriers;
- ▶ minimize procedural obstacles, administrative and regulatory filing requirements and regulatory oversight;
- ▶ look at the terms and conditions by which state and local governments grant rights-of-way to providers in the telecommunications industry;
- ▶ reduce the property tax rate disparity between telecommunication carriers in a competitive marketplace; and
- ▶ address concerns about disparities in the manner in which telecommunications providers are given access to commercial buildings.

The Committee shall also look the laws pertaining to theft of utility services, privacy protection and other related telecommunications issues.

The Committee shall submit a report of its findings and recommendations to the Governor, the Senate President and House Speaker by December 31, 1995.

SB 1282 - Chapter 149 - state promotional monies

Current law authorizes the Governor, the Senate President or the Speaker of the House to accept and expend public and private gifts, grants, donations or monies for the purpose of promoting the interests of the state or to promote and encourage citizen public service.

SB 1282 prescribes that state promotional monies be deposited with the State Treasurer into separate fund accounts according to the specified source and intended purpose of each fund. Public and private monies shall not be commingled in any promotional fund account.

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DOA is required to issue warrants for disbursements from any state promotional fund account on receipt of vouchers that properly establish the nature of the disbursement and are signed by persons authorized to approve expenditures from the fund.

SB 1282 exempts the expenditure of private monies in a state promotional fund account from statutory restrictions on the expenditure of public monies.

Expenditures from state promotional fund accounts are to be consistent with the intended purpose of the fund and meet all terms and conditions under which the monies were received.

By January 1 of each year, the person authorized to approve expenditures from state promotional fund accounts must submit a written report to the Governor and the Legislature listing the names of all contributors to and expenditures from such accounts. The report shall be considered a public record.

SB 1312 - Chapter 91 - *state trust lands; intergovernmental agreement

SB 1312 requires the Arizona State Land Department, Arizona State Museum and State Historic Preservation Office to enter into an intergovernmental agreement to determine the most efficient and effective procedures for reviewing proposed sales, leases and other permitted uses of state trust land for compliance with state laws governing archeological discoveries and historic preservation.

The intergovernmental agreement is required to be signed by the chief administrator of each agency on or before September 15, 1995.

SB 1312 also establishes an interim study committee, until December 31, 1995, to study interagency review of proposed sales, leases and other permitted uses of state trust land for compliance with state laws governing archeological discoveries and historic preservation.

Technical assistance to the committee shall be provided by the assistant attorneys general assigned to the Arizona State Museum, State Land Department and State Historic Preservation Office.

The committee is required to prepare a report recommending measures to improve the efficiency and effectiveness of the process of reviewing cultural resource compliance on state trust land. The report shall be delivered to the Governor, the Speaker of the House and the President of the Senate on or before December 15, 1995.

SB 1362 - Chapter 45 - veterans' trust fund

ADOT currently charges an additional \$25 for the issuance of original and the renewal of veteran special plates, of which \$17 is deposited in the State Home for Veterans Trust Fund. The Fund is administered by the Veterans' Service Commission and was established to provide revenue to aid in

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the operation and maintenance of a state veterans' home. The Arizona Veterans' Home is currently under construction with completion anticipated in early September 1995.

SB 1362 requires the Veterans' Service Commission to deposit monies generated by operating the Arizona Veterans' Home in the State Home for Veterans Trust Fund.

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SUSAN GERARD - CHAIRMAN

Shirley Anderson - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2009 - Chapter 211 - *pharmacy board

HB 2009 makes numerous substantive and conforming changes to the State Board of Pharmacy statutes, including establishing the regulation of suppliers and distributors of compressed medical gases. The Board of Nursing is allowed to adopt rules in consultation with the Allopathic Board of Medical Examiners, the Board of Osteopathic Examiners in Medicine and Surgery and the Board of Pharmacy pertaining to the prescription and dispensing of drugs by registered nurse practitioners. HB 2009 adds the Joint Board on the Regulation of Physician Assistants to the list of professional boards that notify the Board of Pharmacy of any modification in prescription writing privileges of its members.

HB 2009 adds four definitions to the code relating to medical gases. Compressed medical gases means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled according to federal law. Compressed medical gas distributor means a person registered by the Board to distribute compressed medical gases according to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases. Compressed medical gas order means an order for compressed medical gases that is issued by a medical practitioner. Compressed medical gas supplier means a person who holds a current permit issued by the Board to supply compressed medical gases pursuant to a compressed medical gases order and only to the consumer or the patient. The term nonprescription drug replaces the obsolete term patent or proprietary medicines.

HB 2009 amends the Schedule I drug list by adding the drug 4-Bromo-2, 5-dimethoxyphenethylamine and amends the Schedule II list by redefining the term anabolic steroid to mean a growth-promoting drug or hormonal substance that is chemically or pharmacologically related to testosterone, other than estrogens, progestins and corticosteroid that promote growth.

The bill modifies the definition of generic equivalent by specifying that a generic equivalent or generically equivalent does not include a drug listed by the federal Food and Drug Administration as having unresolved bioequivalence concerns according to the Administration's most recent publication of approved drug products with therapeutic equivalence evaluations.

HB 2009 clarifies that a pharmacist preceptor who supervises a pharmacy intern or a graduate intern shall meet Board qualifications. Additionally, the bill requires employers to verify that a person be licensed as a pharmacy intern before the employer allows that person to act as a pharmacy intern. HB 2009 provides that the executive director shall issue the license to a pharmacy intern.

The month in which a licensee shall biannually renew his license is changed from July 1, to November 1. A provision is added to the statute clarifies that the Board may allocate an amount not to exceed \$20 from each fee collected from biennial license renewals for the operation of the substance abuse treatment and rehabilitation program for pharmacists and interns. The Board is given the authority to deny a license of a pharmacist, pharmacy intern or graduate intern under specified circumstance.

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Compressed medical gas distributors and suppliers must apply for biennial permits from the Board but the Board is prohibited from charging a fee.

HB 2009 states that when a provider prescribes a substitution over a brand-name drug, the pharmacist shall note on the prescription and include on the label of the container the name of the dispensed drug and the name of the manufacturer or distributor of the dispensed generic equivalent drug or abbreviations. The pharmacist may place on the container the name of the drug dispensed followed by the words "generic equivalent for" followed by a brand or trade name of a product that meets statutory requirements.

The bill also clarifies that if a pharmacy permanently discontinues operation the permittee shall immediately surrender the permit to operate to the executive director of the Board, and shall remove all drug signs and symbols and destroy all drugs, devices, poisons and hazardous substances. Furthermore, a change is added to Category I nonprescription drug permit to allow the holder to stock 30 different nonprescription drugs or less and stipulates that permittees stocking more than 30 different nonprescription drugs be classified as Category II dealers.

HB 2022 - Chapter 67 - health care institutions; disclosure; variances

HB 2022 authorizes the Department of Health Services to release information and records kept by the Department to an officer of the court and to a department or agency if the information is pertinent to an investigation or proceeding. The bill stipulates that the recipient of such information shall keep the patient and source name confidential.

Additionally, the bill authorizes residents of hospices to be eligible for a variance.

The bill removes the requirement that an adult care home operator must supply to the Department a list of their residents, their Social Security numbers and their birth dates.

HB 2023 - Chapter 116 [E] - emergency medical services; rates; transportation

HB 2023 amends statutes relating to the transportation of emergency medical services by modifying ambulance service regulations and extends the termination date of the Division of Emergency Medical Services within the Department of Health Services (DHS).

HB 2023 specifies that in order to be an ambulance attendant, a nurse must meet the state Board of Nursing criteria to care for patients in the prehospital-care system or have the primary responsibility of caring for a patient in an ambulance during an interfacility transport.

HB 2023 authorizes the director of DHS to deny license certification and recertification of emergency medical technicians and ambulance attendants. The bill also allows emergency medical technician certification or recertification testing to be administered by DHS, representatives appointed by the

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director of DHS in consultation with the director of Emergency Medical Services or a testing facility approved by the director of DHS. DHS is permitted to authorize testing entities to collect fees as required by the National Registry of Emergency Medical Technicians.

The Emergency Medical Services Council is added to the list of groups that the director of DHS shall consult with when establishing protocols governing emergency medical services. The director is allowed to consult with the Emergency Medical Services Council when developing training criteria to implement an established protocol; the development of training criteria is exempt from the rule-making process.

HB 2023 specifies that ambulance services transporting a patient from a hospital within its certificated area to a hospital outside the certificated area, are only required to transport the patient under medical direction to the nearest appropriate facility as defined by federal Medicare guidelines. This provision does not apply to any patient transport initiated or undertaken pursuant to the federal Emergency Medical Treatment and Active Labor Act. The director is required to adopt rules regulating charges for advanced life-support service, basic life-support service, patient loaded mileage and standby waiting services. Charges for disposable supplies, medical supplies, medications and oxygen-related costs shall be set by the ambulance service and filed with the director; these charges shall be uniform through the ambulance service's certificated area and shall not exceed the manufacturer's suggested retail price.

HB 2023 deletes the Department's ability to investigate an ambulance service's financial records after giving a service one working day's notice and stipulates that a service's records, books and other data shall be open to inspection during regular business hours if the Department is conducting an investigation. DHS is required to accept certified audits as long as they are prepared by an independent auditor and if the audit is paid for by the provider and meets specified requirements.

The bill specifies that any prehospital medical care directive prepared before April 24, 1994, is valid if it was valid at the time it was prepared.

HB 2023 allows for the continuation of the Division of Emergency Medical Services until July 1, 2005. The Division was scheduled to terminate on July 1, 1995. The division is responsible for coordinating, establishing and administering a statewide system of emergency medical services, trauma care services and trauma registry services.

HB 2045 - Chapter 212 - board of medical examiners

HB 2045 amends the Allopathic Board of Medical Examiner's practice act and extends the Board's termination date.

HB 2045 expands the definition section and the unprofessional conduct provisions. The bill adds the definition letter of reprimand; a letter of reprimand is a disciplinary action used to inform the physician that the physician's conduct violates the law but does not require the Board to restrict the license or

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monitor the physician because the physician's conduct did not harm a patient or the public. Additionally, the bill adds a provision stating that it is unprofessional conduct for a licensee who is the chief executive officer, the medical director or the medical chief of staff of a health care institution to fail to report to the Board that the hospital privileges of a doctor have been denied, revoked, suspended, supervised or limited.

Board Composition, Functions and Duties

HB 2275 alters the composition of the Board of Medical Examiners by adding a third member from the public and eliminates the membership of one of the nine physicians.

The provision that the Board shall hold special Board meetings on Saturdays is eliminated; instead, the Board is allowed to hold special meetings on any day of the week.

HB 2045 allows the Board to issue a pro bono registration to an unlicensed doctor so that the practitioner may provide services free for a period of 60 days per year. The practitioner shall also comply with the following stipulations:

- ▶ have an active and unrestricted license or an inactive license;
- ▶ have never had the license revoked or suspended;
- ▶ is not the subject of an unresolved complaint;
- ▶ apply for registration on a yearly basis;
- ▶ satisfies the Board that the educational criteria have been met.

HB 2045 allows the Board to divide into two committees if a backlog of complaints exists. The committees are authorized to review complaints, and may take the following actions:

- ▶ dismiss the complaint without merit;
- ▶ issue a letter of concern;
- ▶ issue a letter of reprimand;
- ▶ refer the matter to the full Board for review.

The Board is permitted to establish a confidential substance abuse program for the treatment and rehabilitation of doctors and physician assistants.

The Board is required to submit a complaint processing report to the health committee of reference by October 1, 1995. The report shall establish the following:

- ▶ a policy which classifies and ranks complaints by severity;
- ▶ written guidelines by which the executive director may dismiss complaints without merit;
- ▶ written guidelines for imposing sanctions on licensees;
- ▶ a standardized method by which to survey the Board's handling of a complaint;
- ▶ written guidelines that describe the notification process of affected parties regarding complaint resolutions.

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HB 2045 eliminates the requirement that insurers providing liability insurance to a licensed physician shall report to the Board any written or oral claim or action for damages for personal injury.

Licensure

HB 2045 provides an alternative test combination to be used for persons applying for state licensure. The bill also allows an applicant to take the licensure examination after six months instead of nine months of approved hospital internship, residency or clinical fellowship or fifth-pathway program or has served as a full-time assistant professor or in a higher position in a Board-approved school of medicine in this state.

The Board may grant a person a training permit under special circumstances; the permit limits the permittee to practicing only in the supervised setting of that program. The bill eliminates the requirement that in order to receive a six-month training permit the person must verify that he is a senior resident in a training program in a foreign country or a doctor of medicine in that country and extends the training permit period from six months to one year.

The Board is given the authority to return a license renewal fee upon special request.

An applicant certified or recertified by a specialty board that is recognized by the American Board of Medical Specialties is exempt from taking the special purpose licensing examination provided that the applicant is currently a full-time instructor in an accredited residency teaching program or is in full-time practice with current continuing medical education credits. A physician who is licensed under this exemption shall not practice outside of that specialty. This provision is repealed from and after November 1, 1998.

HB 2045 eliminates current statute which allows the name of a person reporting information or filing a complaint against a licensee to remain anonymous. HB 2045 limits anonymity to only those persons reporting information or filing a complaint regarding a physician's drug or alcohol impairment.

A clarifying provision is added stipulating that a biological fluid test may be part of a physical exam required of a physician as part of an investigation.

Board Continuation

Under current statute, the Board is scheduled to terminate on July 1, 1995. HB 2045 extends the date of termination to July 1, 1998. The purpose of the Board of Medical Examiners is to protect the public health and safety through regulation of the profession.

HB 2085 - Chapter 46 - HIV testing

HB 2085 amends the current statute regarding consent to HIV testing.

HB 2085 provides that a health care provider must obtain specific written informed consent from the patient prior to ordering an HIV-related test within a hospital, and must obtain specific oral or written

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consent in ordering an HIV-related test as part of the patient's examination conducted outside a hospital. If the patient is unable to consent, a person authorized to consent to health care for that person shall do so. Oral consent shall be documented in the medical record of the subject of the test. Further, if the test is performed on an anonymous basis, the consent shall be oral.

HB 2085 specifies that informed consent of a patient must include an explanation of the following by the health care provider:

- ▶ the test including its purpose, the meaning of its results, and the benefits of early diagnosis and intervention;
- ▶ the nature of AIDS and HIV-related illness and information about behaviors known to pose risks for the transmission of the HIV infection;
- ▶ the confidentiality protections afforded HIV-related information;
- ▶ an HIV-related test is voluntary and can be performed anonymously at a public health agency;
- ▶ a positive test result must be reported to a public health agency as required by law;
- ▶ the consent for the test may be withdrawn at any time prior to drawing the sample for the test, and the withdrawal of consent may be given orally if the consent was given orally, or shall be in writing if the consent was given in writing.

The director of DHS is required to provide to all health care providers a form which contains the list of informed consent explanations. If the health care provider uses oral consent, the provider shall sign and return the form to the director.

HB 2086 - Chapter 215 - perinatal substance abuse; advisory council

HB 2086 establishes an Advisory Council on Perinatal Substance Abuse. The Council is made up 17 members consisting of legislators, agency representatives, health care professionals, lay person and a judge and prosecutor. The Council is required to develop and coordinate a statewide strategy for addressing substance abuse by women during or after pregnancy. The strategy shall include a comprehensive prevention, identification, treatment and case-management plan that is based on a multi-disciplinary interagency approach at the state and local level. The Council shall provide a report consisting of recommendations for implementing this strategy to the Governor, the President of the Senate and the Speaker of the House on or before December 31, 1995.

The Council is repealed after December 31, 1995.

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HB 2090 - Chapter 53 - county hospitals; facilities; integrated licensure

HB 2090 amends statute relating to health care institutions. The bill allows accredited hospitals located separately from the main hospital facility, in counties with populations over 1,000,000 persons, to receive a single license if they meet or exceed the Department's licensure requirements. If the hospital complies with applicable requirements, the Department shall reissue individual licenses for each hospital facility. This bill does not limit the inspection of health care institutions or licensing standards, nor does it apply to nursing care institutions or residential care institutions.

HB 2091 - Chapter 179 - medical services enhancement fund

HB 2091 increases from 11% to 13% the surcharge on all criminal offenses, civil sanctions and ordinance violations, which surcharge fee shall be placed in the medical services enhancement fund. Beginning September 1, 1995, monies in this fund are to be distributed as follows:

- ▶ 14.2% to the alcohol abuse treatment fund;
- ▶ 48.9% to the emergency services operating fund;
- ▶ 22.2% to the spinal and head injuries trust fund;
- ▶ 9.4% to the Department of Health Services for alcohol and drug abuse services;
- ▶ 5.5% to the general fund.

HB 2093 - Chapter 73 - chronic disease surveillance system; liability

HB 2093 allows persons and organizations to use surveillance data collected by the surveillance system to study the sources and cases of cancer, birth defects and other chronic disease and to evaluate the cost, quality, efficacy and appropriateness of diagnostic therapeutic, rehabilitative and preventive services and programs related to cancer, birth defects and other chronic diseases.

Persons who provide a case report to the surveillance system or who use case information from the system are not subject to civil liability.

The bill allows for the continuation of the Arizona Communicable Disease Advisory Council. The purpose of the Council is to review emergency measures for detecting, reporting, preventing and controlling new communicable or infectious diseases or conditions. Under current statute, the Council is scheduled to terminate on July 1, 1994. The bill extends the date of termination to July 1, 2000.

HB 2097 - Chapter 119 - dental board

HB 2087 amends the Dental Board practice act and requires the Board to submit a complaint processing report to the Legislature.

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HB 2097 modifies the definition of "unprofessional conduct" with the addition of several offenses which include the following:

- ▶ failing to comply with a final Board order, including an order of censure or probation;
- ▶ failing to comply with a Board subpoena in a timely manner;
- ▶ failing or refusing to maintain adequate patient records;
- ▶ failing to allow an examination of and access to documents, reports and records maintained by the licensee or certificate holder, that relate to the dental practice or dental-related activity;
- ▶ refusing to submit to a body fluid examination as required through a monitored-treatment program or pursuant to a Board investigation into a licensee's or certificate holder's alleged substance abuse.

In addition, the bill eliminates as unprofessional conduct, a number of provisions relating to advertising practices.

Currently, a "verified complaint" is a complaint that is signed before a notary or authorized Board employee. HB 2097 requires that a complaint only be signed by the complainant.

HB 2097 requires a candidate who is a graduate of a dental school not recognized by the Board to pass parts I and II of the National Dental Board examination.

The bill establishes that an applicant for licensure shall have passed all of the following examinations:

- ▶ parts I and II of the National Dental Board examination;
- ▶ the Western Regional Examining Board examination within five years preceding filing for application;
- ▶ the Arizona Dental Jurisprudence examination.

HB 2097 eliminates current statute which allows the name of person reporting information or filing a complaint against a licensee to remain anonymous. HB 2097 limits anonymity to only those persons reporting information or filing a complaint regarding a dentist who is impaired by drugs or alcohol.

HB 2097 allows the Board to refer a complaint to mediation if the complaint does not appear to include dental incompetence, malpractice or grounds that involve criminal allegations. The bill prohibits a mediator from being involved in any further investigation of the complaint and requires the Board to review and approve all mediation.

HB 2097 clarifies that on a patient's request, the patient's dentist, dental hygienist or denturist shall transfer legible and diagnostic-quality copies of records to another licensee, certificate holder, or to that patient.

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HB 2097 replaces the section in statute relating to dental hygienists and requires that applicants for licensure shall pass all of the following examinations:

- ▶ the National Dental Hygiene Board examination;
- ▶ the Western Regional Examining Board examination;
- ▶ the Arizona Dental Jurisprudence examination.

The Board is required to submit a complaint processing report to the Health Committee of Reference by October 1, 1995. The report shall establish the following:

- ▶ guidelines by which it shall classify and rank complaints by severity;
- ▶ guidelines that describe its investigative procedures;
- ▶ guidelines for imposing sanctions on licensees;
- ▶ a standardized method by which to survey the Board's handling of a complaint.

HB 2098 - Chapter 163 - air ambulances

HB 2098 authorizes the director of the Department of Health Services (DHS) to adopt rules establishing standards and requirements for the operation of air ambulance services, and requires DHS to prescribe regulations necessary to assure public health and safety.

DHS shall adopt rules establishing standards and requirements concerning medical control plans, qualifications of the medical director of the air ambulance services and the operation of registered air ambulances, response times, operation times and standards for emergency dispatch training, including pre-arrival instructions. Licensing rules pertaining to the issuance, transfer, suspension, terms and revocation of air ambulances shall be established. Additionally, the rules shall consist of provisions concerning investigation procedures of the ambulance services including on-site investigations of facilities communications equipment, vehicles, procedures, materials, equipment and shall prescribe the criteria for the air ambulance service license inspection process.

HB 2098 prohibits any person from operating an ambulance service unless the service is licensed and meets state regulations. The director is prohibited from issuing a license to an ambulance service unless the applicant files a certificate of insurance or provides the director with other evidence of financial responsibility. Applicants are required to have liability and malpractice insurance. The director shall deny an application or revoke the license of any air ambulance service that fails to meet the required insurance or financial responsibility.

HB 2147 - Chapter 299 [P] - *audiology and speech

HB 2147 amends the regulation of hearing aid dispensers by establishing a regulatory scheme to include audiologists and speech-language pathologists and requires the director of DHS to adopt and

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enforce qualification standards of hearing aid dispensers, audiologists and speech-language pathologists to ensure the health safety of the public.

HB 2147 adds and amends several definitions to the statute and expands the unprofessional conduct provisions. Assistive listening device or system, audiology, disorders of communication, disorders of hearing, nonmedical diagnosing, speech-language pathology, the practice of audiology, the practice of speech-language pathology, and the practice of fitting and dispensing hearing aids are all defined.

Advisory Committee

The legislation changes the composition of the Advisory Committee and requires that members of the Committee shall have at least five years' experience in Arizona, in their field of practice, preceding their appointment to the Committee. The members include:

- ▶ the director of DHS;
- ▶ two physicians, one of whom is a specialist in otolaryngology;
- ▶ two audiologists, one of whom dispenses hearing aids;
- ▶ two speech-language pathologists;
- ▶ two members of the public, one of whom is hearing impaired;
- ▶ two hearing aid dispensers who are not licensed to practice audiology.

The Advisory Committee is required to make recommendations to the director of DHS regarding the regulation of hearing aid dispensers, audiologists and speech-language pathologists. Additionally, the Advisory Committee may make recommendations to the director of DHS regarding the waiving of educational requirements for licensure as an audiologists or speech-language pathologists if the applicant submits proof that he is currently licensed in a state, or country that has standards that are at least equivalent to those of this state and holds a certificate of clinical competence. The Advisory Committee may make a recommendation to the director of DHS to waive the educational, practical and professional experience requirements to be licensed as an audiologist or speech-language pathologist according specific criteria.

Licensing

HB 2147 prescribes licensure requirements for persons wanting to practice as an audiologist, an audiologist licensed to fit and dispense hearing aids and a speech-language pathologist. Applicants for becoming a licensed audiologist or a speech-language pathologist shall:

- ▶ submit an application fee;
- ▶ show evidence of a master's degree or equivalent degree in audiology or speech-language pathology from a nationally accredited college or university in a program consistent with the standards of Arizona's universities;
- ▶ complete a supervised clinical practicum and postgraduate professional experience in the field of audiology or speech-language pathology;
- ▶ pass an exam recognized by the American Speech-Language Hearing Association.

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The director of DHS shall verify that the applicants have passed the examination recognized by the American Speech-Language Hearing Association.

HB 2147 requires a temporary license to be issued to applicants who do not meet the professional experience requirements but do meet other specified requirements for licensure as an audiologist or speech-language pathologists.

HB 2147 requires DHS to waive examination requirements for licensure as an audiologist or speech-language pathologist if the applicant presents proof that he is currently licensed in a state or territory of this country that has standards equivalent to this state, or holds a certificate of clinical competence from the American Speech-Language Hearing Association in the field the applicant is apply for.

A provision is added to the examination requirements for licensure as a hearing aid dispenser to include a measure of the applicant's knowledge of rehabilitation and hearing conservation techniques as they relate to hearing aids and related devices.

HB 2147 requires the director of DHS to prescribe by rule standards for continuing education courses. Additionally, upon renewal of their license, licensees shall provide proof of completion of at least eight hours of continuing education within the proceeding 12 months.

The bill stipulates that in order to receive a conditional license an applicant must meet all of the following requirements:

- ▶ hold a certificate in audiology or speech-language pathology awarded by the Department of Education;
- ▶ limit the practice of audiology or speech-language pathology to within the public school system;
- ▶ apply for a conditional license within two years of the effective date of this act;
- ▶ submit appropriate fees.

The director of DHS is required to notify the employer of a licensed hearing aid dispenser if a disciplinary action is initiated against the licensee.

The bill stipulates persons not affected by this act are as follows:

- ▶ persons who are credentialed by this state as a teacher of the deaf from acting within the scope of those credentials;
- ▶ students, interns or trainees pursuing a course of study in audiology or speech-language pathology;
- ▶ any person certified by DHS for the school hearing screening program.

Examination Committee

HB 2147 changes the composition of the Examination Committee Council to include one otolaryngologist, two licensed dispensing audiologists, two licensed hearing aid dispenser, with at

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least five years of experience in the practice of fitting and dispensing hearing aids in Arizona, immediately preceding their appointment to the Committee.

HB 2162 - Chapter 225 - medical records; confidentiality

HB 2162 amends current statute permitting patients to have direct access to their medical records and maintains confidentiality of medical records.

The bill stipulates that upon written request, health care providers shall provide the patient with copies of his medical records. The attending physician or psychologist may refuse to provide such records if the patient's access to the record is contraindicated. Additionally, on written request of a patient's health care decision maker for access to or copies of the patient's medical records, the provider must give the records to the health care decision maker. If the information that the health care decision maker requests is information that is confidential between the health care professional and the patient, the patient's health care decision maker shall only have access to records of information which include the patient's therapy treatment plan and medication information.

HB 2162 stipulates those medical records and the information contained in the medical records are privileged and confidential. A health care provider may release a patient's medical record to a contractor for duplicating the record if it is necessary for the provider's own business operations or on the request of a patient. A contractor, however, shall not reveal any part or all of a patient's medical record in its custody. After duplication of a patient's medical record, a contractor shall return the record only to that care provider who released the medical record.

HB 2162 prescribes instances in which a health care provider shall reveal medical records without the patient's written authorization, as follows:

- ▶ to attending and consulting providers who are currently providing care to the patient for diagnosis or treatment purposes;
- ▶ to providers who have previously provided treatment to the patient;

- ▶ to ambulance attendants for the purpose of providing care or transferring the patient whose records are requested;
- ▶ to a private agency that accredits health care providers;
- ▶ to providers for utilization review, peer review and quality assurance purposes;
- ▶ to a person or entity that provides billing, claims, medical data processing, utilization review or other administrative services;
- ▶ to legal representatives of a health care provider;
- ▶ to the representative or administrator of the estate of a deceased patient.

Health care providers and contractors may charge a reasonable fee for the production of the records. However, providers and contractors shall not charge for the pertinent information contained in medical records provided to:

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- ▶ another health care provider for providing continuing care to the patient to whom the medical record pertains;
- ▶ the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care;
- ▶ the health care decision maker or surrogate of the patient to whom the medical record pertains for obtaining health care.

Health care providers or contractors shall not be held liable for damages in any civil action for the disclosure of medical records, presuming he has acted in good faith.

HB 2162 specifies that it is an act of unprofessional conduct for a physician and a psychologist to not comply with release of records to the patient upon request as mandated in the medical records act.

HB 2162 clarifies that a prehospital-incident history report completed and kept by a nonhospital political subdivision is available to the public except for information in the report that is protected from disclosure. A prehospital-incident history report is a record of the prehospital response, nature of the incident and transportation of an emergency medical services patient that is documented on a prehospital-incident history report.

HB 2176 - Chapter 227 - mental health pilot

Under current statute, the Division of Behavioral Health Services is scheduled to terminate on July 1, 1995. HB 2176 extends the date of termination to July 1, 1998. The Division of Behavioral Health Services is the state authority responsible for administering mental health programs, including a community-based service system.

The bill also includes a provision that if a person is requesting behavioral health treatment, they shall provide identifying information.

HB 2275 - Chapter 275 - *tobacco tax; AHCCCS

On November 8, 1994, voters approved Proposition 200, the Tobacco Tax and Health Care Act which increases Arizona's tax on tobacco products by 40 cents. Revenues collected as a result of the increased tax shall be deposited in the tobacco tax and health care fund. The initiative requires that this fund be divided into four separate accounts. The medically needy account consists of 70 cents of each \$1 and shall be used for providing services to the medically needy medically indigent (MN/MI) or to persons who cannot afford those services and for whom there would otherwise be no coverage. Twenty-three cents is allocated to the health education account to be used for prevention and reduction of tobacco use through education and 5 cents is allocated to the health research account for research on the prevention and treatment of tobacco-related diseases and addictions. Finally, 2 cents shall be deposited in the adjustment account for the transfer of the appropriate amount of funds to the corrections fund.

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HB 2275 provides for the establishment of various health care programs. Programs established by this legislation include: the primary care program, community health centers, the mental health program, the detoxification pilot program and the telemedicine program. For the implementation of these programs AHCCCS and DHS shall enter into an intergovernmental agreement so that DHS may administer the programs. The enabling legislation also provides additional services for those persons who are defined as MN/MI and low-income children; these services include heart, liver and bone marrow transplants.

Primary Care Programs

HB 2275 establishes the community based primary care programs that require DHS to contract with providers to provide primary care services to persons who are low-income at risk, indigent or uninsured. The community based primary care programs shall consist of outreach services that identify persons in need of health care services, the delivery of primary care services and a mechanism to track and provide follow-up services to persons in need.

Qualifying Community Health Centers

HB 2275 authorizes DHS to enter into annual contracts with qualifying community health centers to provide primary health care services to indigent or uninsured persons. Qualifying community health centers are facilities that provide services in medically underserved areas. Centers awarded a contract shall provide services that include prenatal care, diagnostic laboratory and imaging services, pharmacy services, preventive health and dental care services, emergency services and transportation.

A person eligible to receive services funded by tobacco-tax revenues through the qualifying community health centers, must be a resident of the state, without medical insurance, have a family income of less than 200% of the federal poverty limit, and provide verification that he is not eligible to receive services under the Arizona Health Care Cost Containment System.

In awarding contracts, DHS is permitted to give preference to community health centers that have a sliding-fee schedule. Upon request, the public shall receive a copy of the sliding-fee schedule that the center applies to its patients. HB 2275 requires community health centers to apply the sliding-fee schedule to all of its uninsured patients.

HB 2275 allows DHS to examine the records of a qualifying community health center and conduct audits necessary to determine that the eligibility determinations were performed accurately and to verify the number of uninsured patients served by the qualifying community health center.

Mental Health Program

The mental health program is established for the delivery of mental health care services to persons who are indigent, uninsured or underinsured and who are not Title XIX eligible. Contracts shall be awarded to providers that minimize expenditures for administration and overhead and maximize the amount of funds available for direct services. DHS is required to adopt standards for the type and delivery of behavior health services, but contracts may be awarded to fund either ongoing services or demonstration projects designed to implement specific services on a trial basis or implement innovative means for the delivery of services.

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HB 2275 requires contractors to implement a sliding-fee scale for persons requesting behavioral health services.

Detoxification Services Pilot Program

HB 2275 establishes a two-year pilot program designed to deliver detoxification treatment and services in level II behavioral health facilities to indigent or uninsured people who do not require the services of a hospital or a level I behavioral health facility who does not require the use of restrictive behavioral management practices. The pilot program is limited to rural counties or counties with a population of less than 500,000 persons and shall not be conducted in more than three counties.

DHS is required to direct the regional behavioral health authorities (RBHAs) to request to participate in the pilot program. In awarding pilot program contracts, DHS shall give priority to RBHAs that are responsible for the delivery of behavioral health service in areas where there is a high demand for detoxification service and a lack of facility beds to meet that demand. Priority shall also be given to pilot programs that agree to provide at least 25% matching funds.

DHS shall submit a report by November 15, of each year to the Governor, the President of the Senate and Speaker of the House on the status of the pilot and any recommendations for legislative action.

The detoxification pilot program is repealed on June 30, 1997.

Telemedicine Pilot Program

HB 2275 establishes a three-year telemedicine pilot program for persons residing in medically underserved areas. DHS shall enter a partnership with a private or public entity for the delivery of telemedicine services to low-income, indigent or uninsured persons. Contractors must match 25% of actual funds to any monies DHS provides. The match may be made in the form of actual funds or the value of services, facilities or equipment to be provided by the entity to the pilot program. An annual report shall be submitted from the Department to the Joint Legislative Study Committee for Rural Health Care Reform regarding the status of the pilot program.

The telemedicine pilot program is repealed on June 30, 1998.

Stabilization Fund

HB 2275 establishes a MN/MI stabilization fund and requires AHCCCS to administer the fund under the direction of the Joint Legislative Budget Committee (JLBC). Monies in the fund are to be used to offset unanticipated increases in the costs of providing levels of services to persons who are MN/MI or who are low-income children. If AHCCCS determines that the amount the Legislature appropriated for MN/MIs and low-income children is insufficient, AHCCCS shall notify the chairperson of JLBC and the director of the Governor's Office of Strategic Planning and Budgeting with evidence supporting the determination of deficiency. The chairperson shall call a meeting to review the information and the Committee may make recommendations to AHCCCS for the payment of the shortfall.

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Tobacco Tax Allocation

Subject to the availability of funds in the medically needy account, AHCCCS shall allocate the tobacco-tax monies to the Department of Health Services as follows:

- ▶ the amount necessary to provide the state-share costs of providing liver, heart and bone marrow transplants to persons who are determined to be MN/MI;
- ▶ on a monthly basis, \$1,250,000 shall be deposited in the MN/MI stabilization fund;
- ▶ up to \$5,000,000 for the indigent mental health program;
- ▶ up to \$5,000,000 for the primary care programs;
- ▶ up to \$5,000,000 for the qualifying health centers contracts;
- ▶ the sum of \$500,000 for the two-year detoxification services pilot program;
- ▶ the sum of \$250,000 for the three-year telemedicine pilot program;
- ▶ two percent of the total amount received shall be allocated to DHS for administrative costs;
- ▶ the amount necessary to cover the evaluation costs.

If less than \$15,000,000 is available to fund the mental health program, the primary care program and qualifying health centers, DHS shall proportionately divide the total funds and shall allocate that amount to each program.

HB 2275 prohibits monies from the tobacco and health care fund to be used for expenditures on capital construction projects, lobbying activities involving elected officials or political campaigns for individuals or any ballot proposal.

Health Care Research Fund

HB 2275 establishes a health care research fund; monies in the health care research fund shall be used for research on the prevention and treatment of tobacco-related disease and addiction. The Arizona Disease Control Research Commission shall administer the funds.

The bill limits the amount of funds the Commission may expend in FY 1995-96; this amount shall not exceed 80% of the monies available through June 30, 1995.

Health Education Monies

HB 2275 prescribes the purposes for which health education monies may be spent from the health education account. Revenues collected and deposited in the health education account shall be used as follows:

- ▶ to establish contracts with county health departments, qualifying community health centers, Indian tribes, schools, community colleges and universities;
- ▶ administrative expenditures related to the implementation and operation of program development;
- ▶ for the development and delivery of education programs including radio and media costs.

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HB 2275 limits the amount of monies to be spent from the health education account in FY 1995-96 and FY 1996-97 to \$10 million and \$15 million respectively. The bill also requires DHS to adopt rules regarding the expenditure of monies in the health education account that shall include the means and process for awarding contracts or expending monies, and a mechanism for reviewing any contracts awarded. DHS is exempt from for the rule-making process as prescribed in Title 41.

Evaluations

HB 2275 prescribes a program evaluation process that shall be conducted upon each entity receiving tobacco-tax funds. All contractors must agree to provide specific evaluation information in order to be awarded a contract. The bill requires AHCCCS to enter into an intergovernmental agreement with DHS to conduct annual program evaluations of each program receiving any tobacco- tax monies. The evaluation is designed to examine the effectiveness of the programs, the organizational structure of the programs and the efficiency of the programs. At a minimum the evaluation shall include the following utilization information:

- ▶ the level and scope of services being offered;
- ▶ the type of services being used;
- ▶ the frequency of service being used;
- ▶ the personal characteristics of the program participants who receive services;
- ▶ the demographic characteristics of the program participants who receive services.

The evaluations shall also include information on the number of the program participants, program contractors and program-service providers, program revenues and expenditures, the average cost for each program participant receiving services and information on the average cost of providing each service, and the administrative costs to operate each program. The evaluation shall also include the methods used by DHS for selecting eligible contractors and an estimate of the benefits and effects of providing health care services.

DHS is required to submit the annual report to the Joint Legislative Oversight Committee on the tobacco tax and health care fund by November 1, of each year. The first report is due by November 1, 1996.

The administration is authorized to withdraw monies from the medically needy account to fund the evaluations.

Joint Legislative Oversight Committee

A Joint Legislative Oversight Committee on Tobacco Tax and Health Care Fund is established consisting of 12 legislators, six appointed by the President and six appointed by the Speaker. The Committee is required review and make recommendations to the Legislature concerning options to spend monies in the medically needy account to enhance health care for indigent, uninsured and underinsured person. Recommendations shall ensure that medically needy account spending shall devise a comprehensive, efficient and cohesive plan addressing long-term needs and avoids establishing new entitlement programs. Any entity receiving tobacco-tax monies shall submit a

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quarterly report to the Oversight Committee detailing expenditures. Additionally, the Department of Revenue shall submit quarterly reports detailing actual revenues collected and estimate future tobacco-tax revenues.

Tobacco Use Prevention Advisory Committee

HB 2275 establishes a Tobacco Use Prevention Advisory Committee consisting of 11 members, the director of DHS, two members of the Senate, two members of the House, and six public members. Duties of the Committee include reviewing and making recommendations to DHS on educational programs funded by the health education account. The bill requires biannual program evaluations to determine if the programs for the prevention and reduction of tobacco use through education has resulted in positive impacts. Included in the evaluation shall be program outcomes and the cost effectiveness of the program revenues and expenditures. By August 31, 1996, the first evaluation shall be delivered to the President of the Senate, the Speaker of the House and the Governor.

HB 2307 - Chapter 111 [E] - *county health system; lease

HB 2307 authorizes a county with a population of more than 1.5 million persons to enter into contractual agreements with a nonprofit corporation for the delivery of the health services currently provided by the county, and establishes a mechanism to transfer county health assets to the nonprofit entity.

Operating Agreements

HB 2307 allows the county board of supervisors to enter into an operating agreement with a nonprofit corporation authorizing the nonprofit to act as a provider of health care service and assume the responsibility for managing, maintaining and operating a community health system. The county's agreement with a nonprofit corporation for the provision of health services and the transfer of any related health system assets does not relieve the county of its statutory residual responsibility to provide health care service to the indigent sick.

The articles of incorporation or bylaws of the nonprofit corporation specify that the primary purposes of the corporation are as follows:

- ▶ act as a provider of health care services;
- ▶ assume the responsibility for managing, maintaining and operating health system assets transferred to the corporation from the county;
- ▶ support and facilitate medical and public health research and clinical education for health care professionals;
- ▶ provide quality, cost-effective health care services for individuals, families and communities residing, employed or located in the county and elsewhere;
- ▶ provide health care for the indigent and promote public health.

The board of supervisors is limited to entering into an operating agreement with only one nonprofit corporation in a county.

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The bill requires operating agreements entered into between the county and a nonprofit to include the following provisions:

- ▶ the nonprofit's assumption of responsibility for managing, maintaining and operating the transferred health system assets;
- ▶ the nonprofit's assumption of responsibility to defend, indemnify and hold the county harmless with respect to liabilities associated with transferred health system assets, and may include the nonprofit's assumption of liabilities accruing prior to the transfer of assets;
- ▶ agreement by the nonprofit corporation to continue to provide health care for the indigent as one of its primary missions;
- ▶ agreement by the nonprofit to indemnify the county against all actions, activities and consequences arising as a result of the actions of the nonprofit.

Operating agreements may include the following provisions:

- ▶ an agreement by the nonprofit to obtain the board of supervisor's approval regarding business transactions that may adversely affect the sponsoring county's interests;
- ▶ an agreement by the nonprofit to notify the board of supervisors prior to amending the corporation's articles of incorporation or bylaws;
- ▶ an agreement by the nonprofit to pay the expenses incurred by the board related to the transfer of the county health system to the nonprofit corporation;
- ▶ an agreement by the nonprofit to provide services and programs to the communities and populations served by the county health system.

HB 2307 requires the county and the nonprofit corporation to renegotiate the financial and programmatic terms of the operating agreement within 60 days of such changes in the event the state or federal government modifies the county's financial or programmatic indigent health care responsibilities. The county is authorized to recoup any overpayment from the nonprofit corporation. In the event the county and the nonprofit corporation do not complete the renegotiations within the prescribed 60 days, the nonprofit corporation is required to continue to provide the required services and obligations and must pay a predetermined penalty to the county.

The county is allowed to issue grants, loans or other forms of aid to the nonprofit corporation, including aid for capital outlay and working capital.

Board of Directors and Qualified Nonprofits

The qualified nonprofit corporation is required to be governed by an 11-member board of directors. Board members shall serve staggered six-year terms, with the exception of the chief executive officer who serves as ex officio. Board members are limited to serving no more than two consecutive terms. Board members are allowed to receive reimbursement for expenses.

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Board members are required to disclose any conflict of interest and the bill specifies conditions under which the county may cancel an operating agreement due to a conflict of interest by an individual. The nonprofit corporation is limited from exercising any governmental powers except those specifically delegated by the board of supervisors or necessary to satisfy applicable Internal Revenue Code requirements.

HB 2023 requires the board of directors to have a financial audit conducted within 60 days after the close of the nonprofit corporation's fiscal year.

Transfer of Assets

HB 2307 authorizes the board of supervisors to lease health system assets to the nonprofit corporation as part of the operating agreement and requires the county to retain title to any fee interest in the land underlying any conveyed improvements. Qualified real property and health system assets transferred to a nonprofit corporation shall be used as a county hospital, consistent with applicable deed restrictions.

The nonprofit corporation shall agree to pay the county the balance on all uncompleted construction contracts associated with health care system assets leased to the nonprofit corporation. They may continue the expenditure of public monies pursuant to the construction contracts after the transfer of assets to the nonprofit corporation. The bill authorizes the nonprofit corporation to acquire or operate other health care institutions both in and outside the county and specifies acquiring or operating other health care institutions does not affect the powers, rights, privileges or immunities conferred on the nonprofit corporation.

County Employees

HB 2307 requires the county and the nonprofit corporation to enter into an operating agreement to include provisions to ensure that all county health system employees are considered for employment by the nonprofit corporation. Additionally, the bill authorizes the operating agreement to include provisions relating to the transfer of county health system employees, including appropriate arrangements for hiring preferences, employee seniority, rates of pay, benefits, accrued leave and retirement benefits and for financial adjustments and settlements. However, the bill clarifies that the nonprofit corporation is not required to employ any county employee. The nonprofit corporation is required to provide a mechanism to allow employees with 10 or more years of credited service with county and those employees who are within four years of becoming eligible for retirement benefits under the Arizona State Retirement System the option to remain as participants in the retirement system for up to four years and the nonprofit shall assume the costs incurred by the county in the implementation of this provision.

Liability

The legislation specifies that debts and other liabilities of the nonprofit corporation are not liabilities or responsibilities of the county, unless expressly authorized and prohibits the appropriation of county funds to pay the debts or obligations of the corporation. HB 2307 prohibits garnishments, attachments or executions to be levied or issued against the county by a creditor of the nonprofit corporation, and prohibits a creditor or judgment creditor of the nonprofit corporation from seeking

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monetary damages from the sponsoring county or any director, agent or employee of the nonprofit corporation.

Bonds

The nonprofit corporation is authorized to issue corporate bonds, subject to approval by the board of directors. Bonds issued by the nonprofit corporation:

- ▶ are obligations of the nonprofit corporation and are not in any manner obligations of the county or the state;
- ▶ do not constitute a legal debt of the county or the state;
- ▶ are not enforceable against the county or state;
- ▶ are payable only from the revenues or assets of the nonprofit corporation pledged to the bondholders.

SB 1042 - Chapter 105 - *spirituous liquors; unlawful acts

SB 1042 amends current law pertaining to the nursing care institutions demonstration project, Alzheimer's disease treatment project, establishes the Joint Legislative Study Committee on Long-term Care Facility Residents and appropriates funds to the respite care program.

SB 1042 amends statute related to nursing care institutions by modifying starting and ending dates of the demonstration project. The demonstration project shall begin within 90 days of notification of federal approval and shall last three years. The bill also requires the Department to submit a written report to the Governor, the President of the Senate and the Speaker of the House within four months of the completion of the project.

The Alzheimer's disease treatment demonstration project is amended by requiring program participants to have health care professionals visit the facility at least one time per week. The bill also transfers the duty of staffing the project from legislative staff to the division of licensure within DHS.

SB 1042 establishes a Joint Legislative Study Committee on Long-term Care Facility Residents consisting of the members on the health committee of reference. The Committee shall study long-term care facilities and nonlicensed personnel providing services to elderly, physically disabled, and mentally retarded residents and make findings and recommendations on the number and types of reports pertaining to abuse. The Committee shall review the feasibility of enacting measures to require background checks or fingerprinting of long-term care employees. The report shall be submitted to the Governor, the President of the Senate and the Speaker of the House no later than November 30, 1995. This Committee is repealed from and after December 31, 1995.

The bill appropriates \$75,000 from the general fund to the aging and adult administration for respite care services.

SB 1073 - Chapter 190 - teenage pregnancy prevention; task force

SB 1073 establishes a Teenage Pregnancy Prevention Task Force which is required to gather information on teenage pregnancy prevention programs. The Task Force shall make recommendation on policies and programs that are most effective at reducing teen pregnancy and oversee a statewide media campaign aimed at reducing teen pregnancy.

Grants

The Department of Health Services (DHS) is required to establish contracts to educate communities in developing culturally diverse programs and strategies that are designed to reduce the incidence of teenage sexual activity and sexually transmitted diseases among teenagers.

Media Campaign

SB 1073 requires DHS to implement a media and public relations campaign to promote abstinence-only messages for teens. The campaign shall educate people of the severity of the teenage pregnancy problem, encourage youth to postpone sexual activity, promote community awareness, and support teens resisting peer pressure toward sexual activity.

DHS may contract with consultants to implement the campaign. The bill also requires a baseline survey to be conducted at the beginning of the campaign followed by quarterly polling throughout the campaign.

The bill appropriates the following amounts to DHS from the general fund in fiscal year 1995-96:

- ▶ the sum of \$140,000 for the media campaign;
- ▶ the sum of \$110,000 for community grants.

SB 1073 repeals the Task Force on Teenage Pregnancy Prevention on December 31, 2001.

SB 1192 - Chapter 148 - *health care institution rates

SB 1192 eliminates the time requirement in which out-patient treatment centers and home health agencies shall file a schedule of their rates and charges. Current statute requires these health care institutions to file their schedule with the Department 60 days prior to implementation. The bill allows these facilities to implement such rates any time after filing their schedule.

SB 1194 - Chapter 292 - Arizona long-term care system; counties

SB 1194 amends statutes relating to the Arizona Long Term Care System (ALTCS) by requiring counties with a population of 400,000 persons or less to submit a bid to become a program contractor. Counties that were ALTCS program contractors prior to January 1, 1994, may continue to elect to be program contractors without entering the bid process provided the county's plan meets

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specified requirements. At least every three years, counties that are not ALTCS program contractors shall be publicly invited to enter a bid.

SB 1215 - Chapter 204 - AHCCCS; omnibus

SB 1215 amends statute pertaining to behavioral health services, transplants, immunization report, and electronic claims process relating to the Arizona Health Care Cost Containment System.

Behavioral Health Services

Beginning October 1, 1995, behavioral health services shall be added as a covered service for Title-XIX eligible persons 21 years of age and older who are enrolled in AHCCCS and who are not diagnosed as seriously mentally ill; AHCCCS shall contract with DHS to provide such services. Individuals who are Title XIX eligible and who are not seriously mentally ill but are between the ages of 18 and 21 shall continue to have their behavioral health services administered through AHCCCS. The bill also adds behavioral health services for Title-XIX eligible persons between the ages of 21 and 64 who are enrolled in ALTCS, and this service shall be administered by ALTCS program contractors. The AHCCCS director is required to adopt rules for the coverage of behavioral health services for persons who are Title XIX eligible.

SB 1215 limits behavioral health services for persons who are "state only" eligible to emergency care settings.

Immunization Report

The bill lowers from five to two the age of children who will be studied in the annual immunization report which AHCCCS is required to conduct. It also eliminates the requirement that AHCCCS shall specify a reason why enrolled children did not receive one or more of the immunizations.

Transplants

SB 1215 adds liver transplants as covered services for individuals who are Title XIX eligible and 21 years of age or older and conforms existing statutory language.

Other Provisions

A provision is added allowing the administration to modify the claims documentation procedures for providers if AHCCCS implements an electronic claims submission system.

The bill provides a delayed repeal, effective October 1, 1995, of the various obsolete eligibility categories to conform with provisions amended within the act.

SB 1215 clarifies that the extended-family planning services for SOBRA women shall begin upon approval by the Department of Health and Human Services.

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The bill clarifies the Legislature's intent that AHCCCS is and was exempt from the rule-making process while it calculated and implemented the new hospital reimbursement methodology as specified in Section 22 of 1989 session law.

SB 1215 exempts AHCCCS from the administrative rules process for the implementation of the additional Title XIX behavioral health services. However, within 120 days after October 1, 1995, the AHCCCS director shall provide an opportunity for public comment and shall make any necessary amendment to the rules.

SB 1253 - Chapter 16 [E] - *AHCCCS; organ transplants

SB 1253 amends statutes pertaining to the type of transplants authorized as a covered service for AHCCCS members who are eligible according to the medically needy/medically indigent (MN/MI) requirements. The bill adds liver, heart and bone marrow transplants to the list of transplants to be covered for MN/MIs. This provision makes the transplant service package for persons who meet the MN/MI eligibility requirements consistent with the transplant service package for persons who meet the Title XIX eligibility requirements.

The bill appropriates funds from the medically needy account to pay for the state share of costs of liver, heart and bone marrow transplants for persons who are determined to be MN/MI. SB 1253 repeals the funding source for such transplants from and after October 31, 1996.

SB 1276 - Chapter 50 - care home staff; rehabilitation programs

SB 1276 amends statutes relating to the Board of Examiners of Nursing Care Institution Administrators and Adult Care Home Managers. The bill authorizes the Board to establish by rule a program to monitor chemically dependent licensees and certificate holders. If a licensee or certificate holder refuses to enter into an agreement, or fails to abide by that agreement and complete a rehabilitation program, the Board may take disciplinary action.

SB 1277 - Chapter 253 - AHCCCS; care homes; pilot program

SB 1277 establishes a pilot program which shall provide home and community-based services in an adult care home for eligible ALTCS recipients. Adult care homes who wish to participate in the program shall be licensed by DHS, capable of providing appropriate services in a residential setting, have not been cited for a violation in the last two years, and do not operate under a provisional license. AHCCCS shall determine if an adult care home is the appropriate setting for an ALTCS member's life, health and safety needs, and shall also determine which home and community-based services the member will receive.

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The bill requires an ALTCS case manager to visit participants once a month to assess the members' health and the appropriateness of the facility. The bill also requires an unannounced annual review of facilities by DHS to ensure the health and safety of participants. Finally, the bill empowers AHCCCS to remove a participant from a facility that is cited by DHS for a violation that threatens a member's health or safety.

SB 1277 caps the number of program participants at 50 members until February 29, 1996. From and after March 1, 1996, no more than 100 members may participate at any one time.

SB 1277 requires AHCCCS, in cooperation with DHS, to conduct a detailed analysis of the effectiveness of the pilot program. The evaluation shall include the following:

- ▶ the impact of the program on the overall quality of care provided to the ALTCS participants;
- ▶ the number of people removed from homes;
- ▶ the number of homes cited for violations during the program;
- ▶ the cost effectiveness of the program;
- ▶ the program impact on rural areas and the potential for continuation in both urban and rural areas;
- ▶ the number of homes by area.

A recommendation report shall be presented to the Governor, the Speaker of the House, and the President of the Senate on or before January 1, 1998.

SB 1277 requires AHCCCS to submit a request for a federal waiver allowing adult care homes to serve specified ALTCS members. If the waiver is approved, AHCCCS shall examine the appropriateness of allowing home and community-based services to be given at an adult care home.

The pilot program is effective from and after September 30, 1995. If federal approval is not granted by September 30, 1995, the program shall begin upon notification of approval. AHCCCS shall notify the Arizona Legislative Council of the date it receives notification of the program's federal approval.

The pilot program is repealed from and after September 30, 1997, or two years after the beginning of the program.

SB 1284 - Chapter 255 - board of nursing

SB 1284 amends the Nursing Board practice act by including the following provisions:

- ▶ allows an executive director's designee to execute the duties of the executive director and empowers the Board to deny certification or recertification or revoke a certificate if a nursing assistant commits an act of unprofessional conduct;

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- ▶ authorizes the Board to charge licensees a civil penalty of \$50 for all returned checks;
- ▶ changes the name of "temporary permits" to "temporary licenses";
- ▶ eliminates the definition of direct supervision relating to registered nurses assuming legal responsibility for a temporary permit holder;
- ▶ changes the name of nursing education agencies from "school of nursing" to a "nursing program";
- ▶ allows the Board to take disciplinary action without a hearing if the licensee does not respond within the time period;
- ▶ extends from 10 to 30 days the time a licensee must respond to a complaint;
- ▶ requires the Board to adopt rules for the qualifications and certification of clinical nurse specialists;
- ▶ exempts persons from the requirements of the practice act if they are caring for the sick in connection with the practice of religion or treatment by prayer;
- ▶ declares chemically dependent programs to be confidential unless the licensee does not comply with the agreement. The bill also allows an applicant to fail a prescribed examination four times before the Board may request the applicant to complete additional education requirements.

SB 1284 establishes a Study Committee on the Administration of Medications by Nurses that consists of members of the House and Senate Health Committees of Reference. The Committee is required to review the impact of allowing nonlicensed personnel under the direction of a licensed nurse to administer certain medications to patients with various levels of acuity. The bill stipulates that a nurse shall not delegate the ability to administer medications to nonlicensed personnel until after December 31, 1996.

The sum of \$60,000 is appropriated from the Board of Nursing fund to the State Board of Nursing for FY 1995-96.

SB 1297 - Chapter 297 - health care services organization; plans

SB 1297 requires health care service organizations (HCSOs) to publish disclosure forms and distribute them to all employers considering the purchase of, or renewal of, a health plan. The disclosure form shall include the following information:

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- ▶ a roster of primary care physicians, including their degree, practice specialty, the year first licensed and if different, the year initially licensed;
- ▶ the full premium cost of the plan including any copayments, coinsurance or deductible requirements an enrollee may incur;
- ▶ health care benefits the enrollee is entitled to;
- ▶ full disclosure of limitations of services, kinds of services, benefits and exclusions that apply to the plan;
- ▶ procedures for handling grievances;
- ▶ statement of whether or not a physician is restricted to prescribing drugs only from a plan list and the extent to which an enrollee will be reimbursed for the cost of a drug not covered on a plan list;
- ▶ a description of any plan provider compensation programs including any incentives or penalties associated with influencing plan providers to withhold services or minimize or avoid referrals to specialists;
- ▶ a statement that the disclosure form is a summary.

SB 1297 prohibits HCSOs from dispersing a completed disclosure form until the form is submitted to the director of the Department of Insurance.

At the request of employers who are considering participating in a health care plan, an HCSO shall provide the disclosure information. An employer shall provide to its eligible employees the disclosure information no later than the initiation of any open-enrollment period or at least 10 days before any employee enrollment deadline that is not associated with an open-enrollment period. SB 1297 stipulates that all health plans, including those contracting with AHCCCS, shall comply with the provisions of this act beginning December 31, 1995.

SB 1309 - Chapter 260 - *health plans; commercial carriers; AHCCCS

Establishes that AHCCCS shall require third-party payment for services rendered to an individual covered by an accountable health plan (AHP) or a plan contracted by a health care group (HCG).

Specifies that AHCCCS health plans providing acute care program services are not subject to the Department of Insurance (DOI) requirements unless otherwise specified in AHCCCS statute.

Removes the requirement that all HCG health plans be contracted with the AHCCCS acute care program in order to provide HCG coverage.

Establishes that all entities regulated by DOI are prohibited from contracting with AHCCCS as a system plan unless the entity establishes a separate affiliated corporation solely to provide services or coverage to persons eligible for AHCCCS acute care program coverage, including HCG.

Provides an exemption from the separate corporation requirements for health plans regulated by DOI when seeking AHCCCS contracts that are awarded without bids because it is determined that there

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is an insufficient number of, or an inadequate member capacity in, contracts awarded to prepaid capitated providers within a county.

Specifies that the director of AHCCCS may request that the director of DOI grant a temporary exemption from the requirements that an entity regulated by DOI form a separate corporation in order to serve AHCCCS members when there are an insufficient number of contracts in a county.

Provides that upon written request from the AHCCCS administration, the director of DOI may grant an entity a one-time exemption from the separate corporation requirements, for a period not to exceed one year. Requires an entity granted the exemption to comply with the applicable requirements of both the AHCCCS administration and DOI.

Provides that entities granted the one-time exemption are not subject to the AHCCCS statutes that, in the case of a health plan's insolvency, require that AHCCCS take over the direct operation of the plan. Specifies that the AHCCCS administration shall notify the director of DOI, and may request DOI to take appropriate actions, if they determine that the health plan exempted from the separate corporation requirements should be operated by the administration or if public health, safety or welfare require emergency action.

Repeals ARS 36-2912 which allows AHCCCS administration to establish HCG in administrative rule and prescribes certain requirements of employers applying for system coverage through HCG.

Requires AHCCCS administration to establish a separate organization (i.e., health care group) to coordinate, administer and regulate the delivery of health care services to persons eligible for AHCCCS acute care services through employment by the state, a political subdivision or business in this state.

Reestablishes deleted provisions that prescribe certain requirements of the AHCCCS administration and employers who apply for system coverage through HCG, which includes:

- ▶ Subject to certain limited restrictions, businesses with 40 or fewer employees are eligible for system coverage through HCG.
- ▶ Employers shall not offer system coverage through HCG to their employees as a substitute for a federally designated plan and employee participation must be voluntary.
- ▶ Businesses shall be allowed to continue system coverage through HCG even if the number of employees working for the business expands beyond 40 employees.

Specifies that the director of AHCCCS shall:

- ▶ Ensure that any organization (HCG) developed to provide system coverage operate separately from the AHCCCS administration and that the organization reimburse the

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AHCCCS administration for the full cost of any function performed by the AHCCCS administration for the organization or its contracted health plans, whichever is applicable.

- ▶ Requires any health plan contracted to serve AHCCCS acute care patients to provide separate audited reports on the assets, liabilities and financial status of any corporate activity involving the providing of system coverage through HCG.
- ▶ Ensure that any health plan not contracted to serve AHCCCS acute care patients has met, or is temporarily exempted from, separate affiliated corporation requirements included in the legislation.
- ▶ Not distribute any appropriated funds to HCG or to any of its contracted health plans, unless specifically authorized by the Legislature.
- ▶ Ensure that health plans contracted with HCG meet the necessary contract terms, as determined by the director of AHCCCS, to ensure adequate performance by the health plan. Provides that HCG may waive the financial requirements for a contracted health plan that has posted sufficient financial security with DOI, if the funds are available for the plan contracted with HCG.
- ▶ Promulgate rules for HCG which shall stand alone and not be dependent upon any reference to rules adopted for AHCCCS acute care program health plans.

Specifies that health plans contracted with HCG shall not be considered as payor of last resort and do not possess lien or subrogation rights beyond those held by DOI-regulated health plans.

Establishes that health plans contracted with HCG may exclude inpatient coverage for preexisting conditions, as established for DOI-regulated health plans, for a period not to exceed 12 months. Provides that this exclusion does not apply to newborns who were otherwise covered from the time of birth.

Establishes that a credit of one month shall be awarded for each month of continuous coverage an individual had under another HCG health plan or a health benefits plan issued by an AHP.

Requires that, upon request, a contracted health plan or an AHP which had provided continuous coverage to an individual shall promptly disclose the coverage provided, the period of coverage and the benefits provided under the coverage.

Defines "continuous coverage" as the period beginning on the date an individual is enrolled under a health plan and ending on the date the individual is no longer enrolled for a period of more than 60 days.

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Defines "organization" as a separate entity (HCG) developed by the AHCCCS administration to coordinate, administer and regulate the delivery of health care services to persons eligible for system coverage through HCG.

Establishes a legislative study committee to evaluate and make recommendations regarding the ongoing role of HCG.

Requires the study committee to report to the President of the Senate, the Speaker of the House and the Governor by November 30, 1995 regarding:

- ▶ the status of health insurance availability and affordability for small businesses in Arizona;
- ▶ the codification of HCG rules;
- ▶ the roles that AHCCCS and DOI play in the operation, administration and regulation of HCG;
- ▶ the application of laws within Title 20 and Title 36 only apply to entities regulated in that Title;
- ▶ fees charged to health care group plan enrollees to cover administration and regulation costs;
- ▶ premium tax issues related to HCG plans and Title 20 insurers.

Specifies that the members of the committee are not eligible for compensation, however, members appointed by the Governor are eligible for reimbursement of expenses.

Prescribes that the work of this committee shall not require dual action by the Joint Legislative Committee for AHCCCS. Repeals the study committee from and after December 31, 1995.

Specifies that, until July 1, 1996, the director of AHCCCS shall not promulgate new rules pertaining to HCG unless the director determines the rule to be:

- ▶ essential to comply with provisions of this act or any other act of the first regular session of the 42nd Legislature;
- ▶ necessary to continue operations of HCG.

Establishes that in determining whether a rule is necessary, the director of AHCCCS shall ensure that a rule does not enhance HCG operations to a level beyond that authorized in rule as of October 1, 1993.

Requires HCG to provide inpatient preexisting condition coverage to persons that are eligible under the portability requirements for Accountable Health Plans.

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SB 1352 - Chapter 269 - state employees' health insurance; self-funding

SB 1352 amends statutes relating to the Legislative Oversight Health Insurance Benefits Review Committee. The bill amends the make-up of the Committee by adding another member who shall be appointed by the Department of Administration. Additionally, SB 1352 requires the Committee to review aspects and types of self-funded insurance programs operated by state governments or large municipalities. The Committee shall report its findings and make recommendations for implementation of a self-funded program of health benefits coverage for full-time officers and employees of the state. The report shall be submitted to the President of the Senate, the Speaker of the House and the Governor no later than December 1, 1995.

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FREDDY HERSHBERGER - CHAIRMAN

Pat Chumbley - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2048 - Chapter 213 - alimony; child support; handling fee

HB 2048 increases from \$12 to \$18 the annual handling fee of the superior court clerk for alimony and child support payments.

HB 2143 - Chapter 221 - putative fathers registry

HB 2143 provides for the following:

- ▶ removes the obligation of the mother to file a notarized affidavit with the court listing all potential fathers, and to serve notice on each potential father;
- ▶ the potential father who fails to file a paternity action within 30 days of being served notice is barred from bringing or maintaining action to assert interest in the child and waives his right to be notified of any judicial hearing regarding the child's adoption, and his consent to the adoption is not required;
- ▶ if it is determined that the claimant is not the child's father, the court must notify DHS and order it to remove the claimant's name from the registry;
- ▶ the court may approve an increase from the current \$300 to \$500 for the natural mother's living expenses without filing a petition.

HB 2168 - Chapter 226 - *adoption; racial preferences; prohibition

HB 2168 provides for the following:

- ▶ prohibits DES, an adoption agency and the court from denying or delaying a placement or adoption certification based on the race, the color or the national origin of the adoptive parent or the child;
- ▶ excludes application of this section to the placement and adoption of children pursuant to the Indian Child Welfare Act;
- ▶ prohibits DES from removing a child from the foster parents for the sole reason that they have applied to adopt the child.

HB 2208 - Chapter 126 - child welfare; department accountability; report

HB 2208 requires DES to quarterly compile information related to:

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- ▶ CPS reports, services and investigations;
- ▶ vacancies for the positions of specified workers;
- ▶ statistics on children in shelters and foster homes.

The bill allows for a "phase-in" collection of specified data beginning November 30, 1995 and January 1, 1998, continuing through July 1, 2000. In addition, the bill requires DES to submit an annual written report to specified people on or before August 31.

HB 2475 - Chapter 285 - adoption assistance; eligibility

HB 2475 eliminates the income eligibility for families applying to DES for an adoption subsidy for a special needs child. In addition, it requires DES to ensure that the applicant has applied for all existing federal eligibility categories under Title IV-E before considering a state adoption subsidy.

HB 2483 - Chapter 54 - Camp Sue; sale

HB 2483 requires DES to consult with the State Land Department regarding the sale of the real property in Pinal County known as "Camp Sue." In addition, the bill:

- ▶ requires the director of DES to use the proceeds of the sale of Camp Sue to provide family support services to individuals with developmental disabilities;
- ▶ exempts the sale monies from the provisions relating to lapsing of appropriations.

HB 2506 - Chapter 117 - foster care placement

HB 2506 provides for the following:

- ▶ requires the juvenile court to hold a permanency planning hearing no later than 12 months after the initial dispositional order of the court, at which time the court may continue the permanency planning hearing for a specific period of time not to exceed six months;
- ▶ requires the court to finalize a permanency plan for the child if the court determines that the child cannot be immediately returned to the parent at the time of the continued permanency planning hearing;
- ▶ requires the court to conduct a review of the dispositional order at least once each year if the child remains in foster care longer than 18 months.

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SB 1028 - Chapter 183 - *child support liens; notice

SB 1028 provides for the following:

- ▶ requires DES to notify an obligor who is at least two months in arrears that a notice of lien may be filed against him; contents of the notice are included and shall be sent by first class mail;
- ▶ allows 15 days for the obligor to respond to the notice; if no response is made, a second notice shall be sent; a notice of lien shall be filed if the obligor fails to respond to the second notice;
- ▶ stays the action by DES if the obligor requests an administrative review;
- ▶ requires DES to record a notice of lien and send a copy of the notice by certified mail to the obligor if it is determined at the administrative review that the obligor is at least two months in arrears and has failed to respond to the second notice.

SB 1119 - Chapter 49 - DES; children; health services

SB 1119 prohibits DES from paying medical claims submitted later than six months from the date of the service rather than the current nine months.

SB 1120 - Chapter 193 - housing assistance program; extension

SB 1120 continues the Housing Assistance Program through July 1, 1998. Additionally, the bill requires DES to submit a report, including specified information for each calendar year, to the Governor, the President of the Senate and the Speaker of the House by July 15, 1997.

SB 1121 - Chapter 84 - procurement; exemption; developmental disabilities

SB 1121 provides for the following:

- ▶ continues the DDD exemption from the State Procurement Code until July 1, 1996;
- ▶ establishes timeframes for DDD to adopt and file emergency rules regarding the procurement of contracts;
- ▶ requires DDD to submit a report to the Legislature by December 31, 1995, on the status of establishing permanent rules;

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- ▶ contains a repeal date of July 1, 1996.

SB 1167 - Chapter 123 - interstate adoptions; insurance; AHCCCS

SB 1167 provides for the following:

- ▶ requires that a sending agency or an attorney assisting in a direct placement adoption submit to the Interstate Compact on the Placement of Children (ICPC), a verified accounting within 30 days after an adoption petition is heard. The accounting must indicate among other things, if the birth mother is AHCCCS eligible;
- ▶ requires the ICPC to notify the state bar of an attorney's noncompliance of accounting requirements;
- ▶ requires that the state be reimbursed by the adoptive parents or by the person obligated to reimburse the adoptive parents for the total costs of prenatal care and delivery of the child including capitation, reinsurance and any fee-for-service costs incurred by AHCCCS;
- ▶ requires AHCCCS to provide the placement agency, if requested, with the necessary financial information and provide a written discharge of financial obligation within 30 days after receiving full reimbursement. AHCCCS must deposit all monies received under this section in the AHCCCS and Long Term Care System fund and include an accounting in its monthly financial report;
- ▶ prohibits the application of this section to special needs children, those in the custody of the state, and children placed with relatives;
- ▶ requires health contracts that provide maternity benefits to also provide benefits to cover the costs of the birth of a child who is legally adopted by the enrollee under specified conditions. This coverage is excess to any other coverage the natural mother may have except for AHCCCS;
- ▶ requires the agency or attorney arranging the adoption, if other coverage exists, to make arrangements for the payment of the covered costs by the insurance and advise the adopting parents of the extent of coverage without disclosing confidential information about the natural parent;
- ▶ requires that the adopting parents notify their health plan of the extent of the other coverage;

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- ▶ provides that accountable health plans are not required to pay any costs in excess of the amounts it would have been obligated to pay if the natural mother and child had received care directly from or through that accountable health plan;
- ▶ allows AHCCCS to receive confidential adoption information for purposes of identifying adoption-related third-party payors to recover maternity-related expenditures paid on behalf of an eligible person who AHCCCS has reason to believe had an adoption arrangement;
- ▶ requires that AHCCCS not further disclose confidential adoption information, implement safeguards to protect its confidentiality; stipulates that a person who knowingly violates the confidentiality requirements is guilty of a class 6 felony;
- ▶ requires the adoption agency or attorney to notify AHCCCS within 30 days after an eligible person receiving services has placed her child for adoption;
- ▶ stipulates that AHCCCS shall not seek maternity expenditure cost recovery on adoption arrangements involving the placement of special needs children, those in the custody of the state or children placed with relatives.

SB 1187 - Chapter 44 - domestic relations; child support committee

SB 1187 revises the membership of the Child Support Coordinating Council Subcommittee and the Domestic Relations Reform Study Subcommittee.

SB 1227 - Chapter 206 - child support; assignment of rights

SB 1227 provides for the following:

- ▶ assigns to DES, by operation of law, the right to support of a child who receives AFDC and medical support under Title XIX, and requires DES to enforce the assignment including support accrued prior to receiving AFDC;
- ▶ terminates assignment of current support when the person entitled to receive support is no longer receiving AFDC;
- ▶ limits the assignment for reimbursement to DES from exceeding the amount AFDC paid;
- ▶ stipulates that support paid shall be credited first to the current support ordered by the court and the excess shall be subject to the assignment if the person entitled to receive support is not concurrently receiving AFDC benefits;

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- ▶ requires that the state's claim for arrearages takes priority over all other support claims except for current support if the person is currently receiving AFDC; after May 31, 1996, a person entitled to receive child support and not currently receiving AFDC and the state have a proportionate claim. The arrearage payment shall be divided based on the total outstanding arrearage and proportioned based on the percentage of arrearage owed to the state and the person entitled to receive support;
- ▶ appropriates to DES for FY 1995-96 the sums of:
 - \$33,350 from the general fund to reprogram the computer system;
 - \$73,086 from the general fund to cover the reduction of the state's share of retained earnings and AFDC incentives under the proportional distribution of child support arrearages for former AFDC cases.

All monies remaining unencumbered and unexpended on June 30, 1996, shall revert to the general fund.

- ▶ makes retroactive assignment of rights from and after December 31, 1974.

SB 1260 - Chapter 247 - *full employment demonstration project

SB 1260 incorporates language from Laws of 1994, Chapter 301, section 2 and provides for the following:

- ▶ requires DES to allow an increase in benefits for any dependent child born to a parent who has not received cash assistance for at least 12 consecutive months if the child is born within the period beginning 10 months after the 12-month period and ending 10 months after the parent resumes receiving cash assistance;
- ▶ grants assistance to a wage earner who works 100 or more hours per month;
- ▶ requires DES to adopt rules that provide for the granting of extensions of the 24-month time limit of benefits if a recipient applies and demonstrates that he is unable to earn income equal to the amount of the benefit he would have received; the application of the time limit is presumed to be fair and equitable and the recipient has the burden of proof if otherwise; lists reasons for not granting an extension;
- ▶ prohibits the reduction of food stamp benefits when a person is sanctioned for noncompliance with the full employment demonstration project;
- ▶ requires the director of DES to establish a full employment demonstration project and designate by zip codes those areas in the state where the project is tested; requires the director to develop a zip code methodology that is the most accurate representation

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of the state's AFDC and food stamp population and consider the best areas for job opportunities; all eligible individuals within the test area are subject to participation;

- ▶ provides that welfare benefits that would have been granted to an eligible person be used for wage subsidies;
- ▶ allows for current child support payments to be disregarded in calculating household income while the person is participating in the project;
- ▶ exempts from participation parents or relatives who care for children under the age of one year;
- ▶ requires the director to submit waiver proposals to the federal government to implement the demonstration project;
- ▶ requires DES to adopt rules that establish a procedure for participating employers to appeal the findings of the Department regarding compliance with project requirements;
- ▶ requires the director to submit a monthly report to the Legislature regarding any extension of cash assistance granted to adults;
- ▶ allows the director to establish a control group for implementing certain welfare reform programs to test the effectiveness of benefit restrictions or enhancements;
- ▶ specific sections are dependent on federal waivers to be granted by January 1, 1996.

SB 1305 - Chapter 175 - demonstration project; child care; AHCCCS

SB 1305 establishes a three-year pilot program extending AHCCCS and child care benefits to current and former AFDC recipients who are working, enrolled in school, or in the Jobs Opportunities and Basic Skills Training Program (JOBS). In addition, the bill provides for the following:

- ▶ requires DES and AHCCCS to jointly evaluate and submit an initial report within 18 months after the start of the program and a final report within nine months after the end of the program to the Governor, the President of the Senate and the Speaker of the House;
- ▶ appropriates funds totaling \$495,700 from the general fund for FY 1995-96 as follows:
 - \$430,900 to AHCCCS for providing medical assistance;
 - \$ 52,300 to DES for child care;

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- \$ 12,500 to DES for evaluation of the program.

Enactment is conditioned upon the receipt of federal waivers by January 1, 1996, after which the act shall be implemented within 180 days.

There is a delayed repeal date of March 31, 1999.

SB 1340 - Chapter 266 - CPS; records; access

SB 1340 provides for the following:

- ▶ allows a person or agency required to perform a preadoption certification investigation to obtain confidential records needed for the investigation;
- ▶ requires DES to remove personally identifiable information in a child welfare agency licensing record before the information is released;
- ▶ clarifies that "records and files" referred to in CPS confidentiality statutes, do not include information that is contained in child welfare agency licensing records.

SB 1341 - Chapter 176 [P] - CPS; confidentiality; files; access

SB 1341 provides for the following:

- ▶ for the time period beginning with the effective date through September 30, 1997:
 - allows a person to obtain confidential CPS records concerning a victim who has died and to request generic case files of child abuse or neglect;
 - requires DES to edit these files to protect the identity of the person who made the report, the victims and their parents and any individual DES believes would be endangered by the disclosure;
 - allows DES to charge a fee to cover costs including the search, preparation, editing, copying and labor charges; requires the person to prepay the fee before DES prepares the file for release;
 - allows DES to contract with vendors for case file preparation services;
 - requires DES to prepare the file requested within 10 working days after receipt of the payment, unless the requesting party authorizes a longer time period;

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- prohibits the further disclosure or release of confidential information to those not entitled under this section;
 - requires DES to forward a copy of proposed rules under this section to the appropriate Senate and House committees at least 30 days before DES is scheduled to adopt the rules. Each committee shall forward any suggested changes to the director who shall adopt the rules after considering the comments.
- ▶ Effective October 1, 1997:
- repeals the aforementioned sections regarding release of files of victims who have died and requests for generic case files;
 - reinstates the section related to DES requirements for the editing and release of confidential files as well as the fees charged.

This bill provides for a net increase in state revenues as defined in Article IX, Section 22, Constitution of Arizona. It 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.

SB 1353 - Chapter 270 - child support enforcement

SB 1353 provides for the following:

- ▶ specifies that a challenge to an examiner's report on paternity tests must be filed within 21 days of the initial trial date;
- ▶ allows the state to establish the paternity of a child by filing with the clerk of the court;
- ▶ allows the establishment of paternity without written consent if the father cannot reasonably be located;
- ▶ expands the definition of "support" to include arrearages and interest on arrearages;
- ▶ allows the state to file with the clerk of the superior court a proposed order including a document indicating how the support amount was calculated;
- ▶ requires the state to serve the parent according to Rules of Civil Procedure rather than certified mail, and file proof of service with the clerk of court;

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- ▶ stipulates that an attorney-client relationship does not exist between the Attorney General or county attorney and an applicant or recipient of child support enforcement services;
- ▶ requires DES to notify an obligor who is at least two months in arrears, that he may be referred to court for a hearing to suspend his driver's license;
- ▶ specifies the information required in the aforementioned notice and requires that it be sent by first class mail;
- ▶ requires DES to send a second notice if the obligor fails to respond to the first notice within 15 days from mailing;
- ▶ requires the suspension of the obligor's license if he fails to contact DES within 15 days of the mailing date of the second notice;
- ▶ stipulates that if an obligor requests an administrative review, that the review shall be limited to whether he is required to pay child support and is in arrears;
- ▶ prohibits DES from referring the obligor to court for license suspension unless he is at least 60 days in arrears or if he fails to respond to the second notice; the decision of DES after the administrative review must be in writing and a copy given to the obligor;
- ▶ stipulates that a person who is ordered to pay child support and fails to provide a copy of the order of assignment to his employer is guilty of a class 3 misdemeanor;
- ▶ requires that a child support order be retroactive to the date of filing a dissolution of marriage, legal separation, maintenance or child support proceeding;
- ▶ requires the court to send a certificate of noncompliance to ADOT which shall suspend the obligor's license if the court finds that the obligor has wilfully failed to pay child support and is at least two months in arrears;
- ▶ requires the court to hold a review hearing within 120 days after it issues the certificate of noncompliance to establish whether the obligor is in compliance with the support order; if he is in compliance. the court shall send a certificate of compliance to ADOT; the obligor may then apply for license reinstatement prescribed by ADOT and is required to pay all applicable fees;
- ▶ allows a non-IV-D obligee to petition the court for the suspension of the license of a person who is at least two months in arrears on a child support obligation if the obligee complies with the notice requirements; the court may act on this petition in the same manner it acts on other petitions;

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- ▶ allows DES to access records of all other state and political subdivisions to locate persons in a child support enforcement proceeding for the purpose of enforcing a support order;
- ▶ allows a custodial parent who receives court-ordered child support directly to enforce the support order by all civil remedies provided by law if the payment is 10 days overdue;

SB 1359 - Chapter 272 - committee; children; family services

SB 1359 provides for the following:

- ▶ increases the membership of the Joint Legislative Committee on Children and Family Services from eight to 10 with no more than three from each body from the same political party;
- ▶ allows for the legislator who requests a review of a case to attend the review and receive all information presented pertaining to the matter;
- ▶ changes the title of the Joint Committee on Children and Families to the Joint Committee on Community Program Evaluation to distinguish it from the Committee on Children and Family Services.

SB 1399 - Chapter 157 - *rural food bank project; appropriation

SB 1399 provides for an appropriation of \$27,900 in FY 1995-96 from the general fund to the DES Division of Aging and Community Services for the purpose of expanding services for the rural food bank project.

SB 1403 - Chapter 177 - *child care resources; referral system

SB 1403 provides for the following:

- ▶ requires DES to continue and maintain a statewide child care resource and referral system to:
 - provide families with information and referrals;
 - assist child care providers and programs with information, technical assistance and parent referrals;
 - coordinate with the community to develop statistics and maintain ongoing relationships with local groups interested in child care;

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- identify available child care providers and programs;
 - collect provider and family information for a referral data base;
 - provide technical assistance;
- ▶ lists the types of providers eligible for inclusion in the database unless barred by law and allows for exclusion from the database when specified conditions exist;
 - ▶ relieves any state or child care resource referral agency from an obligation to review or monitor child care providers and programs and relieves the state, a child care resource and referral agency and their officers and employees from liability for any damage or injury except for gross negligence or conduct intended to cause injury;
 - ▶ requires DES to adopt administrative rules.

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TOM SMITH - CHAIRMAN

Dominica Minore - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2001 - Chapter 178 - DYTR; name change; juvenile corrections

HB 2001 changes the name of the Department of Youth Treatment and Rehabilitation to the Department of Juvenile Corrections.

HB 2004 - Chapter 22 - committed youth board; membership

HB 2004 enables a designee of the director of the Department of Youth Treatment and Rehabilitation to serve on the State Educational System for Committed Youth Board.

HB 2006 - Chapter 59 - marriage ceremonies; solemnization; federal judges

HB 2006 enables the following to solemnize marriages:

- ▶ Justices of the United States Supreme Court.
- ▶ Judges of courts of appeals, district courts, and federal court judges.
- ▶ Bankruptcy court and tax court judges.
- ▶ United States magistrate judges.
- ▶ Judges of the Arizona Court of Military Appeals.

HB 2007 - Chapter 64 - fingerprinting; youth treatment personnel

HB 2007 expands the list of crimes required for disclosure on the Department of Youth Treatment and Rehabilitation personnel fingerprint and background check forms to include "manslaughter" and "aggravated assault."

HB 2014 - Chapter 66 - bonds on appeal

HB 2014 increases the maximum dollar amount fixed by a judge in a criminal appeals case from no more than \$1000 to no more than the maximum fine amount available, plus surcharges and assessments.

The bill requires a limited jurisdiction court, upon appeal to the superior court, to retain any bail bond or security taken in an action unless the superior court orders otherwise.

HB 2028 - Chapter 56 - qualified immunity; public entity contracts

HB 2028 provides a public entity or public employee qualified immunity from damages caused by a contractor of a public entity. The bill does not provide qualified immunity to the contractor or his employees.

HB 2161 - Chapter 224 - boot camps

HB 2161 excludes the court from establishing criteria for participation in a boot camp program and from referring a juvenile to boot camp.

HB 2273 - Chapter 242 - stolen vehicles; chop shops

HB 2273 extends the unlawful use of means of transportation statute to include a person who is transported or physically located in a vehicle that the person knows or has reason to know is in the unlawful possession of another (joyriding). The penalty for this offense is a class 6 felony (1 year/\$150,000).

HB 2273 provides that it is a class 2 felony (5 years/\$150,000) to own or operate a chop shop. The bill also provides that it is a class 4 felony (2.5 years/\$150,000) to (1) transport a motor vehicle or motor vehicle part from a chop shop; (2) sell, transfer to, purchase or receive from a chop shop a motor vehicle or motor vehicle part; (3) remove, destroy or deface a motor vehicle identification number with intent to misrepresent or prevent identification of a vehicle or part; or (4) buy, sell, transfer or possess a motor vehicle knowing that the motor vehicle identification number has been altered. These offenses include violations involving watercraft and watercraft parts.

The bill excludes from the chop shop violation provisions law enforcement and lawful owners acting in good faith, towing companies or scrap processors, licensed automotive recyclers and other businesses acting in good faith and in conformance with all applicable laws.

HB 2273 classifies the offense of possessing a motor vehicle knowing or having reason to know that the manufacturer's serial or vehicle identification number has been removed or altered without the permission of the Department of Transportation as a class 5 felony (1.5 years/\$150,000). The bill exempts from this provision towing companies and other businesses acting in good faith and in conformance with all applicable laws.

The bill also excludes from certain violation provisions relating to vehicle identification numbers and vehicle registration law enforcement officers and government employees if the violations occur in the course of their official duties.

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HB 2290 - Chapter 142 - wiretaps

HB 2290 conforms Arizona statutes relating to the authorized interception of wire, electronic and oral communications to federal statute as follows:

- ▶ includes in the definitions of electronic communication and wire communication the use of the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;
- ▶ enables the use of a wiretap to determine the location of a fugitive;
- ▶ exempts certain types of interception from the eavesdropping and communications statutes.

The bill prohibits a person acting in good faith from being sued for a wiretap.

According to the bill, a civil action may be brought against a person or entity who illegally intercepts a wire, oral or electronic communication. A plaintiff may recover certain types of relief in a civil action as stated in the bill. In addition, the bill prohibits a civil action from being commenced later than one year after a claimant has a reasonable opportunity to discover the illegal interception.

The bill expands the offense of computer fraud to include the act of exceeding authorization of use of any computer system. The bill increases the penalty for exceeding authorization by accessing, altering, damaging or destroying any computer system from a class 6 felony (1 year/\$150,000) to a class 5 felony (1.5 years/\$150,000).

HB 2292 - Chapter 127 - aggravated assault; contracted prison facilities

HB 2292 expands the aggravated assault statute to include an assault committed by a prisoner against prison personnel who are employed by an entity contracting with the Department of Corrections (DOC) or other governmental agency. The penalty for this offense is a class 5 felony (1.5 years/\$150,000).

The bill requires a private contractor providing detention or incarceration services to a governmental entity to be liable for the reimbursement of any cost of emergency, public safety or security services provided to the contractor by the state or political subdivision.

HB 2482 - Chapter 286 - curfews; drive-bys

HB 2482 expands from 90 days to 180 days the time period for which a juvenile hearing officer may suspend a juvenile's driving license or restrict a juvenile's driving privileges. Also, the bill allows a

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juvenile hearing officer to order a juvenile or his parents to pay restitution to any person who suffered economic loss as the result of the juvenile's conduct.

The bill provides that if a juvenile commits a second or subsequent offense involving the defacement or damage of property, or a felony involving the use of a motor vehicle, ADOT must revoke the juvenile's driver's license, or refuse to issue a driver's license to the juvenile, until the juvenile is 18 years old.

HB 2482 requires the court to order the surrender of a person's driver's license who is convicted of a drive-by shooting. The court must revoke the person's driving privilege for at least one year but not more than five years.

The bill requires a driver who is stopped by a law enforcement officer to present the officer with the driver's full name, date of birth, residence address, physical description and signature. The bill also prescribes that a driver must not be convicted of failing or refusing to present a driver's license or evidence of identity, if the driver provides evidence of identity to the officer and later provides to the court his valid driver's license.

The bill expands from 90 days to 180 days the time period for commencing a civil traffic violation case involving an accident.

HB 2493 - Chapter 287 - decedents' estates

HB 2493 makes a number of changes to the probate statutes, as follows:

- ▶ decreases from three years to two years the statute of limitations for commencing informal probate or appointment proceedings;
- ▶ clarifies that a guardian of an incapacitated person has the ability to act in accordance with a living will, a health care power of attorney or a health care directive;
- ▶ allows a public fiduciary to apply for and become a designated payee of benefits that are payable to a person on whose behalf a fiduciary is acting;
- ▶ prescribes requirements for the execution of a written power of attorney including: (1) language that clearly indicates the person creating the power of attorney (principal) intends to do so and clearly identifies the person who will be designated (agent); (2) date and signature or mark of the principal; (3) notarization; and (4) a witness;
- ▶ requires a power of attorney to be terminated by the appointment of a conservator, unless the agent petitions the court;

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- ▶ permits a power of attorney executed in another jurisdiction to be valid in this state if it was validly executed in the other jurisdiction;
- ▶ allows the probate court to hear and determine related claims by or against fiduciaries, protected persons or incapacitated persons by or against third parties, including claims as listed in the bill;
- ▶ grants the probate court general jurisdiction of formal or supervised probate proceedings relating to estates, including actions to quiet title, actions for personal injury and wrongful death and actions against third parties to recover estate assets;
- ▶ provides immunity from civil liability (1) to an individual who provides information or testimony regarding a private fiduciary's alleged misconduct or lack of professionalism, and (2) to members of the private fiduciary advisory board, the program coordinator and all other investigators, auditors, staff and hearing officers for conduct relating to their official duties;
- ▶ provides that if a husband or wife take property as an estate in community property with right of survivorship, the property automatically transfers to the surviving spouse when the other dies;
- ▶ allows an estate in community property with right of survivorship to be created without the use of a straw person. Exempts this transaction from the real estate transfer fee;
- ▶ provides that the provisions relating to community property with right of survivorship are retroactive to January 1, 1994.

SB 1017 - Chapter 181 - DUI; community service

SB 1017 removes the provision that restricts the court from ordering a person convicted of boating under the influence (BUI) or driving under the influence (DUI) to perform no more than 40 hours of community service. The bill allows the court to order an offender to perform any number of hours of community service.

The bill increases from \$250 to \$500 the maximum fine which can be imposed on a juvenile who commits a DUI.

The bill increases the membership of the 14-member DUI Advisory Council by adding one member to represent the Department of Corrections. SB 1017 also extends the repeal of the Council from September 30, 1994, to December 31, 1996.

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SB 1017 provides that a person who commits a DUI offense while a minor 15 years of age or under is present in the vehicle is guilty of a class 6 felony (1 year/\$150,000).

The bill requires adult and juvenile DUI and BUI offenders to complete alcohol or drug screening that is provided by a facility approved by the Department of Health Services (DHS) or a probation department.

According to the bill, DHS must monitor and adopt standards for alcohol and drug screening, education and treatment programs and facilities.

SB 1027 - Chapter 63 - accidents; leaving scene; penalties

SB 1027 increases the penalty for fleeing from the scene of an accident that results in death or serious physical injury from a class 5 felony (1.5 years/\$150,000) to a class 4 felony (2.5 years/\$150,000).

According to the bill, if a driver causes an accident that results in death or serious physical injury, the driver is guilty of a class 3 felony (3.5 years/\$150,000).

SB 1051 - Chapter 130 - *product liability; remedial measures

SB 1051 stipulates that a plaintiff in a product liability action may only use information contained in a product-safety analysis or review or any reasonable remedial measures taken to provide feasibility of precautionary measures, to impeach or to controvert any position taken by a defendant that is inconsistent with the contents of the analysis or remedial measures.

The bill provides that a plaintiff in a product liability action may not use information contained in a product-safety analysis or review or any reasonable remedial measures taken to prove negligible or culpable conduct. However, a plaintiff is not prevented from proving negligence through other sources.

In addition, SB 1051 provides that unless information is provided by the plaintiff showing that an analysis, review or remedial measure was undertaken in bad faith or for the purpose of affecting litigation, the plaintiff is not entitled to punitive or exemplary damages.

The bill allows a portion of a product-safety analysis or review to be kept confidential if the portion involves competitively sensitive information. Any dispute as to confidentiality must be determined in private by the court.

SB 1060 - Chapter 188 - bad checks

SB 1060 contains the following provisions regarding the enforcement of bad checks:

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- ▶ Allows the state to seize the defendant's tax refund to pay a restitution order.
- ▶ Provides that a criminal restitution order is a criminal penalty for the purposes of a defendant's federal bankruptcy.
- ▶ Provides that a criminal restitution order expires five years after the date the order is signed by the court.
- ▶ Allows the court, prosecuting attorney or a person entitled to restitution to examine the defendant under oath concerning the defendant's ability to pay restitution. If the court finds that the defendant wilfully failed to pay monies required for a fine, fee, restitution or incarceration costs, the defendant will not be discharged until the amount of the fine is collected.
- ▶ Allows the court to issue a writ of garnishment for monies owed to a victim, court, clerk of the court or the county attorney in order to pay any fine, restitution or incarceration fee. The bill details what is subject to garnishment and the procedure for obtaining and enforcing a writ of garnishment.
- ▶ Increases the fee a county attorney may collect if their office collects and processes a bad or forged check as follows:
 - \$50 if the amount of the check does not exceed \$100;
 - \$75 if the amount of the check is between \$100 and \$300;
 - \$100 if the amount of the check is between \$300 and \$1,000;
 - 15% of the amount of the check if greater than \$1,000.
- ▶ Provides that if the bad check involved altering the face amount of the check, the altered face amount shall be used to determine the amount of the fee collected by the county attorney.
- ▶ Requires monies received from an offender for fees for each check to first be applied to satisfy restitution to the victim.
- ▶ Enables the county attorney to subpoena a financial institution to obtain account records or affidavits of dishonor in an investigation or prosecution for a bad check violation and allows the records to be used in court.
- ▶ Establishes a county bad check trust fund that is to be administered by the county attorney. The county attorney is required to deposit into the bad check trust fund monies received from bad check enforcement and grant monies from foundations, corporations or government agencies. Monies in the fund will only be used for the investigation and prosecution of bad check cases.

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- ▶ Requires the county attorney to file with the board of supervisors, President of the Senate, Speaker of the House, and the chairs of both the House and Senate Judiciary committees a report listing the sources of all monies and expenditures from the bad check trust fund on or before the 15th of January, April, July and October.

SB 1087 - Chapter 82 - service of process

SB 1087 allows an officer serving process to serve a conformed copy of the process to all interested persons. Currently, the clerk gives an original copy of the process to the officer executing the process.

SB 1093 - Chapter 48 - central state repository; criminal history

SB 1093 allows the Arizona Peace Officer Standards and Training Board or a Board-certified law enforcement academy to access the central state repository or the Arizona criminal justice information system to obtain criminal history records. According to the bill, the criminal history records are to be used to evaluate the fitness and eligibility of prospective nonappointed cadets.

SB 1101 - Chapter 192 - probation services; state aid; formula

SB 1101 requires the board of supervisors to fix the salary ranges of adult probation officers, the director of juvenile court services, deputy juvenile probation officers, juvenile detention officers and other juvenile probation department personnel, on recommendation of the presiding judge.

The bill requires the county treasurer to designate a chief fiscal officer who must establish and maintain separate accounts in the adult and juvenile probation funds and show receipts and expenditures of monies from each funding source.

According to SB 1101, the presiding judge of the superior court must annually submit a detailed expenditure plan for the probation services fund accounts to the board of supervisors for approval. Any modifications to the plan affecting state or county appropriations must be made in accordance with Supreme Court or county policies.

The bill contains a delayed effective date of October 1, 1995.

SB 1149 - Chapter 197 - victims' rights; juvenile offenses

SB 1149 establishes rights for victims of juvenile crime. In November 1990, the Arizona voters approved Proposition 104, the Victims' Bill of Rights, as an amendment to the state constitution. In

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1991, the Legislature enacted laws necessary to implement the Victims' Bill of Rights. These rights were established only for victims of adult crime.

The Victims' Bill of Rights in the state constitution contains a provision authorizing the Legislature to extend victims' rights to juveniles proceedings. SB 1149 enacts statutes to require law enforcement, the court, prosecutors and the Department of Youth Treatment and Rehabilitation to involve victims of certain juveniles offenses in the juvenile justice system as follows:

GENERAL PROVISIONS

Applies the bill's provisions to all felony offenses and misdemeanor offenses involving physical injury. (8-281)

Provides that victims' rights begin when a juvenile is arrested or charged with an offense and continue until final disposition of the case. If restitution has been ordered, victims' rights continue until the restitution is paid or until the victim receives a judgment for the restitution. If the case ends in acquittal or dismissal of the charges, victims' rights are terminated. (8-283)

Grants to the victim the right to confer with the prosecutor before a decision not to proceed with prosecution is final. The prosecutor must explain the reasons the prosecutor decided not to go forward. (8-289)

Allows the victim to request a conference with the prosecutor to discuss issues relating to the disposition of the delinquent. (8-290.09)

Provides that the victim has the right to be present and heard at any proceeding at which the juvenile has the right to be present. Allows the victim to be heard at the detention hearing of the juvenile suspected of committing the act against the victim. The victim also has a right to be heard at a postarrest release hearing of the accused juvenile and at a hearing at which a plea agreement will be discussed. (8-290.10; 8-290.11; 8-290.12; 8-290.13)

Allows the victim to submit an impact statement in writing or orally to the probation officer preparing the predisposition or transfer report. Issues relating to the economic, physical and psychological impact of the crime must be considered by the probation officer in preparing the predisposition or transfer report. (8-290.14)

Allows the victim to present evidence and opinions about the delinquent act, the delinquent, the disposition or the need for restitution at a predisposition or disposition proceeding. Provides that the victim may be present and heard at disposition proceedings. (8-290.15)

Allows a victim to exercise the victim's right to be heard in a written statement, an oral statement

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Provides that the victim shall not be compelled to be interviewed by the juvenile defendant. Also requires any communication between the defendant and the victim to be conducted through the prosecutor. If the victim consents to be interviewed by the defendant, the victim may set the time and place for the interview and impose conditions on the interview. (8-290.22)

Provides that at a court proceeding the victim may not be compelled to reveal the victim's address, telephone number, place of employment or other locating information unless a compelling reason for the disclosure exists. (8-290.23)

Sets out procedures to be followed if the victim believes reasonable efforts were not taken to provide the rights to which the victim is entitled. Provides that a victim has the right to recover damages for intentional, knowing or grossly negligent violations of victims' rights. (8-290.25; 8-290.26)

DUTIES OF LAW ENFORCEMENT, THE COURT, PROSECUTORS AND THE DEPARTMENT OF YOUTH TREATMENT AND REHABILITATION

Requires law enforcement to provide to victims a multiple copy form as soon after the offense as possible to allow victims to request or waive victims' rights. Provides that copies of the form shall be distributed to appropriate entities. (8-286; 13-4405)

Requires the court or the Department of Youth Treatment and Rehabilitation (DYTR) on request to provide a copy of a juvenile's terms and conditions of release. (8-287)

Requires the prosecutor to give a victim notice if requested of the victim's rights, the charges against the juvenile, an explanation of juvenile justice procedures, how the victim should invoke the victim's right to confer with the prosecutor and the person at the prosecutor's office to call for more information. (8-289)

Requires the court to provide notice to the victim of a scheduled delinquency proceeding and of any changes to the schedule. (8-290)

Requires the victim to be immediately notified if the juvenile escapes. This notice is given by the agency having control of the juvenile. (8-290.03)

Requires the prosecutor to notify the victim when the prosecutor will not move for revocation of release of the juvenile. The prosecutor shall inform the victim of the victim's right to petition the court to revoke the release based on actions of the juvenile such as harassment, threats, use of physical violence or intimidation. (8-290.21)

OTHER PROVISIONS

Requires a defendant alleged to have committed a crime involving significant exposure to submit to HIV testing at the victim's request. This also applies to minor defendants. (13-1415)

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Appropriates \$1 million to the Attorney General to the victims' rights implementation revolving fund to carry out the notification procedures required by this bill. (Sec. 7)

Provides that the bill is effective April 1, 1996. The appropriation is excluded and has a general effective date. (Sec. 8)

Delays the effective date of the section that allows a victim to recover damages for violations of victims' rights to July 1, 1996. (Sec. 8)

SB 1151 - Chapter 198 - *appeals; post-conviction relief

SB 1151 repeals the law requiring the appellate court to examine the entire lower court record for fundamental error.

The bill provides that if an appellant does not prosecute an appeal, the appellate court must dismiss the appeal.

In a post-conviction relief (PCR) action, SB 1151 requires a petitioner's notice for a successive or untimely PCR petition to state the substance of the claim for relief.

The bill allows the court to preclude a PCR petition regardless of whether the state raises a preclusion issue.

The bill removes the requirement that a defendant pursuing PCR must be appointed counsel by the court.

The bill stipulates that a defendant in a noncapital case may be granted up to a 60-day extension to file a petition for PCR on a showing of good cause. Currently, a defendant in a noncapital case may receive a 30-day extension and additional 30-day extensions in extraordinary cases.

In a capital case, the bill strikes the provision that allows a defendant to be granted more than a one-time extension to file a petition for PCR.

SB 1151 allows a defendant who pled guilty and who is precluded from filing a direct appeal to be granted an additional 30-day extension to file a PCR petition if the defendant's counsel refuses to raise an issue and leaves the defendant insufficient time to file a petition within the established timeframe.

SB 1158 - Chapter 101 [P] - juvenile victims' rights; implementation fee

SB 1158 requires the parent of a juvenile who is adjudicated delinquent or whose referral is adjusted before a petition is filed in juvenile court to pay a \$15 fee if the offense involved a victim. If it is determined that the parent is unable to pay the fee, the fee may be decreased.

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The bill provides that the fee is to be deposited into the victims' rights implementation revolving fund.

This bill provides for a net increase in state revenues as defined in Article IX, Section 22, Constitution of Arizona. It 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.

SB 1173 - Chapter 199 - community supervision

SB 1173 repeals the 1993 law that required the responsibility for community supervision services to be transferred from DOC to the court by January 1, 1996.

The bill requires the court to round terms of community supervision to increments of years or months. Specifically, the fractions of a month may be increased or decreased to the nearest month, with the exception of terms for class 5 and 6 felonies which must not be less than one month.

The bill prescribes that if DOC releases an inmate on temporary release, the time approved for the inmate's temporary release must be added to the inmate's term of supervision.

SB 1173 removes the Board of Executive Clemency's (BEC) authority to establish and modify the terms and conditions of an offender's community supervision. DOC is authorized to establish the conditions of supervision under the bill. Current law is maintained to allow the BEC to impose additional conditions.

According to SB 1173, any member of the BEC may petition the BEC to revoke an offender's community supervision if the member has reasonable cause to believe that the offender has violated a term or condition. Once a member's petition is submitted, the chairman of the BEC may summon the offender to appear for a revocation hearing or may issue a warrant for the offender's arrest. DOC may also issue petitions or warrants to revoke an offender.

The bill transfers from the BEC to DOC the authority for collecting the monthly community supervision fee.

If a prisoner reaches his earned release credit date and refuses to sign and agree to the conditions of community supervision, the bill prohibits the prisoner from being released from prison until he reaches his sentence expiration date. If the prisoner, upon reaching his sentence expiration date, refuses to sign and agree to the conditions of community supervision, the prisoner must serve his supervision term in prison.

SB 1202 - Chapter 102 - theft; telecommunications fraud; classification

SB 1202 increases the penalty for telecommunications fraud which involves theft relating to telephone services. The bill prescribes penalties based on the amount involved in the offense as follows:

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▶	\$25,000 or more	Class 4 felony (2.5 years/\$150,000)
▶	\$ 3,000 - 24,999	Class 5 felony (1.5 years/\$150,000)
▶	\$ 2,000 - 2,999	Class 6 felony (1 year/\$150,000)
▶	\$ 1,999 - or less	Class 1 misdemeanor (6 mos/\$2,500)

The bill requires a person who commits telecommunications fraud involving an amount of \$100,000 or more to serve a mandatory prison sentence.

SB 1207 - Chapter 103 - peace officer information; release

SB 1207 prohibits the release of a peace officer's home address or home telephone number. The bill also prohibits the release of a peace officer's photograph if the officer is undercover or is scheduled to go undercover within 60 days.

According to the bill, the information may be disclosed with the peace officer's express written consent or by a determination that release of the requested information creates no reasonable risk of physical injury to or damage to property of the peace officer or his immediate family.

The bill does not apply to a certified peace officer who is no longer employed as an officer by a state or local government agency.

The bill specifies that a state or local government employee who knowingly releases the home address or home telephone number of an officer as prohibited by the bill with the intent to hinder an investigation, cause physical injury to or damage to property of a peace officer or his immediate family is guilty of a class 6 felony (1 year/\$150,000).

SB 1242 - Chapter 113 [P] - courts; electronic access

SB 1242 enables the supreme court and the presiding judge of the superior court to impose a fee of up to \$2 per minute for on-line access to court records or up to \$100 per year for an on-line access subscription. Monies generated by the fee must be used to improve access to supreme court, court of appeals, superior court and municipal court records.

This bill provides for a net increase in state revenues as defined in Article IX, Section 22, Constitution of Arizona. It 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.

SB 1273 - Chapter 250 - incompetence to stand trial

SB 1273 adds Chapter 41, Incompetence to Stand Trial, to Title 13 of the Arizona Revised Statutes. Currently, competency to stand trial is governed only by Rule 11 of the Arizona Rules of Criminal

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Procedure. This bill establishes a statutory framework for Rule 11 and provides a secure treatment alternative for permanently incompetent, developmentally disabled, dangerous offenders.

SB 1273 stipulates that a person shall not be tried, convicted, sentenced or punished for an offense if the court determines that the person is incompetent. In the instance the court determines an individual is incompetent to stand trial, the court is required to order competency restoration treatment, unless there is clear and convincing evidence that the defendant will not regain competency within 15 months. The court may extend the treatment period for six months if the defendant makes progress toward restoration.

A treatment order shall be valid for 180 days or until:

- ▶ the defendant regains competency or the treating facility determines there is no substantial probability that the defendant will regain competency within 21 months after the date of the original finding of incompetency;
- ▶ the charges are dismissed;
- ▶ the maximum sentence for the offense charged has expired.

Additionally, SB 1273 requires the court to hold a progress hearing on its own motion or on receipt of a report from the treatment supervisor. If the court finds that the defendant has regained competency, the trial shall continue without delay. If the court finds that the defendant remains incompetent, the court may extend the treatment order, with appropriate modifications, for an additional 180 days.

In the instance the court finds that a defendant is incompetent to stand trial and that there is no substantial probability that the defendant will regain competency within 21 months after the date of the original finding of incompetency, any party may request that the court:

- ▶ remand the defendant to the custody of DHS for civil commitment proceedings;
- ▶ appoint a guardian;
- ▶ release the defendant from custody and dismiss the charges without prejudice.

Further, if the court finds that a defendant remains incompetent despite restoration attempts and is a threat to public safety, but is not subject to civil commitment (i.e., developmental disability), the court shall order the public fiduciary for the county in which the defendant resides or any other interested person to file a petition for guardianship of that person. The need for a guardian shall be reviewed annually.

SB 1273 requires the public fiduciary to take whatever steps are necessary to ensure that the person participates in treatment or training programs ordered by the court or determined necessary by the fiduciary, including admission to a secure-treatment facility.

SB 1273 stipulates that a guardian:

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- ▶ must consider the ward's threat to public safety in determining the most appropriate and least restrictive setting for the ward;
- ▶ in seeking services that are in the best interest of an incapacitated adult who has a developmental disability, shall take into consideration the ward's potential threat to public safety;
- ▶ may petition the court for an order to commit the ward to a secure facility under the jurisdiction of the Department of Health Services or the Division of Developmental Disabilities in the Department of Economic Security, whichever is applicable based on the person's diagnosis.

DES shall determine an individual's eligibility for appropriate services offered by the Division of Developmental Disabilities. If the person is not eligible, DES shall refer the person to DHS for treatment as directed by the court to coordinate necessary and reasonable services. Services provided are subject to the availability of funding.

Under emergency circumstances, an individual may be placed into a secure facility operated by the Division of Developmental Disabilities if the individual's guardian is unable to be reached.

SB 1273 appropriates \$15,000 to DES for fiscal year 1995-96 for planning costs associated with establishing a separate and secure developmentally disabled facility on the grounds of the Arizona State Hospital or another suitable location. The bill requires DES, DHS and DOA to coordinate in planning for a secure facility. Cost estimates are to be presented to the Joint Committee on Capital Review by DES on or before November 30, 1995.

Lastly, SB 1273 mandates that minors who are committed to the Arizona Department of Corrections and who have been determined to have a mental disorder be transferred to the Arizona State Hospital for psychiatric treatment.

SB 1273 contains delayed effective dates for certain sections.

SB 1288 - Chapter 257 - community safety act; sex offenders

The bill contains numerous provisions regarding sex offender registration, community notification and the civil commitment of sex offenders as follows:

SEX OFFENDER REGISTRATION

Removes the requirement that persons convicted for any sexual offense register with the sheriff and applies this requirement to only specific sexual offenses or attempted violations of these offenses.

Modifies the current registration time limits by requiring a sex offender to register with the sheriff within 10 days after the conviction or within 10 days after moving to a county for the purpose of

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residing for 10 days or more. Also requires a person to register within 10 days after changing his address or name.

Allows a judge to require a person to register who has committed any sex offense or any offense involving sexual motivation as defined in the bill.

Allows a judge to require a person adjudicated delinquent for a sexual offense specified in the bill to register. Terminates the duty to register under this provision when the person reaches 25 years of age.

COMMUNITY NOTIFICATION

Requires the agency that has jurisdiction over a sex offender who is required to register under the bill to provide written notice at least three months before the offender is released from confinement to the chief law enforcement officer of the community in which the offender intends to reside and any victim who has requested notification of the offender's release.

Requires the chief law enforcement officer to notify the community of the offender's release within 45 days after receiving notice, if appropriate and in accordance with guidelines established by the Community Notification Guidelines Committee. Delays the effective date of these provisions to June 1, 1996.

Exempts from community notification persons who were adjudicated delinquent by the juvenile court for sexual offenses that require registration.

Establishes the 12-member Community Notification Guidelines Committee. Requires the Committee to adopt guidelines for community notification by January 30, 1996.

CIVIL COMMITMENT OF SEXUALLY VIOLENT PREDATORS

Defines "sexually violent predator."

Requires an agency that has jurisdiction over a person who may be a sexually violent predator to notify the county attorney within three months of the person's release.

Allows the county attorney to file a petition in superior court alleging that the person is a sexually violent predator.

Provides that if the judge finds probable cause to believe that the person is a sexually violent predator, the person must be transferred to an appropriate facility for an evaluation by a qualified person.

Requires the court to conduct a trial within 45 days after the county attorney's petition is filed. Provides that the trial must be before the court unless the judge, Attorney General or the person named in the petition requests a jury trial.

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Allows the person named in the petition to have assistance of counsel in any proceeding. Requires counsel to be appointed if the person is indigent.

Allows the person named in the petition to retain an expert to perform an examination. Requires the court to assist the person in obtaining an expert or other professional to conduct an examination or participate in the trial on the person's behalf, if the person is indigent.

Requires the court or jury to find beyond a reasonable doubt that the person is a sexually violent predator. If the court or jury determines the person is not a predator, the person must be released.

Provides that if the court or jury determines the person is a predator, the court must commit the person to DOC custody for placement in the state hospital or a licensed behavioral health or mental health inpatient treatment facility. The person must remain until the person's mental abnormality or disorder has changed so that the person would not be a public safety threat if released.

Prescribes the procedure for commitment if the person is found incompetent to stand trial, including a hearing to determine if enough evidence exists to find that the person committed the act charged. Once that finding is made, the court determines whether the person is a sexually violent predator using the trial procedure stated above.

Requires each person committed as a sexually violent predator to be annually examined to determine if the person is eligible for release. Requires the person who conducts the exam to submit a report to the court.

Directs the superintendent of the Arizona State Hospital or the director of DOC to allow the committed person to petition the court for release if the superintendent or director finds that the person's disorder or abnormality has changed so that the person is not likely to engage in predatory acts of sexual violence. Requires the court to hold a hearing on the petition within 45 days and requires the state to prove beyond a reasonable doubt that the person should not be released.

Permits a committed person to petition the court for release without the superintendent's or director's approval. Requires the director of DOC to provide annual notice to the person of the right to petition the court.

Delays the effective date of these provisions to July 1, 1996.

DNA TESTING OF DELINQUENTS

Requires a juvenile who is adjudicated delinquent for a sex offense to submit to DNA testing for law enforcement identification purposes.

OTHER

Allows lifetime probation to be imposed on a person convicted of child abuse or sexual exploitation of children. Currently, this applies to sexual offenses contained in Title 13, chapter 14.

SB 1299 - Chapter 58 - harassment; stalking

SB 1299 provides that the offense of harassment is a class 1 misdemeanor (6 mos/\$2,500). Currently, harassment is a class 6 felony or a class 1 misdemeanor, depending on the acts involved in the offense.

The bill defines harassment as conduct that would cause a reasonable person to be seriously alarmed, annoyed or harassed, and in fact seriously alarms, annoys or harasses the person.

SB 1299 also creates a stalking statute. According to the bill, a person commits stalking if the person intentionally or knowingly engages in a course of conduct that either (1) would cause a reasonable person to fear for his or her safety and the person in fact fears for his or her safety, or (2) would cause a reasonable person to fear imminent physical injury or death and in fact the person fears imminent physical injury or death.

The bill provides that stalking involving a person who fears for his or her personal safety is a class 5 felony (1.5 years/\$150,000). Stalking involving a person who fears imminent physical injury or death is a class 4 felony (2.5 years/\$150,000).

SB 1401 - Chapter 94 - attorney general; general counsel; responsibilities

SB 1401 permits the Governor to obtain legal counsel other than the Attorney General. This provision is effective August 1, 1995.

SB 1401 establishes the 15-member Joint Legislative Study Committee on Legal Representation of State Agencies to study the issue of legal representation of state agencies and to review the Auditor General report required by the bill. The Committee must report to the Legislature by December 15, 1995. The Committee repeals on December 31, 1995.

According to the bill, the Auditor General must conduct a special review of the financial records of the Attorney General and Department of Law and report its findings to the Joint Legislative Committee by November 15, 1995. The bill appropriates \$98,000 in FY 1995-96 from the general fund to the Auditor General for this purpose.

SB 1401 transfers \$34,375 on August 1, 1995, from the Attorney General's Office to the Governor's Office for the purpose of obtaining legal services.

NATURAL RESOURCES AND AGRICULTURE

BECKY JORDAN - CHAIRMAN

Dan Shein - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2013 - Chapter 65 - plugging oil and gas wells

The bill assures the proper plugging of dry or abandoned oil and gas wells and geothermal wells as required by the Oil and Gas Commission:

- ▶ places full financial responsibility for plugging wells with the owner/operator;
- ▶ authorizes the Commission to use bond money to plug wells if the owner/operator does not;
- ▶ allows the Commission to sue the owner/operator for remaining costs if plugging fees exceed the bond amount.

HB 2036 - Chapter 3 - hunter education reciprocity; children

HB 2036 contains the following provisions:

- ▶ changes title of required course to Arizona Hunter Education Course;
- ▶ allows similar courses (e.g., from other states) to be used in place of the Arizona curriculum if approved by the director of the Game and Fish Department.

HB 2078 Chapter 139 - mine inspector; surplus equipment donation

Allows the state mine inspector to give surplus used mine rescue equipment which has no value to a nonprofit mine rescue organization or a political subdivision.

HB 2139 - Chapter 165 - livestock enforcement; due process protection

Liens

In the event a stockowner places their livestock in another person's care and fails to pay for services rendered, the person furnishing feed or pasturage (the stockholder) may place a lien on the stock. If the amount of the lien is under \$5000, the case would be filed in justice court. If the amount of the lien is over \$5000, the case would be filed in superior court. If the prevailing party does not receive the payment due within 10 days after the final judgment they become owner of the stock. The court shall award the prevailing party court costs and reasonable attorney fees. The Department of Agriculture shall issue the ownership and hauling certificates once they are presented with the judgment of the court.

Livestock Inspectors

Currently, a livestock officer may stop a person who is transporting livestock for any reason. HB 2139 requires the livestock officer to have probable cause or reasonable suspicion of a violation of law before they are allowed to inspect appropriate papers or make an inquiry.

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The change in ARS 3-1331 is in response to Hone v. State in which the court held that roving stops of vehicles by enforcement officers without a reasonable suspicion or probable cause based on articulable facts to believe a violation has occurred, violates both the US and Arizona constitutions.

HB 2251 - Chapter 237 - remitting game and fish fees

ARS 17-339 includes the requirement for game and fish license dealers to remit all the license and permit fees. It is a class 2 misdemeanor for those merchants who knowingly fail to transfer those fees within the 30-day grace period. Those merchants who make a fraudulent return or fail to submit returns or fees with the intent to defraud the Game and Fish Department are guilty of a class 6 felony.

HB 2252 - Chapter 5 - omnibus state land code revisions

HB 2252 allows the board of appeals (five members appointed by the Governor) 120 days, rather than the current 60 days, to schedule an appeal of a decision made by the State Land Commissioner.

The Commissioner is given the prerogative to initiate land sales, but is no longer required to approve a sale simply because someone has submitted an application.

The lessees' mandatory annual reporting of improvements is eliminated, yet the Commissioner is allowed to request a list when necessary.

HB 2256 - Chapter 238 - wild land fires; liability amount

Wild land fire emergencies are declared by the Governor. Funds for fighting these fires come from the Federal Emergency Management Agency, the Arizona Division of Emergency Management and the Wild Land Fire Emergency Council.

HB 2256 increases the amount of money available to \$2 million from \$1 million per fiscal year for fire suppression in wild land fire emergencies.

HB 2257 - Chapter 239 - perishable agricultural food; false claims

If a producer or shipper of perishable agricultural food suffers damages because of a another person's malicious intent to describe their product as unsafe for consumption (which is not based on reliable scientific data), the producer or shipper may file suit in court and recover damages in addition to any other appropriate relief (including compensatory and punitive damages) awarded by the court.

The heading of Title 3, Chapter 1, Article 2 is changed to "Agricultural Protection Act."

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HB 2262 - Chapter 125 - *gasoline; sale; oxygen content

Changes the starting date for the oxygenated fuel program in the Phoenix nonattainment area from September 30 to October 15.

HB 2276 - Chapter 9 (E) - surface water code amendments

SURFACE WATER CODE AMENDMENTS

Beneficial Use: a person can use water on less than all of the land to which the water right is appurtenant and such use does not result in forfeiture and abandonment; pre-1919 rights are not subject to statutory forfeiture; water-exchange agreements or substitutions do not constitute forfeiture or abandonment.

Alternative Sources: water right is not diminished or impaired if right holder has alternative sources for the same use.

Water Rights on Federal Land: held by person who first effects beneficial use; water source located on federal land which has been appropriated under state law may be beneficially used on any other land.

Change in Use: failure to obtain DWR approval for water appropriated for domestic, municipal or irrigation uses does not result in abandonment or forfeiture; would not be recognized if DWR denied an application prior to January 1, 1995; court may approve, modify or deny change in use for the purposes of adjudication.

Reservoir Permits: developer of supply files an application with DWR for primary permit along with plans and specifications for construction (notice of completion is also filed with DWR); secondary permit is for person proposing to apply for beneficial use of stored water; if person is one and the same, it is a single application; when the beneficial use has been perfected DWR will issue a final certificate of appropriation; filling of reservoirs must follow the priority of beneficial use in current law; delays in processing an application to appropriate or a delay in a permit to construct or enlarge a facility will not adversely affect the validity of the appropriation or date of priority.

Water Rights Registration Act (WRRRA): reopens WRRRA until 90 days before the final hydrographic survey report (HSR) is submitted for that particular subwatershed (de minimis users do not have to file statement of claim); this same provision applies to filings on federal lands and amendments; new claims may be asserted only if the use began before this act becomes effective; statement of claim filed under WRRRA is not admissible into evidence for the purpose of demonstrating water beneficially used is appropriable subflow.

Adverse Possession: previously, no post-1919 rights could be acquired by adverse possession; now, a person could acquire any pre-May 1974 rights by adverse possession.

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Abandonment: a pre-1919 right is subject only to intentional abandonment (not statutory forfeiture); a post-1919 right is subject to intentional abandonment or statutory forfeiture; irrigation districts and other agricultural and municipal water providers (including private water companies) are not subject to abandonment or forfeiture as long as their water-delivery system is capable of delivering the appropriated amount to customers; failure to use within five years is not a forfeiture if use is resumed prior to: (1) initiation of legal proceedings by DWR, (2) the filing by a third party of a statement of claimant in the general adjudication which asserts a right for that same water, (3) the filing by a third party of a written objection to a sever and transfer.

Additional Sufficient Causes for Non-use: construction/maintenance of facilities; agreement between holder of reservoir right and governmental entity for maintenance of a minimum pool for recreation, etc.; use of water on less than all of the land to which the right is appurtenant; a reservoir-use agreement is for more than five years; a written agreement to forbear the exercise of a right for the benefit of other parties within the same river system (still requires continued beneficial use).

GENERAL ADJUDICATION

Definitions:

- (1) stockpond: any size impoundment used for the sole purpose of watering livestock and wildlife;
- (2) domestic use: single right serving up to three residential connections with one-half acre limitation on irrigation per residence (does not include deliveries by a city, town, private water company, irrigation provider or special taxing district);
- (3) small business use: serving a small business with one-half acre limitation on irrigation and total quantity does not exceed three acre feet/year;
- (4) stockwatering: consumption by livestock and wildlife from body of water or from small diversion facilities;
- (5) prior filing: notice of application filed with county recorder, application to appropriate filed with DWR, statement of claim via WRRRA or stockpond registration act; statement of claimant for de minimis use filed for the purpose of adjudication.

Late Filings and Amendments: previously needed a motion to intervene if a person had not filed; later filings and amendments are permitted under the following guidelines:

- (1) do not need court's permission to file statement of claimant (file with DWR) or amendments up to 90 days before publication of DWR final report;
- (2) after 90 days but before conclusion of hearings by special master: file with court and DWR, amendments may be permitted by court, other parties have an opportunity to file objections except for de minimis claims;
- (3) after master has completed hearings and filed report with the court: request court's permission, other parties have an opportunity to file objections;
- (4) as of the effective date of the act all statements of claim previously filed are presumed to be timely filed and there can be no objections to the timeliness;

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- (5) once there is a final decree, anyone who did not file or intervene is prohibited from asserting any rights.

Court Jurisdiction: the superior court, rather than the supreme court, is responsible for appointing a special master; allows multiple special masters.

Fees: once the filing fees have been expended, the general fund will be the revenue source for continuing the adjudication process, rather than reassessing the claimants.

DWR HSR:

- (1) identify de minimis uses;
- (2) default water duties based on elevation - 6 AF/acre for lands below 3000 feet, 5 AF/acre for lands between 3000 and 5000 feet, 4 AF/acre for lands above 5000 feet, (transportation losses are not included), the standard of proof for a rebuttal of these presumptions is a preponderance of evidence;
- (3) reservoirs and diversions based on maximum capacity of the facility;
- (4) includes proposed water rights attributes and indications where there is no water right;
- (5) objections must specifically address DWR's recommendations;
- (6) portions of report which do not contain DWR recommendations are not summarily admitted into evidence (previously, parts of the report with no challenges were admitted into evidence and those with challenges were not);
- (7) DWR information for water rights claims 500 acre feet or less are summarily admitted into evidence (those above are not), and if no contrary evidence is submitted, DWR's proposed attributes are deemed correct and incorporated into the decree; claimants who agree with the report may rely on it for evidence for their water right;
- (8) DWR will inform the court at least 120 days before the final report is filed.

Final Judgment by Court: the ability to file objections to the master's report is divided into two categories: claimants are allowed to file written objections to the findings of fact and conclusions of law within 60 days after it is filed with the court on smaller issues and within 180 days if the report is for the entire subwatershed or federal reservation report; the report shall identify all de minimis uses; reservoir capacity includes continuous filling throughout the year; separate agreements among claimants are to be incorporated by reference into the final judgment without modification unless agreed to by the signatories, and are binding only among the parties to the agreement (the court does not have the ability to affect these agreements).

Summary Adjudication of De Minimis Uses:

- (1) stockponds: those with applicable prior filing or decree and with a capacity of 15 AF or less are deemed de minimis and attributes are not subject to objection other than by claimant; includes the right to continuous filling and to remove silt;
- (2) domestic: those with applicable prior filing or decree and with a capacity of 3 AF or less for each residential connection are deemed de minimis and attributes are not subject to objection other than by the claimant;
- (3) small business: same as domestic;

NATURAL RESOURCES AND AGRICULTURE

- (4) stock watering: those with applicable prior filing or decree are deemed de minimis and attributes are not subject to objection other than by claimant; the right does not require a minimum rate of flow; is not subject to enforcement action; maximum use is 1 AF.

Post Decree Actions: de minimis use attributes are from a prior decree (which was accepted by the court); the burden of proof is on the challenger to a de minimis use to show harm to the senior users.

Presumption in Favor of Prior Filings: court shall accept prior decrees; information from prior filings is presumed correct unless DWR determines it clearly erroneous; prior decree has precedence over prior filing; information most favorable to the claimant shall be presumed correct; except for de minimis, the presumption in favor of the prior filing may be rebutted by the clear and convincing evidence standard; if there are conflicts in prior filings over ownership of the right and multiple parties have filed statements of claimant, the prior filings presumption does not apply to the question of ownership; evidentiary standards for the HSR describing water rights claims above or below 500 AF apply to DWR decisions regarding: a clearly erroneous prior filing, that no water right was initiated or perfected and that a water right was forfeited or abandoned.

Indian Water Rights Settlements: contributions will not result in a diminution of a decreed water right unless a sever and transfer is specifically provided for in the settlement agreement; party whose water is actually being used by the tribe cannot also use the same water.

Public Trust: the court is not to make any determination of any public trust values in the adjudication proceedings.

State law defenses are available for all water rights initiated or perfected pursuant to state law.

Severability Clause

Joint Legislative Committee: monitor progress of adjudication and status of funding; five House and five Senate members; meet and report annually; make recommendations for improvements.

Registration of Stockponds: extended to one year after the effective date of the act and amendments may be made at any time prior to submission of the master's report to the court.

Policy and Intent Statement: simplify and expedite process; clarify existing statutory ambiguities; comply with the McCarran amendment; provide long-term security to water rights holders; remove undue burdens of litigation; prioritize Indian water claims; Legislature doesn't intend to create implication that public trust doctrine applies.

HB 2317 - Chapter 112 - *bonds; public improvement; sale; authority

Allows the board of directors of an improvement district to sell improvement bonds to the federal government or any of its agencies.

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HB 2352 - Chapter 279 - *sanitary districts study committee; membership

A Joint Legislative Study Committee on Sanitary District Alternatives is created to: 1) study the adequacy of current authority of rural counties to address the treatment and disposal of sewage and wastewater, and 2) to make recommendations on needed statutory changes.

Findings are to be reported to the Speaker of the House and the President of the Senate by December 31, 1995.

SB 1083 - Chapter 100 - clean water act; study committee

SB 1083 establishes an eight-member legislative study committee to examine and make recommendations on the legal, financial and administrative requirements necessary for DEQ to receive authorization from the Environmental Protection Agency to administer its own permit programs required by the federal Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) permit program and Section 404 permits relating to dredged or fill materials.

The committee shall report its findings and recommendations to the Governor, Speaker of the House, and President of the Senate by December 15, 1995.

The Governor's Office of Strategic Planning and Budgeting (OSPB), JLBC and DEQ shall provide technical assistance to the study committee as needed.

SB 1147 - Chapter 86 - appropriation; hydrologic study

Appropriates \$100,000 from the general fund to the Department of Water Resources in FY 1995-96 to continue a multi-year hydrologic data collection study in the Sierra Vista sub-basin of the San Pedro River. The appropriation is exempt from lapsing.

SB 1203 - Chapter 88 [E] - wastewater treatment revolving fund; authority

SB 1203 expands the eligibility of certain political subdivisions to participate in the loan program administered by the Wastewater Management Authority of Arizona (WMA) under DEQ for the financing of the construction of wastewater treatment facilities. The law allows for additional types of local revenues to be pledged for the repayment of loans made from the state revolving fund (SRF) administered by the WMA.

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Cities and Counties:

SB 1203 permits any revenues lawfully permitted to be pledged to the repayment of a long-term debt to be used to repay loans (e.g., excise taxes and utility revenues). If property taxes are levied to repay the SRF, they must be secondary property taxes.

Loan Fees and Voter Approval:

Loan administration fees may also be included in the levy for the repayment of SRF loans. Cities, counties, municipal improvement districts, and sanitary districts must still obtain voter approval prior to receiving a SRF loan (in the same manner as required for the issuance of bonds). Such elections are not necessary if voters have previously approved substantially the same project which is funded by another source or, in the case of cities, if the project is constructed with an improvement district.

Municipal Improvement Districts and Sanitary Districts:

Provisions have been included to authorize municipal improvement districts to undertake projects for the purposes of public improvements and the same requirements and restrictions for participation in the loan program that apply to cities and counties also apply to these special districts.

Wastewater Management Authority - Board of Directors:

- (1) serve five-year, staggered terms;
- (2) shall not have a personal financial interest in any of the wastewater projects financed through the WMA; employees of loan applicants may serve on the board;
- (3) the director of the Department of Commerce replaces the director of the Department of Health Service on the board of directors of the WMA.

Other Provisions:

An existing investment grade rating may be used as evidence of ability to repay a loan.

The provision limiting an entity from seeking further loans if it owed more than 30% of all the outstanding obligations to the SRF is repealed.

SB 1251 - Chapter 245 - *pesticide control; inspection; enforcement; hearing

The law allows the director of the Department of Agriculture the option to issue a letter of warning for an alleged violation that did not result in any adverse health effects or property damage for both pesticide regulation and worker safety regulation. A letter of warning issued for the former will not be counted in the Department's point system for pesticide violations.

SB 1289 - Chapter 258 - omnibus water amendments

Statewide Plumbing Code (45-313):

Conforms lavatory faucets to industry standard of 1/4 gallon or an average of 1/2 gallon per minute at 80 PSI.

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Small Water Rights Deregulation:

Background: the irrigation grandfathered right is appurtenant to 10 or fewer irrigation acres and the land is not part of an integrated farming operation.

Definitions: (1) integrated farming operation (IFO): more than 10 irrigation acres on parcels that are farmed as a single operation; (2) irrigation grandfathered right (IGR): gives the holder the right to irrigate land with groundwater but does not specify the amount of water that may be used on the irrigated acreage; the management plans specify the amount.

- ▶ A person who owns an IGR on 10 or fewer acres is exempt from the 25 cent per irrigation acre per year fee assessed in the Buckeye waterlogged area as long as it is not part of an IFO; there is not an exemption, however, if any of the irrigation districts in the area supplies groundwater to the acreage. (45-411.01).
- ▶ A person using groundwater pursuant to an IGR that is appurtenant to 10 or fewer irrigation acres is exempt from the annual reporting requirements (45-467, 45-632) and notification of changes or conveyances (45-482) to DWR unless it:
 - (1) is part of an IFO; or,
 - (2) (a) is delivered pursuant to a service-area right (of an irrigation district),
or
 - (b) another grandfathered right which is exempt from the irrigation water duty.
- ▶ In an AMA, anyone other than an irrigation district who withdraws groundwater from a non-exempt well (more than 35 GPM) pursuant to an IGR on 10 or less acres, does not have to use a water-measuring device unless the water is also used pursuant to a service-area right or another grandfathered right which is exempt from irrigation water duties. (45-604)
- ▶ Untreated water does not count toward the 250 acre feet in determining small versus large municipal provider (untreated water is not potable water). (45-561)

Assured Water Supply - Service Area:

- ▶ Conforms assured water supply language in transportation statutes to change made in Chapter 203 from 1994 relating to cities, towns or private water companies as having the assured water supply rather than the service. (45-552)
- ▶ "Incidental recharge factor" is redefined to the water withdrawn, diverted or received for delivery by a municipal provider rather than to the service area (45-561); makes consistent changes in the second, third and fourth management plans. (45-565.01, 45-566.01, 45-567.01)

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Well Permits:

- ▶ Not required for mineral extraction and metallurgical processing in the Santa Cruz AMA. (45-598)

Groundwater Withdrawal Fee:

- ▶ Applies to the Santa Cruz AMA (for the withdrawal of water from a well, other than stored water) as in other AMAs (not to exceed \$5 per acre foot) (45-611); conforms use of fee in Santa Cruz AMA. (45-612, 45-614)
- ▶ A person, other than an irrigation district, who withdraws groundwater in an AMA from a non-exempt well (more than 35 GPM) for an IGR on 10 or fewer acres is exempt from the fee unless the acres are part of an IFO. (45-611)

Underground Water Storage:

- ▶ Clarifies that any determination made by DWR as to the character of water of an underground water storage project is not to be used for any other purpose (adjudication). (45-803.01)
- ▶ Allows modification of a water storage permit to be expedited if certain conditions are met and it involves Colorado River water. (45-831.01)
- ▶ Allows an emergency temporary recovery well permit for the Central Arizona Water Conservation District (CAWCD) if: there is an unplanned failure of the delivery system; and, immediate delivery is required; and it is for an existing well in a particular area (45-834.01); allows an expedited permit to store Colorado River water if it meets certain conditions: permission has been given by the facility permit holder, no permit modifications are required, storage will be for Colorado River water only. (45-871.01)
- ▶ Fees are to be placed in the augmentation and conservation assistance fund. (45-871.01)
- ▶ The levy on public service corporations in the CAWCD which may be used for repayment of CAP costs (if approved by the CAWCD board) is for the capital repayment costs, not operations, maintenance and replacement costs. (45-3715.04)

Water Exchange Permits:

- ▶ Expedites modifications to a previous water exchange contract which didn't involve Colorado River water if the proposed modification is limited to groundwater, effluent or Colorado River water and proper notice is given in accordance with current law. (45-1041)

Flood Warning System Grants:

- ▶ Allows grants to be made as reimbursements or by advancing the money; exempts grants from the Procurement Code. (45-1504)

NATURAL RESOURCES AND AGRICULTURE

Irrigation Districts:

If an irrigation district had executed a CAP contract and delivered water to the landowners in the district, the estimate of the annual financial requirements and tax rate was to include: the amount to pay back bonds and create a sinking fund, paying off indebtedness incurred prior to 7/51, meeting other operating expenses not to exceed \$500 for the fiscal year - these restrictions are deleted. (45-3112, 45-3114)

SB 1365 - Chapter 18 - state land department recreational fees

SB 1365 modifies existing permits for recreational, non-consumptive use of state trust land.

In addition, SB 1365:

- ▶ eliminates the current three-day-or-less permit (\$25) and the more-than-three-day permit (\$50);
- ▶ establishes a \$15 per person annual-use permit;
- ▶ establishes a \$15 five-day-or-less permit for groups of less than 20 persons.

PUBLIC INSTITUTIONS AND UNIVERSITIES

JOE HART - CHAIRMAN

Kathi Knox - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2003 - Chapter 21 - committed youth escapes

HB 2003 clarifies that the definition and penalty classifications of "escape" apply to escape from either a juvenile secure-care facility or from an adult correctional facility.

HB 2005 - Chapter 23 - youth treatment training institutes

HB 2005 eliminates the requirement for training institutes established for persons who work with committed youth in juvenile justice to be located on the grounds of a Department of Youth Treatment and Rehabilitation secure-care facility.

HB 2025 - Chapter 114 [P] - prisoners; utility charges

HB 2025 authorizes the director of the Department of Corrections (DOC) to charge a utility fee to inmates who have at least one major appliance. Major appliances include stereos and television sets; minor appliances include electric shavers, small radios and electric toothbrushes.

The fee is capped at \$2 per month and will be deducted from the prisoner's spendable account or, in the case of indigent inmates, from monies credited to their spendable account.

The bill exempts certain inmates from the fee, including those at reception centers, and those housed at behavioral or mental health treatment units. Monies collected shall be used to offset the cost of the Department's utility expenses.

The director of DOC is required to submit a report to the Joint Legislative Budget Committee and the Office of Strategic Planning and Budgeting by September 1 of each year on the monies collected and spent on this program.

HB 2039 - Chapter 24 - merchant marine memorial

HB 2039 authorizes construction of a memorial to honor American Merchant Marines and outlines the responsibilities of various entities to place the memorial in Wesley Bolin Plaza.

Fund raising and contracts are the sole responsibility of the proponents and a state fund shall not be established in the treasury for deposit of monies collected.

The proponents of the memorial shall submit a concept, including design, dimensions and location to DOA for review and submittal to the Legislative Governmental Mall Commission. The Commission, after consulting with the Historical Advisory Commission and DOA approves the final design, location and maintenance requirements of the memorial. Prior to construction, the

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proponents must enter into a contract with DOA that specifies artists, contractors, subcontractors and protects the state from liability during construction.

HB 2039 requires the memorial to be completed and dedicated to the state by March 30, 1997.

HB 2057 - Chapter 70 - governmental mall; monuments

HB 2057 outlines procedures to establish a monument or memorial in Wesley Bolin Plaza and the Governmental Mall which include design and location, consideration of historical integrity, maintenance requirements, and indemnity for the state during construction.

Requires passage of a legislative act in order to locate a monument or memorial in the Wesley Bolin Plaza or the Governmental Mall.

Provides a two-year time limit for construction of the monument at which time it must be dedicated to the state.

Stipulates that all fund raising, administration of the monies and contracts for design and construction for the memorial or monument are the responsibility of the proponents.

Provides that the requirements of this act do not apply to monuments or memorials located outside Wesley Bolin Plaza on property owned by a city or county.

Revamps the membership of the Governmental Mall Commission and changes the boundaries of the Governmental Mall area.

HB 2060 - Chapter 161 - Ernest W. McFarland memorial

HB 2060 stipulates that the State of Arizona shall not facilitate fund raising for the Ernest W. McFarland Memorial and provides criteria which must be met prior to beginning construction of the Memorial.

HB 2064 - Chapter 72 - jail medical fees

Allows a sheriff, with the approval of the county board of supervisors or board of directors of a county jail district, to charge each inmate up to \$3 for inmate-initiated health service or for prescription drugs. The sheriff is authorized to maintain a negative balance on an inmate's personal account. Provides exemptions for indigent inmates and those with certain medical conditions.

Creates an inmate health services fund in each county treasury, to be administered by the sheriff. Use of the funds is subject to approval of the board of supervisors.

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Outlines the county's right of subrogation to collect necessary costs for health services rendered. Provides that the jurisdiction primarily responsible for the inmate is responsible for health care costs. Does not apply to cities and towns or to those health services covered under a contract between the county and the responsible jurisdiction for prisoner per diem reimbursements.

HB 2100 - Chapter 216 - DPS aircraft; interagency service agreements

HB 2100 allows the Department of Public Safety director to provide helicopter and other aircraft services to state agencies through an interagency service agreement. The amount charged cannot exceed the actual cost to operate the aircraft. DPS is required to operate the aircraft and may provide this service as available provided delivery of emergency evacuation services is not curtailed.

HB 2101 - Chapter 55 - labor; DPS officers; overtime

HB 2101 allows the director of DPS to establish alternate work periods, in accordance with federal law, to determine overtime compensation for employees of the Air Rescue section of DPS.

For the purposes of determining overtime compensation, an alternate work period is limited to a maximum of 28 days or 160 hours.

HB 2111 - Chapter 140 - department of corrections; work furlough

HB 2111 authorizes the director of the Department of Corrections to employ parole officers based on qualifications prescribed by the director including physical, psychological, educational and practical experience requirements.

The bill eliminates the requirement to send a monthly report of persons on work furlough or home arrest to the Governor, Senate President, House Speaker, DPS director and Attorney General, and instead requires that the report be provided to the chairpersons of the Senate and House Judiciary committees. The county attorney, sheriff and chief of police for the appropriate jurisdiction will continue to receive the monthly report.

HB 2267 - Chapter 240 - emergency and military affairs; procedures

Clarifies the duties of the Adjutant General of the Department of Emergency and Military Affairs and provides a clear chain of command in the Department between the Adjutant General and the director of the Division of Emergency Management. Repeals the requirement to maintain public fallout shelters. Increases the expenditure limits for responding to emergencies that require approval of the State Emergency Council.

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Authorizes a separate fund to maintain armories. The fund will consist of proceeds from rental or use of armories and monies in the fund are exempt from lapsing, except that unexpended monies remaining in the fund for 90 days after the end of the fiscal year revert to the general fund.

Allows the State Emergency Council to recommend policies to the Governor in addition to recommending orders, rules and procedures.

Eliminates the requirement for the director of Emergency Management to maintain a list of organizations and an inventory of supplies for use in meeting emergency needs.

Requires the State Emergency Council, rather than the director of the Division of Emergency Management, to provide a written annual report on liabilities and expenditures incurred during emergencies. Continues DEMA and the State Emergency Council until July 1, 2005.

HB 2271 - Chapter 141 - law enforcement merit system council

HB 2271 expands the statutory duties of the Law Enforcement Merit System Council to adopt rules to establish a performance appraisal system, grievance procedure and an appeals mechanism, in addition to those currently provided for in statute which include providing a plan for selection, appointment, resignation and retirement of all classified employees. Current law does not require the Council to specifically adopt rules to cover these issues.

Eliminates the requirement to report annual recommendations and a salary plan to the Legislature and the Joint Legislative Budget Committee.

Requires the Council to appoint a business manager who is an employee of DPS to perform all duties except those specifically reserved to the Council. Authorizes the business manager to investigate violations of Council rules and to report his findings to the Council.

Lists 16 causes for which the DPS director may dismiss or discipline classified employees.

Clarifies that an employee who is dismissed, demoted, loses pay or leave time may appeal the Council's decisions. If the employee wins, he may be reinstated in his position and receive compensation for the period of appeal.

Provides that Council members may be reimbursed for expenses.

HB 2367 - Chapter 129 - prisons and prisoners; cleanup

HB 2367 requires an officer or employee of the Department of Corrections to receive the permission of the warden, deputy warden or prison administrator in order to give or receive a gift from a

PUBLIC INSTITUTIONS AND UNIVERSITIES

prisoner. Current law requires permission of the Governor for any employee of the State of Arizona to exchange gifts with a prisoner.

Removes the requirement that DOC hold special services fund monies in trust and authorizes the Department to administer the fund.

Eliminates redundant language regarding repayment of medical costs.

SB 1006 - Chapter 47 - reserve official badge of authority

SB 1006 expands use of a Department of Public Safety (DPS) officer's badge of authority to include off-duty activities if authorized by the director of DPS. Current law limits use of the badge of authority only while on duty.

The bill states that reserve members performing activities for another employer are not considered to be state employees for any purpose, including workers' compensation.

Requires entities employing reserve members of DPS to file a statement with the Department that the officer is an agent of the employer and not the State of Arizona.

SB 1064 - Chapter 43 - performance based incentives pilot program

SB 1064 includes state universities and other state agencies in the Performance Based Incentives Pilot Program established by Laws 1993, Chapter 114, and delays the repeal of the program from December 31, 1998 to December 31, 2000.

Specific provisions include:

- ▶ requires the director of the Department of Administration to work with the director of the Department of Public Safety, the manager of the State Compensation Fund, the Super-intendent of Public Instruction and the Superintendent of the State School for the Deaf and the Blind to establish and implement a performance based incentives pilot program;
- ▶ authorizes the executive director of the Arizona Board of Regents to work with the president of each state university to establish and implement a performance-based incentives pilot program;
- ▶ allows participating agencies or universities to use monies from general fund appropriations and other sources, in addition to vacancy savings, to pay employee-performance incentive bonuses. Provides that the bonus plan applies to all employees, not just covered employees. The bonus is capped at \$100 per month per employee;

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- requires periodic reports from the executive director of the Arizona Board of Regents as well as the director of the Department of Administration to the oversight committee on implementation and expenditures.

SB 1084 - Chapter 131 - racing; animal drug testing; licensing

SB 1084 establishes a combination license for greyhound kennels, breeding farms or other operations where greyhounds are raised for racing, and caps the license fee at \$100.

Creates a greyhound adoption fund in the State Treasury, to be administered by the Department of Racing. Current law provides that 25% of license fees associated with greyhound racing be used to promote adoption of retired racing greyhounds, however, no fund had been established to receive monies collected.

Eliminates references to testing beaten favorites that do not finish first, second or third. Retains authority to test winners as well as any other animal entered in a race. Applies to both horse and dog racing.

Modifies simulcasting criteria for greyhound tracks in certain counties. Clarifies the ability for a greyhound track to conduct dark day simulcasting. Applies to all counties except Pima County.

Current law allows racing stewards to test certain licensees if that person is on the track grounds and if the stewards have reason to believe that person is under the influence or possesses a prohibited substance. SB 1084 increases the number of categories of licensed personnel subject to drug testing to include those with a hands-on role with animals or who have access to secured areas of the track.

SB 1384 - Chapter 274 - horse and dog racing; simulcasting

Current law prohibits dog and horse race tracks in Pima County from receiving dark day simulcasts at their race tracks or off-track wagering facilities. SB 1384 allows horse and dog racing permittees in Pima County to conduct wagering on dark day simulcasts with certain restrictions. A horse track may conduct dark day simulcasts for 20 days provided certain live racing conditions are met. The track may conduct wagering on more dark day simulcasts if it conducts at least seven posted (live) races for 140 days.

Authorizes race tracks in Pima County which conduct dog racing to conduct wagering on dark day simulcasts if they conduct at least nine posted (live) races on each of four days each week for 50 weeks during a calendar year.

Removes the prohibition against Pima County race track permittees receiving dark day simulcasts at their off-track wagering facilities.

PUBLIC INSTITUTIONS AND UNIVERSITIES

Clarifies dog track's ability to conduct wagering on dark day simulcasts.

RURAL AND NATIVE AMERICAN AFFAIRS

JOHN VERKAMP - CHAIRMAN

Kathi Knox - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2119 - Chapter 218 - Colorado river crime compact

Current law allows Arizona to enter into a compact for law enforcement with states that have the Colorado River as a common boundary. HB 2119 allows that compact to be expanded to provide concurrent jurisdiction to arrest offenders for prohibited conduct committed within 25 miles of the River or any lake formed by the River.

HB 2133 - Chapter 220 [E] - joint powers airport authority; membership

HB 2133 allows Indian tribes to enter into agreements to establish a joint powers airport authority. Current law restricts membership in a joint powers airport authority to cities, towns and counties.

HB 2226 - Chapter 300 - *counties; financial assistance

HB 2226 appropriates \$2,500,000 in FY 1995-96 to the counties of Gila, Cochise and Santa Cruz for the purpose of temporary financial assistance due to a combination of factors including a low percentage of private land ownership and limited access to both property taxes and other revenues. Of the \$2,500,000, Gila County is to receive \$1,876,000, Cochise County is to receive \$393,000 and Santa Cruz County is to receive \$231,000.

Creates a legislative study committee to examine the financial burdens of small counties and submit a report to the President of the Senate and the Speaker of the House by December 1, 1995.

HB 2313 - Chapter 121 - *fire districts; ambulance services; information

HB 2313 requires the Department of Health Services (DHS) to, as much as possible, conform its request for financial information from fire districts that operate an ambulance service to the certified public audit already required by the State Treasurer and the county board of supervisors.

The bill stipulates that the DHS request for information from rural ambulance services shall be the minimum amount required in statute.

HB 2325 - Chapter 57 - town powers; nuisances

HB 2325 authorizes the common council of a town to define a nuisance for the purposes of abating and removing the nuisance or punishing those persons committing a nuisance. Current law authorizes cities to define a nuisance but does not provide that authority to a town.

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HB 2465 - Chapter 30 - state tribal legislative day

HB 2465 changes the date of state tribal legislative day from the third Thursday in January to the Thursday of the first week of each regular legislative session.

HB 2522 - Chapter 291 [E] - *special health care districts

HB 2522 outlines the procedures and guidelines to form a special health care district in a county with a population of less than 90,000. An election must be held before August 15, 1995, to form the district. The district must be located in an area that is designated as a health-shortage area, medically underserved or approved by DHS as an area needing additional health care facilities. The district is authorized to impose a property tax on the residents of the district to maintain and operate a combination of health care facilities including a medical clinic, urgent care center and a nursing care center at more than one location in the district.

Appropriates \$700,000 in FY 1994-95 to DHS for distribution to the town of Springerville to provide hospital services in the Springerville and Eagar area. Outlines a distribution process, describes conditions and requires a report on expenditures of the appropriated monies.

HB 2525 - Chapter 78 - appropriation; Lake Havasu City dredging

HB 2525 appropriates \$500,000 from the general fund in FY 1995-96 to dredge Lake Havasu for the purpose of water contamination remediation. The monies will be appropriated to DEQ for distribution to Lake Havasu City. The appropriation is exempt from provisions relating to the lapsing of appropriations except that any monies not expended or encumbered on July 1, 1997, revert to the general fund.

HB 2529 - Chapter 289 - schools; recreational facilities; agreements

HB 2529 provides that only cities, towns and counties with a population exceeding 500,000 may use the proceeds of bond issues to provide for the operation and maintenance of parks and recreational facilities on school grounds. Under current law, there is no minimum population that cities, towns or counties must meet to use the proceeds of bond issues for such purposes.

SB 1020 - Chapter 182 - *population estimate; state revenue sharing

SB 1020 authorizes those cities with fewer than 50,000 persons and those counties with fewer than 125,000 persons to use Department of Economic Security (DES) mid-decade population estimates for the purposes of receiving state-shared revenues without having to contract with DES to conduct a sample survey verification.

RURAL AND NATIVE AMERICAN AFFAIRS

Allows a city, town or county to submit a request to continue to use the 1990 decennial census until July 1, 2001, for the purposes of receiving state-shared revenues even if a special census has been conducted.

SB 1048 - Chapter 38 - county fair racing; mules

For the purposes of county fair race meetings, SB 1048 provides that the term "horse racing" includes mules which are mounted and ridden by jockeys.

SB 1198 - Chapter 41 - sanitary districts; annexation

Under current law, sanitary districts are authorized to expand their boundaries through annexation of new property. Sanitary districts are only allowed to annex noncontiguous areas if the property separating the district and the area is federal, state or county lands. If the new area is separated from the district by a distance greater than one mile, annexation is only authorized if the area to be annexed will be connected to and served by the district's sewer facilities.

SB 1198 authorizes sanitary districts to annex noncontiguous areas farther than one mile from the district without requiring the new area be connected with the existing sewer facilities of the district. If the noncontiguous property to be annexed is within an urbanized area, the sanitary district must receive approval, by resolution, from each city or town.

SB 1228 - Chapter 207 - *medical school residency; family medicine

Under current law, 60% of the residency positions available at the University of Arizona School of Medicine are reserved for medical school graduates entering programs defined as primary care disciplines (family medicine, general internal medicine, general pediatrics, obstetrics and gynecology). Eighteen percent of the reserved residency positions are reserved for those medical school graduates entering the family medicine program.

SB 1228 reduces the number of positions reserved for graduates entering the family medicine program to 12% (of the original 60% reserved) for the next three years. In 1998, that 12% will revert back to 18%.

The bill also delays implementation of the rural rotation program for two years.

STATES' RIGHTS AND MANDATES

JEFF GROSCOST - CHAIRMAN

Lisa Barnes - Research Analyst

* Strike-everything Amendment

E Emergency Clause

P Proposition 108 Clause

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HB 2159 - Chapter 223 - pension funds; required investments prohibited

HB 2159 adds a new chapter of law providing that investment managers of pension funds deposited in this state shall not be required to invest in any type of investment dictated or required by any entity of the federal government that is intended to fund economic development projects, public works or social programs, but may consider such economically targeted investments pursuant to their fiduciary responsibility.

Similar provisions were added under the investment statutes governing the state retirement systems/plans.

HB 2244 - Chapter 109 - committee on federal mandates; membership

HB 2244 increases the membership of the Joint Legislative Committee on Federal Mandates from 10 to 14 members by requiring the Speaker and the President to each appoint six instead of four members.

HB 2244 specifies that the Speaker and President shall each serve as cochairpersons, unless either or both of them appoint a designee from their respective house to serve in their place. If the Speaker and/or President appoint a designee to serve in their place, they shall further designate a member from their respective house to serve as cochairperson. The committee shall meet on the call of either cochairperson.

Currently, the Committee is required to review the activities of Congress and the federal government, including court rulings, that may require Arizona to comply with any federal mandate and to take any action necessary to protect Arizona's constitutional rights and sovereignty against federal mandates.

HB 2244 further specifies that in the course of its review of federal mandates, the Committee is to determine:

- ▶ whether the federal mandate infringes on the sovereign role of states granted under the Tenth Amendment of the U.S. Constitution;
- ▶ whether the federal mandate has a solid basis in law;
- ▶ whether the federal mandate is necessary from a public health, safety and welfare perspective;
- ▶ whether the federal mandate achieves a desirable social, economic or other public-policy goal;
- ▶ whether compliance with the federal mandate is mandatory and, if so, the consequences of noncompliance;
- ▶ how the federal mandate is funded;
- ▶ whether uniformity of standards among the states is essential for the operation of the federal mandate or whether the states are or should be permitted flexibility;
- ▶ whether Arizona is better able to administer the mandated function more efficiently than the federal government; and

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- ▶ other factors the Committee deems important.

Currently, there is no reporting requirement for the Committee. HB 2244 requires that by December 31 of each year, the Committee is to recommend to the Governor and Legislature whether Arizona should participate in those federal mandates reviewed by the Committee during the year.

HB 2523 - Chapter 288 - special masters; fees and expenses

HB 2523 adds a new section of law prohibiting state officers, employees or agents from opening and maintaining an account to pay fees and expenses incurred by a Special Master appointed by a federal court.

- ▶ A state officer, employee or agent is not subject to personal liability for compliance with this provision.

Further, an officer, employee or agent of the state shall not pay the fees and expenses of a federal court-appointed Special Master unless the Legislature appropriates monies for that purpose.

- ▶ Failure of the Legislature to appropriate monies for the payment of fees and expenses incurred by a Special Master appointed by a federal court does not subject a state officer, employee or agent to personal liability for the fees and expenses.

These provisions are applicable to all bills for Special Master fees and expenses submitted after the effective date of HB 2523.

SB 1263 - Chapter 248 - *presidential preference election

Laws 1992, Chapter 255 established a Presidential Preference Primary Election for Arizona to be held on the earlier of the second Tuesday in March of an election year or on the first date on which another state holds a presidential primary.

SB 1263 establishes a new date for the Arizona Presidential preference Election, prescribes eligibility requirements for candidate participation, describes election procedures and provides for the reimbursement of election expenses, as follows:

ELECTION DATE

The name of the election is changed from the Presidential Preference Primary Election to the Presidential Preference Election (PPE).

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The date of the PPE is changed from the second Tuesday in March to the fourth Tuesday in February and the provision authorizing Arizona's PPE to be conducted when any other state holds an earlier election is deleted.

The Governor may issue a proclamation that the PPE be held on an earlier date. The proclamation shall be issued no later than 150 days before the date of the scheduled Election.

No other election may appear on the same ballot as the PPE.

ELIGIBILITY REQUIREMENTS FOR CANDIDATE PARTICIPATION

Current law requires a presidential candidate to file with the Secretary of State's office a copy of documents indicating that they have filed with the Federal Election Commission (FEC) as a presidential candidate. Instead, a person seeking nomination as a presidential candidate is required to cause to be filed with the Secretary of State's office along with their nomination paper documents indicating that they have qualified with the FEC for primary matching monies as a presidential candidate. Persons who have not qualified for primary matching monies are not eligible to participate in the PPE. [To qualify for FEC primary matching funds, candidates must raise at least \$5,000 in 20 states, for a combined total of \$100,000.]

Participation in a PPE is further restricted to those candidates from political parties that qualify for continued ballot representation or new political parties that meet applicable petition requirements.

A petition for recognition of a new political party must be filed with the Secretary of State not less than 75 nor more than 150 days prior to the PPE and be submitted for signature verification to the county recorder no later than 115 days before the Election. Within 30 days of receipt, the county recorder must verify and count all signatures of qualified electors.

Political parties that obtain ballot status for the PPE also qualify for ballot representation in the subsequent primary and general elections held in the same year.

Write-in candidates are prohibited. (Votes will be counted and canvassed only for those candidates whose names appear on the ballot.)

Instead of submitting petitions containing the signatures of at least 300 qualified voters from the candidate's political party, a person seeking nomination as a candidate for the office of US President is required to sign and cause to be filed with the Secretary of State a nomination paper that contains the following information:

- ▶ their name, residence address and mailing address;
- ▶ their political party affiliation;
- ▶ the name and address of their state committee chairman; and
- ▶ the exact manner for printing their name on the presidential preference ballot.

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Nomination petitions are currently required to be filed no later than 30 days before the PPE. Instead, the nomination paper is required to be filed not less than 40 days nor more than 70 days before the election.

Further, within 72 hours after the close of filing, the Secretary of State must certify to the officer in charge of elections the names of the candidates who are qualified for the PPE ballot.

ELECTION PROCEDURES

All provisions of other elections laws that do not conflict with the laws governing the Arizona PPE, including laws relating to registration and voter qualifications, shall also apply to a PPE.

Unless otherwise prescribed, all powers and duties conferred on boards of supervisors, officers in charge of elections, county recorders, precinct boards and central counting boards in connection with a primary election apply for purposes of a PPE and offenses under other election laws apply to a PPE.

Ballot Form and Content

The form and content of ballots for a PPE are prescribed, including the requirements that only one party may be represented on each ballot and that each political party's ballot be distinguished from another party's ballot by using different colors.

Further, the order of names of certified candidates appearing on the ballot are to be determined by lots drawn at a public meeting by the Secretary of State and the rotation of candidate names is prohibited.

The officer in charge of elections is required to:

- ▶ provide a proof of the sample ballot to the State Committee chairman of each qualified candidate's state committee within five days of receiving certification from the Secretary of State; and
- ▶ mail a sample ballot to each household that contains a registered voter of each political party whose candidate appears on the ballot.

The return address on the sample ballot shall not contain the name of any elected or appointed official and the name of an elected or appointed official shall not be used to indicate who produced the sample ballot.

Absentee Balloting (Early Voting)

Electors who are eligible to vote in a PPE may request either verbally or in writing an absentee ballot within 90 days preceding the Saturday before the election. County recorders may establish on-site absentee voting locations at their offices or other appropriate locations.

Absentee voting shall begin 15 days before the PPE and end on the Friday before the Election.

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County recorders shall send to each election board a list of voters who have requested and been sent an absentee ballot. Such persons may not vote at a polling place unless they state they have not voted and will not vote an absentee ballot or they surrender the absentee ballot to the precinct inspector on election day.

County recorders are authorized to provide special election boards and emergency balloting in the same manner as prescribed by law for other elections.

In addition, uniformed services or overseas voters may also vote in a PPE via a special write-in absentee ballot pursuant to current law. The list of candidates on the special write-in absentee ballot shall include all candidates that qualified for ballot representation by the thirty-sixth day prior to the election.

Current statutory absentee ballot provisions also govern the use of absentee balloting in a PPE.

Polling Places

At least 20 days before a PPE, the county board of supervisors is required to designate a reasonable and adequate number of polling places based on the number of active registered voters as of January 1 of the years preceding the election, as follows:

- ▶ Counties with more than 200,000 registered voters -- no more than one-half of the number of precincts;
- ▶ Counties with less than 200,000 but more than 10,000 registered voters -- no more than one polling place for every 2,000 voters; and
- ▶ Counties with less than 10,000 registered voters -- no more than one polling place for every 1,000 voters.

[The above specifications do not apply to land located on an Indian reservation.]

A county may be released from the prescribed number of polling places if the Secretary of State determines that compliance with state and federal law would be jeopardized.

In precincts that contain less than 100 active registered voters, the PPE may be conducted by mail.

Certification of Election Results

The Secretary of State must certify the results of a PPE to the state party chairmen on or before the second Monday following the election.

Tabulation shall be by congressional districts.

The provisions of law prescribing automatic recount do not apply to a PPE.

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ELECTION EXPENSES

After consulting with the county recorders and county officers in charge of elections, the Secretary of State is required to include in its budget request sufficient monies from the state general fund to conduct the PPE. Reimbursement of charges incurred by counties shall be made at \$1.25 for each person registered to vote on January 1 of the year in which a PPE is held unless it is determined that such reimbursement would jeopardize a county's compliance with federal and state law. In such instances, the Secretary of State is authorized to reimburse the county at a modified rate.

The Secretary of State is authorized to make advance payments to the counties for the cost of the Presidential Preference Election held in 1996.

OTHER PROVISIONS

The Secretary of State is required to include in its instructions and procedures manual provisions to allow a county to modify the procedures prescribed to administer a PPE in order to be more efficient and to reduce the cost of the election.

A county board of supervisors must submit a procedure for county-wide voting in a PPE to the Secretary of State by August 1 of the year preceding a PPE.

SB 1263 reduces from two to one the number of ballots needed to be taken after which a national convention delegate may change their support for a presidential candidate and adds a candidate withdrawing from the race as another condition under which a delegate may change their support.

The section of law governing the designation of precincts and polling places for primary, general and special elections is amended to allow adjacent precincts to be combined if the boundaries would be included in election districts prescribed by law for state elected officials and political subdivisions, including community college districts but excluding elected officials of the Arizona Power Authority, power districts, electrical districts and other special taxing districts. precincts may also be split for administrative purposes. For the purpose of conducting any election called pursuant to state law, the designation of precincts becomes effective no later than March 1 of the year of the next general election.

SB 1366 - Chapter 104 - *constitutional commemoration committee; holiday

SB 1366 changes September 17 from "Constitution Day" to "Constitution Commemoration Day" and establishes an 12-member Constitutional Commemoration Committee to promote public understanding of the US Constitution and the Bill of Rights through educational programming and celebration activities.

The Committee is required to do the following:

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- ▶ collaborate and cooperate with public, private and nonprofit entities to promote public understanding of the US Constitution and the Bill of Rights;
- ▶ promote and sponsor observances in Arizona commemorating and celebrating historical events that encourage youth and adult civic participation; and
- ▶ support expanding existing programs that promote civic participation and educate school-age children.

The Committee is authorized to accept, spend and account for donations, gifts, bequests and devises that are consistent with the Committee's overall purpose and objectives.

Legislative Council is required to provide staff and operational support to the Committee.

The Constitutional Commemoration Committee is added to the July 1, 2005, sunset schedule for termination.

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JERRY OVERTON - CHAIRMAN

Scott Smith - Research Analyst

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2032 - Chapter 244 - HURF; highway fund; DPS distribution

HB 2032 provides for the transfer of Maricopa County's auto license and registration functions to ADOT. This transfer is subject to the establishment of an intergovernmental agreement between Maricopa County and ADOT. Provisions associated with this shift include the following:

- ▶ transfers \$5 million from the DPS operating budget to the general fund, and appropriates the money to ADOT for the initial payment to purchase land, buildings, fixed assets and equipment from Maricopa County;
- ▶ transfers \$5 million from the state highway fund to the general fund, and appropriates the money to DPS to offset the above-referenced transfer;
- ▶ stipulates that these transfers and subsequent appropriations are contingent upon the approval of the Joint Committee on Capital Review;
- ▶ stipulates that the total payment to Maricopa County for the transfer of its motor vehicle registration program functions to ADOT is limited to \$8 million.

HB 2032 also reduced the amount of HURF and state highway fund (SHF) monies dedicated for the State Highway Patrol as follows:

- ▶ from \$17.5 million to \$15.0 million in FY 1996-97;
- ▶ from \$15.0 million to \$12.5 million in FY 1997-98;
- ▶ from \$12.5 million to \$10.0 million in FY 1998-99 and every subsequent year thereafter.

The provisions of the bill relating to the reduction in HURF and SHF funding of the State Highway Patrol cost were line-item vetoed by the Governor.

HB 2112 - Chapter 25 - aircraft registration

HB 2112 reduces the period for declaring aircraft as abandoned and for selling seized aircraft. The bill also clarifies procedures for registering aircraft.

HB 2112 reduces from 90 to 60 the number of days for declaring aircraft as abandoned, provided the aircraft has remained on unauthorized property for the specified time. The bill also reduces the number of days that the Department must hold the aircraft before selling the seized plane. Currently, the Department must wait 90 days; the bill reduces the period to 60 days.

The legislation clarifies that the federal government, this state, political subdivisions of the state, and the Civil Air Patrol, must register their aircraft even though the governmental entities are exempt from the registration fee and license tax. HB 2112 provides that if a governmental organization fails

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to register an aircraft, a penalty of \$25 for the first month and \$5 for each succeeding month shall be assessed, until such entities begin the application process.

Aircraft dealers who purchase planes with an intent to sell, are required to register the planes as "aircraft being held for purpose of sale" within 10 days after purchase. Failure to register, results in the registration fee and licensing tax being assessed pursuant to statute.

The bill establishes the following procedure for aircraft that fail to register within the time specified by statute:

- ▶ the assistant director shall notify the aircraft's owner of assessed fees, taxes, and penalties;
- ▶ the owner of the aircraft has 30 days to file a written objection and request a hearing;
- ▶ the assistant director may nullify the assessed penalties for "reasonable cause";
- ▶ failure to respond within 30 days after notice results in the assessments being final.

The bill defines "reasonable cause" as a reasonable basis for the person responsible for the registration of the aircraft to believe that the aircraft was exempt from registration requirements.

HB 2112 provides that the registration fee and license tax constitute a lien, and shall remain effective until all fees, taxes, penalties and lien recording fees are paid. The lien is required to be released on receipt of full payment.

Additionally, HB 2112 contains technical and conforming changes.

HB 2129 - Chapter 61 - transportation project privatization

HB 2129 makes technical changes to the existing transportation project privatization statutes. These changes focus on the following three areas: (1) lease or license of right-of-way; (2) default provisions; (3) public participation.

Lease or License of Right-of-Way

HB 2129 adds the following provisions in relation to the State Transportation Board's approval of Board agreements and the lease or license of rights-of-way or facilities owned by the state to a private entity as part of a toll project, especially in the case of unsolicited proposals:

- ▶ the Board must approve an operator before they are granted the authority to construct, operate or enlarge a roadway;
- ▶ if the Board conditionally approves a project, ADOT must fulfill certain obligations according to an agreement negotiated with the operator;

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- ▶ the agreement between ADOT and the operator for the services of the Department, may also include one or a combination of the following:
 - leasing to the operator property necessary for the project;
 - using ADOT's power of eminent domain to acquire property for the operator;
 - licensing the operator to use ADOT property if the operator transfers and dedicates the completed project to the Department;
- ▶ the agreement between the operator and the Department may include payment for construction, modification and maintenance of traffic interchanges, overpasses, bridges, tunnels and other similar facilities by the Department;
- ▶ the initial agreement and the final agreement between the operator and the Department for the services of the Department must be made public pursuant to the statute;
- ▶ nothing in this article can be construed to grant any person exemption from or immunity under antitrust laws.

HB 2129 provides for the lease or license of right-of-way or facilities owned by the state to a private entity as part of a toll project. The bill stipulates that a lease or license to a private entity by the Department of any right-of-way or other property is a governmental activity.

Public Participation

HB 2129 allows ADOT to request competing proposals from private entities by advertising. ADOT may also enter into written agreements with private entities.

All agreements are required to be available at least 15 days before a public hearing held in a location convenient to the private entity's project. The bill provides for public notice of a public hearing, and requires that a public hearing regarding the project be held. ADOT may revise the agreement based on the public comments received. After final approval of the project and the agreement, the State Board may authorize the director to execute the agreement. The final agreement is subject to a public hearing by the State Transportation Board.

The bill removes the requirement that an operator's private highway connection with the streets of a local jurisdiction be in the public interest.

Default Provisions

HB 2129 removes the provision that allows the private entity to obtain compensation from ADOT if the agreement is revoked because the private entity does not complete its construction duties or contractual obligations.

If the operator fails to comply with the terms of its agreement, the State Transportation Board, after a cure period and a hearing in which the operator or its creditors have notice and the opportunity to

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participate, may take the prescribed action. If the operator's authority is revoked the Department may construct, operate and/or improve the roadway. Neither the Board nor the Department is liable to pay any compensation to the operator.

The bill also makes the following technical and conforming changes throughout the transportation privatization statutes:

- ▶ provides for the use of consistent terms;
- ▶ provides for an agreement to be revoked and not rescinded in case of default;
- ▶ extends from 30 days to 60 the period that the Department is allowed to accept competing proposals for an unsolicited proposal;
- ▶ amends the definition of roadway as it applies to private transportation projects;
- ▶ retains the exemption that allows a person to apply for a refund or credit for taxes paid while operating on a private roadway;
- ▶ allows for excess toll revenues to be deposited into the Regional Area Road Fund, in addition to the Highway User Revenue Fund, if appropriate.

HB 2286 - Chapter 128 [E] - ADOT; quitclaim deeds; nonmarketable property

HB 2286 allows the director of ADOT, after one appraisal, to quitclaim deed any real property that has a market value of \$1,000 or less to an adjacent property owner or underlying fee owner. A 30-day notice period and a public auction is not required for property disposed of by a quitclaim deed. For other marketable property, the bill requires: (1) the director to sell the property at a public auction if more than one offer is received before the 30-day termination notice, and (2) at least one fee appraisal or one in-house appraisal is required before any property is offered to the public.

The bill clarifies that land conveyed to any agency of a governmental entity must be paid for based on the market value established by an appraisal that was completed within six months of the date of the conveyance.

The legislation requires the director to notify the county assessor and the county treasurer of any property disposed of by a quitclaim deed within 30 days after the close of escrow.

HB 2286 exempts the State Transportation Board from adopting rules regarding the lease or licensure of areas above or below highways. The bill also requires the director of ADOT to adopt rules governing the privatization of rest areas provided the Federal Highway Administration authorizes the privatization of rest areas.

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HB 2372 - Chapter 167 - accidents; written reports; minimum damage

HB 2372 requires a written report be completed by every law enforcement officer or public employee investigating a motor vehicle accident resulting in bodily injury, death or property damage exceeding \$1000.

The bill requires that only an abbreviated written report be completed for accidents resulting in \$1000 of damage or less. An abbreviated report cannot be used for accidents involving bodily injury, death or the issuance of a citation. For these accidents, a full report must be made by the investigating officer.

The abbreviated written report must include the following:

- ▶ time, date, month and year of the accident;
- ▶ location of the accident;
- ▶ the name, age, sex, address, telephone number, vehicle ownership, registration and proof of insurance for all involved parties;
- ▶ a description and a diagram of the accident;
- ▶ the name of the investigating officer, the officer's agency and identification number.

The abbreviated written report must be developed in conjunction with state and local law enforcement agencies, engineering agencies, and emergency medical service agencies.

HB 2531 - Chapter 118 - study committee; highways; traffic impact

HB 2531 broadens the scope of study of the Joint Legislative Review Committee on Transportation between Sonora, Mexico and Arizona to include the following:

- ▶ the type and volume of traffic on highways that cross Arizona's border with Mexico;
- ▶ anticipated changes in this traffic due to the North American Free Trade Agreement (NAFTA);
- ▶ environmental and safety problems caused by this traffic;
- ▶ the potential financing of any highway planning or construction.

The legislation requires the Committee to file a report with the Governor, the chairman of the State Transportation Board, and a similar committee established by Sonora, Mexico, in addition to the Speaker of the House and the President of the Senate.

The bill extends the Committee's termination date from December 31, 1995, to December 31, 1996.

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SB 1025 - Chapter 96 [E] - veteran special plates

SB 1025 stipulates that veteran special plates are exempt from conforming with the standardized license plate format and design. The bill also specifies the new design of the veteran special plates. The format is to include a red, white and blue design, an American flag, and the designation "veteran" at the bottom of the plate.

SB 1025 provides for the following changes:

- ▶ of the \$25 National Guard member special plate fee, \$17 is designated an annual donation to the National Guard and is deposited into the National Guard unit allowance fund;
- ▶ of the \$25 National Guard member special plate fee, \$8 is designated as a special plate administration fee and deposited into ADOT's special fund.

SB 1134 - Chapter 20 - motor carrier administrative omnibus

SB 1134 enables the ADOT director to allow an authorized third party to issue use fuel and motor carrier tax licenses. The bill defines the powers and duties of the director in relation to supervising and regulating the authorized third-party entities. The third-party program must include the following provisions: application procedures, bond requirements, criminal background investigation procedures, exemptions, application denial procedures, suspension and cancellation procedures, due process and sanctions.

The bill allows the director to accept payment of Title 28 fees and taxes by credit cards, debit cards, and electronic fund transfers. Plus, it allows a collecting officer to deduct any fee charged or withheld by a company providing the alternative payment method before these revenues are transferred to the director.

Enables ADOT to accept evidence of a valid use fuel license (in place of a cab card) when registering a motor carrier in this state. Enables a motor carrier to carry and display evidence of a valid use fuel tax license (in place of a cab card) when operating a motor carrier in this state.

The bill states that the reporting period for a licensed "use fuel user" is a calendar quarter and that the filing due date is the last day of the month following the reported quarter.

In addition, the bill makes the following definition changes and additions:

- ▶ excludes "transmix" from the definition of "motor vehicle fuel";
- ▶ "tandem axle" is defined as two or more consecutive axles more than 40 inches but not more than 96 inches apart.

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Provisions of the bill relating to possible reductions in the state's weight-distance motor carrier tax rate is retroactive to January 1, 1995. The revised rates are effective from and after June 30 of each year instead of April 30.

The remaining provisions of the bill are delayed effective until December 31, 1995.

SB 1161 - Chapter 34 - financial responsibility; nonpayment of judgments

SB 1161 requires the clerk of the court, upon written request of a judgment creditor or the judgment creditor's legal representative, to forward a certified copy of an unsatisfied court judgment to the Director of ADOT.

SB 1185 - Chapter 147 - title 28 rewrite; companion legislation

SB 1185 makes numerous changes to Title 28 in conjunction with the Title 28 technical rewrite legislation (SB 1364, Chapter 132). The bill contains the following changes:

- ▶ clarifies that the time period for an "undertaking" filed by a domestic or foreign surety company with the Department of Insurance expires on December 31 of each year;
- ▶ transfers motor club definitions currently contained in ARS 28-1371 to ARS 20-1533;
- ▶ conforms provisions dealing with interstate commerce and the blood alcohol concentration threshold (0.04) for commercial motor vehicle operators to terminology used in Federal Code;
- ▶ clarifies that the Governor may contract with other private and public organizations to administer duties conferred upon the Governor under the Federal Highway Safety Acts from 1966 to the present;
- ▶ modifies provisions regarding the counties' membership in the Technical Advisory Committee;
- ▶ defines the term "bonds" in relation to the HURF;
- ▶ clarifies the necessary deductions that ADOT must make before transferring any bond proceeds to the State Treasurer;
- ▶ stipulates that a person cannot operate a motorcycle that has handlebars above the operator's shoulder height when the operator is sitting on the motorcycle;
- ▶ repeals the Hazardous Materials Management Advisory Council.

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The bill contains a conditional enactment clause stipulating that the bill is effective after December 31, 1996, but only if Senate Bill 1364 is enacted.

SB 1283 - Chapter 254 - lemon law; time periods; notification

SB 1283 extends the period in which a consumer can report a nonconformity of an express warranty on a new motor vehicle to two years or 24,000 miles, whichever occurs first.

The bill requires auto manufacturers to attach a written notification to a vehicle stating that the vehicle has been replaced or repurchased pursuant to Arizona's lemon law or the lemon law of another state. Motor vehicle dealers must provide written notification to the purchaser before completion of the sale.

The legislation provides an affirmative defense to a motor vehicle dealer who unknowingly sells a motor vehicle that does not have the written notification indicating that the vehicle had previously been repurchased or replaced. In addition, a consumer has a cause of action against any person who removes the written notification, except the dealer who is providing the written notification to a customer for sale.

Finally, it specifies that the state's lemon law does not limit the remedies available to a consumer under an extended new motor vehicle warranty.

SB 1316 - Chapter 52 [P] - cotton gin modules; weight exemption

SB 1316 exempts eligible cotton module transport vehicles from the statutory vehicle gross weight and load limits. The exemption applies annually from August 1 to January 30 of each year.

The bill authorizes ADOT to issue special overweight permits for eligible cotton module transporters.

SB 1316 also makes technical changes to current laws relating to vehicle size, weight and load.

This bill provides for a net increase in state revenues as defined in Article IX, Section 22, Constitution of Arizona. It 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.

SB 1356 - Chapter 271 vehicle registration; fees; taxes

SB 1356 modifies the statutes relating to vehicle registration, reduces the number of vehicles required to qualify as a permanent fleet, and establishes a "plate to owner" registration system for certain classes of vehicles.

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Specifically, the bill makes the following changes:

- ▶ allows the ADOT director to provide for biennial registration for any vehicle that is not subject to annual emission testing;
- ▶ specifies that MVD may collect a fee or penalty for a delinquent or late registration by seizure and sale of a motor vehicles;
- ▶ deletes the provision requiring a person applying for an interstate operation permit for a pickup truck with a manufacturer rating of three-quarter ton or less to pay a maximum of \$7.50 for a one-trip permit to conform to Laws 1993, Chapter 88;
- ▶ removes the increased fee for each certificate of title, salvage title or dismantling permit and deletes the section which eliminated the \$12 special license plate transfer fee;
- ▶ eliminates the \$10 fee for an old, cancelled title that a person retains on a motor vehicle;
- ▶ allows the owner of a motor vehicle to retain the cancelled certificate of title if all of the following conditions are met: 1) an application for a new title is granted; 2) the old title is altered to indicate cancellation; 3) a photostatic copy of the cancelled title is made; and 4) a fee for a retained title is paid;
- ▶ stipulates that a permanently disabled placard or plate is valid as long as the person to whom the placard is issued qualifies for the issuance of the placard or plate. Currently such a plate or placard is valid for one year;
- ▶ lowers the number of vehicles that constitutes a permanent fleet from 25 vehicles to three vehicles;
- ▶ authorizes ADOT to implement a "plate to owner" system for vehicle registration of interstate rental car and rental truck fleets. The rental vehicle "plate to owner" system is effective January 1, 1997, and conditional upon ADOT receiving a legislative appropriation to implement the system;
- ▶ establishes a six-member joint legislative review committee to study issues relating to the possible implementation of a "plate to owner" system for the general public.

SB 1364 - Chapter 132 - title 28 technical rewrite

SB 1364 makes technical changes to Title 28 and reorganizes the title to allow for the addition of new statutes.

TRANSPORTATION

The bill has three main provisions:

- (1) Repeals Arizona Revised Statutes, Title 2 (Aeronautics), Title 18 (County Highways) and Title 28 and reenacts these provisions primarily in a new Title 28. A few provisions in the current Title 28 are placed in more appropriate titles including Title 20 (Insurance), Title 38 (Public Officers and Employees), Title 41 (State Government) and Title 48 (Special Taxing Districts).
- (2) Instructs Legislative Council to prepare conforming legislation for next session.
- (3) Contains a delayed effective date from and after December 31, 1996.

WAYS AND MEANS

LORI DANIELS - CHAIRMAN

Kitty Decker - Senior Economist

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2071 - Chapter 6 - sales tax credit; accounting expenses

HB 2071 clarifies that the transaction privilege tax accounting allowance credit applies to the combined total of all business premises of a taxpayer when determining its transaction privilege tax liability. The transaction privilege tax credit is equal to 1% of the amount of tax due but cannot exceed a total of \$10,000 in any calendar year. The bill clarifies the definition of "taxpayer" as the business entity under which the business reports for state income tax purposes or an entity that is exempt from state income tax.

HB 2071 is retroactive to taxable periods beginning from and after June 30, 1995.

HB 2073 - Chapter 7 - internal revenue code conformity

HB 2073 is the annual bill that conforms the State of Arizona's computation of income tax with the Internal Revenue Code. The bill includes those provisions in the Internal Revenue Code that became effective during 1994 with the specific adoption of their retroactive effective date, but excluding any change to the Internal Revenue Code enacted after January 1, 1995.

HB 2074 - Chapter 33 - unclaimed property; FDIC trust fund

HB 2074 creates a Federal Deposit Insurance Corporation (FDIC) Trust Fund in the state treasury for unclaimed monies. DOR shall administer the Fund, and transmit all monies it receives from the FDIC to the State Treasurer for deposit in the FDIC Trust Fund. If the monies deposited in the Fund are not claimed by the owner within 10 years after being surrendered to DOR, DOR shall return the monies to the FDIC.

The State of Arizona retains all interest earned on the monies in the FDIC Trust Fund and shall deposit the interest earned on the monies in the same manner as current unclaimed property.

HB 2178 - Chapter 228 - amusement sales tax

HB 2178 provides a transaction privilege tax exemption for membership fees to private recreational facilities located at hotels and resorts. The exemption applies to income derived from membership fees, including initiation fees, which provide the right to use the facilities at the hotel or resort for 28 days or more. The transaction privilege tax exemption does not include any other additional fees that are charged by a hotel or resort for purposes other than memberships that provide for the right to use the establishment or its facilities for 28 days or more.

This act is retroactive to taxable periods beginning from and after June 30, 1994.

HB 2223 - Chapter 35 - use tax; motor vehicle manufacturers

HB 2223 clarifies that the use tax on motor vehicle manufacturers is for the storage, use or consumption of its maintenance, support or service motor vehicles used directly in the conduct of the manufacturer's primary business. Motor vehicles and component parts used for testing or development by motor vehicle manufacturers are not subject to tax.

The tax is levied and imposed on a monthly basis as a percentage of one thirty-ninth of the dealer net price of the motor vehicles. This tax shall not be imposed for more than 39 months on any motor vehicle.

DOR may adopt procedures that permit computation of the sales price of the component materials in the aggregate as a function of the dealer net price of the motor vehicles.

HB 2223 contains a legislative intent clause stating that nothing in this bill is intended to have any impact on the meaning, interpretation or construction to be given to any statute imposing any tax with respect to any tax liability incurred before January 1, 1993. This act is retroactive to taxable periods beginning from and after December 31, 1992.

HB 2227 - Chapter 236 [E] - summer school and jobs

HB 2227 requires DES to establish and conduct a summer school and jobs program during the summer of 1995 for students in grades 12 and under. Under this program, a student can attend school half days and work for private employers the other half day. For participating in the program, the employer may qualify for the following income tax credit:

- ▶ The amount of the tax credit shall equal half of the wage paid to the student (maximum credit allowed is \$3 per hour/20 hours per week).
- ▶ Co-owners of a business, including partners in a partnership and shareholders of an S corporation may each claim only the pro rata share of the tax credit based on ownership interest. The total of the credits allowed all such owners may not exceed the amount that would have been allowed for a sole owner of the business.
- ▶ Applies only to the 1995 tax year.

To qualify for the tax credit, the employer must be certified by DES as employing one or more enrolled students, and wages must be paid to the student on or before September 1, 1995. Under this program, DES shall perform the following duties:

- ▶ Enroll no more than 2,000 students in the program.

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- ▶ Notify the employers of the students' enrollment and of the income tax credit that is available to them.
- ▶ Certify the employers for qualification for the tax credit. DES shall consult with DOR to determine the information that is necessary to certify an employer for the tax exemption.
- ▶ Accept applications from students who are 16, 17 or 18 years of age at the time of application and who have not previously been employed by the employer.

DES and DOR shall adopt emergency rules to administer the program. Participating students must remain in summer school for the entire session in order for a business to receive the income tax credit. The credit allowed by this act is in lieu of any allowance for state tax purposes for a deduction for wages allowed by the Internal Revenue Code.

Additionally, the bill appropriates \$1 million from the general fund in FY 1995-96 for a summer youth employment, education and gang prevention program. The distribution of these funds is enumerated by county population. Counties participating in the program must submit a summary of expenditures to DES on or before October 1, 1995. DES must then submit a report on expenditures, successes, problems with the program and the program's impact on the local juvenile crime rate, on or before November 1, 1995, to the Governor, the President of the Senate and the Speaker of the House.

HB 2228 - Chapter 138 - sales tax exemption; agricultural equipment

HB 2228 provides a transaction privilege and use tax exemption for machinery and equipment necessary for extracting milk and cooling milk and livestock. The bill adds a definition of "self-powered implements" to include machinery and equipment that is electric-powered.

The bill is retroactive to April 17, 1985, and refund provisions are provided for any tax liabilities, penalties and interest paid between April 17, 1985 and the effective date of this bill.

HB 2282 - Chapter 276 - sales tax exemption; cleanup equipment

HB 2282 provides a transaction privilege tax exemption under the prime contracting classification for sales and installation for groundwater monitoring wells and devices, as well as environmental cleanup activities.

HB 2282 further expands the exemption to the gross proceeds of sale or gross income from a contract to provide one or more of the following actions in response to a release or suspected release of a hazardous substance, pollutant or contaminant from a facility to the environment, unless the release was authorized by a permit issued by a governmental authority:

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- ▶ Actions to monitor, assess and evaluate such a release or a suspected release.
- ▶ Excavation, removal and transportation of contaminated soil and its treatment or disposal.
- ▶ Treatment of contaminated soil to reduce the concentration, toxicity or mobility of a contaminate.
- ▶ Pumping and treatment of contaminated groundwater or surface water to reduce the concentration or toxicity of a contaminate.
- ▶ The installation of structures such as cutoff walls or caps, to contain contaminants present in the ground water or soil.

This does not include the construction or use of pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment, including asbestos removal.

The bill provides for refunds of taxes, penalties and interest paid for taxable periods beginning January 1, 1987 until the effective date of this bill. HB 2282 contains a nonseverability clause.

HB 2283 - Chapter 277 - *theme parks; repeal

Effective December 31, 2005, HB 2283 repeals all municipal and county financing provisions for construction of on-site and off-site public infrastructure for theme parks. The definition of theme park and themed amusement park is narrowed to exclude any water park located within or contiguous to its boundaries. Additionally, the bill eliminates the definition of "nonathletic entertainment facility" and excludes these types of activities from issuing bonds similar to theme parks. "Nonathletic entertainment facility" was previously defined as a movie studio, soundstage or facility for presentation of the arts.

The bill clarifies the existing bonding provisions as follows:

- ▶ Terms of the bonds are determined by the city or county with all proceeds deposited as provided in the resolution.
- ▶ The city or county may provide for investing and holding the proceeds for the benefit of the bond holders.
- ▶ The city or county may establish priorities, regulate reserves, and prescribe procedures for amendments to the bonds with bondholders.
- ▶ The city or county will provide for the payment of all of fees, premiums, rebates, etc., and for the services of trustees, agents or any other services and will be responsible for any other matters that affect the security and protection of the bonds.

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- ▶ Members of the governing boards of municipalities or counties are not personally liable for the payment of the bonds.

The requirement for the county or city to consult with the Department of Commerce to determine if a proposed theme park qualifies for bond finance is eliminated. A Joint Legislative Oversight Committee on Theme Parks is established consisting of the President of the Senate and the Speaker of the House of Representatives (or their designees) who shall serve as co-chairmen. The Committee has four other members. They will meet at the call of the cochairmen to monitor and approve any theme park proposal. The Committee will also review any memorandums of understanding that the Department of Commerce is required to initiate with theme parks as well as receive the theme parks' annual reports. The Committee is terminated on December 31, 2005.

HB 2284 - Chapter 120 - individual medical savings accounts

HB 2284 provides a "rollover" provision for individual medical savings accounts (IMSA) when a person is no longer employed by someone who established this type of account. The bill provides for the following changes, retroactive to January 1, 1995:

- ▶ If an account holder withdraws monies from an IMSA and deposits the monies within 60 days into another IMSA, it is not considered a withdrawal. If it is not transferred to another account, it must be added to Arizona adjusted gross income.
- ▶ If an interest in an IMSA is transferred or distributed to a spouse or former spouse and within 60 days the spouse or former spouse deposits the interest in another IMSA, it is not considered a withdrawal. If the interest is not deposited within 60 days by the spouse or former spouse, it is considered to be income.
- ▶ Within 60 days after the final date of employment, the former employee may withdraw or transfer all monies from the current IMSA to another one, or request in writing that the current trustee retain the monies in the current account.
- ▶ If the current trustee fails or refuses to retain the account after the final date of employment, the trustee must mail a check for the full balance to the former employee's last known address. This amount is considered to be income, but is not subject to the penalty for early withdrawal. If the former employee becomes employed within 60 days after the final date of previous employment by a different employer that offers an IMSA, the employee may transfer the amount to the new employer's trustee; and the transferred amount is not considered to be a withdrawal.
- ▶ changes the term "employee" to "account holder."

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HB 2337 - Chapter 294 - possessory interests; repeal tax

HB 2337 repeals the tax on possessory interests and creates a Joint Legislative Study Committee on Possessory Interest. The Committee consists of 10 legislators, including the chairman of the Senate Finance Committee and the chairman of the House Ways and Means Committee who shall serve as co-chairmen. The Committee's duties include:

- ▶ To review and study whether leaseholds or other property interests located on real property that are exempt from tax, should be taxable.
- ▶ To review the processes and methods by which government entities create tax-exempt property or convert taxable property to tax-exempt property, and whether these processes and methods should be restricted and applied in a uniform manner.
- ▶ To report to the President of the Senate and the Speaker of the House on the findings and recommendations for any possible legislation by October 31, 1995.

HB 2337 prohibits political subdivisions from converting taxable property to a nontaxable status for redevelopment purposes, except in established redevelopment project areas. The bill also retains the current class 11 at a 1% assessment ratio. This class consists of certain improvements on possessory rights that become the property of the government at the end of the lease agreement.

The bill contains a legislative intent clause that possessory interests will not be subject to any type of ad valorem tax until the Legislature enacts a new taxing mechanism. In addition, it is the intent that the Committee created by this bill will study the taxation of possessory interests and make recommendations concerning the taxation of all possessory interests. The intent is to continue the use of economic development incentives in redevelopment areas and central business districts and that economic development projects consisting of possessory interests that are under contract or in negotiation receive no less favorable treatment than is currently being received.

HB 2440 - Chapter 29 - property tax; payments under protest

HB 2440 eliminates the requirement for property taxes to be paid "under protest" when:

- (1) A party appeals a decision of the Board of Tax Appeals (BOTA) after a hearing on an error by either the assessor, DOR or the taxpayer, that has been found to exist in their property valuation.
- (2) A party is bringing an action to test the validity of the tax or amount of tax (effective January 1, 1996).
- (3) A property owner applies to the county treasurer for the abatement of a tax and removal of a tax lien (effective January 1, 1996).

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HB 2440 retains current law that all taxes must be paid in a timely manner to bring any action.

SB 1011 - Chapter 10 - private bonding activity

SB 1011 provides technical and clarifying changes to the process by which the Department of Commerce administers the allocation of the state tax-exempt private activity bonds. The bill clarifies that:

- ▶ An allocation to a qualified program is not valid until the confirmation fee is paid, and that failure to pay the required fee shall result in the retroactive cancellation of the confirmation.
- ▶ The Department of Commerce will process only requests and confirmations for projects eligible pursuant to federal law.
- ▶ Requests which have not been confirmed before 5:00 p.m. on July 31 are expired, except requests made pursuant to an allocation at the sole discretion of the director.
- ▶ Confirmations which have been granted extensions do not automatically expire upon 5:00 p.m. July 31, and are not subject to pooling and reallocation.
- ▶ Only one request may be filed per project, regardless of the number of issuers collaborating on the project.

SB 1011 also requires a confirmation fee to be paid within three business days after a confirmation is noticed or upon the filing of a certificate of closing, whichever is earlier. The group of persons who may request an allocation or carry-forward allocation on behalf of a qualified program is expanded to include "other interested persons." The director shall issue a confirmation within three business days of the request instead of one business day. Notification of the confirmation may be issued in writing, by fax or by telephone.

SB 1024 - Chapter 170 - veterans organization property tax exemption

SB 1024 authorizes refunds for one-half of the 1994 property taxes and forgiveness of the other one-half for qualified veterans' organizations. Qualified organizations are required to submit refund claims to the county treasurer's office within 60 days after the effective date of the act to be eligible. Payments must be made within 30 days after submission of the claim.

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SB 1046 - Chapter 98 - motion picture production; tax refund

SB 1046 changes the current transaction privilege and use tax refund guidelines for motion picture production companies and expands the refund to include any commercial advertising production activities that spend at least \$250,000 in this state within a year. The requirement that motion picture production companies complete production of at least one motion picture in a year to qualify for the refund is eliminated. The period of time in which companies are required to submit applications to DOR to receive the refund is expanded from 60 days to six months after completion of the filming or production. However, if a motion picture production company reaches more than \$1 million in expenditures, or a commercial advertising production reaches more than \$250,000, they may apply for a refund at any time within 12 months after completion of the film or production.

DOR, in cooperation with the Department of Commerce, is required to provide refund forms, procedures and expenditure reports. This act is retroactive to July 1, 1994.

SB 1058 - Chapter 31 - consolidated tax returns; affiliated groups

For the purpose of filing Arizona consolidated corporate income tax returns, SB 1058 modifies the definition of the eligible affiliated group and authorizes elective filing of amended consolidated income tax returns for qualified affiliated groups for tax years 1986 through 1992.

SB 1058 also expands the definition of an Arizona-affiliated group to include corporations that would have been included in the federal consolidated group if the federal government had not allowed an exclusion from the 80% stock ownership test for Native Corporations established under the Alaska Native claims Settlement Act and all convertible preferred stock of the corporation had been converted.

Furthermore, the bill requires net over payments arising from the filing of amended returns to be treated as credits against future Arizona corporate income tax liabilities for ten consecutive years beginning in fiscal year 1995-96. Annual credit amounts are limited to 10% of the total until any residual amount is refunded in the eleventh year.

SB 1058 requires amended returns to be filed by December 31, 1995, and accompanied by written consents from each new member of the consolidated group.

SB 1067 - Chapter 189 - taxpayers' rights; technical corrections

SB 1067 makes technical and clarifying changes to the taxpayers' bill of rights. These changes are as follows:

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- ▶ clarifies that a prevailing party in a DOR administrative hearing may only be reimbursed for fees and costs incurred according to statute governing DOR administrative hearings.
- ▶ specifies that closing agreements are subject to existing statutes of limitations.
- ▶ eliminates the requirement for a power of attorney for a designated representative of the taxpayer and replaces it with a written authorization.
- ▶ replaces the court with the State Board of Tax Appeals as the ruling authority in matters concerning taxpayer reimbursement for DOR administrative proceedings.
- ▶ for the innocent spouse rule, adds a notwithstanding clause relating to the liability of a husband and wife for payment of taxes, to eliminate statutory inconsistencies. The taxpayer is considered to be a prevailing party only if DOR's position was not substantially justified, and the taxpayer prevails as to the most significant issue or set of issues.

SB 1067 is retroactive to July 17, 1994.

SB 1177 - Chapter 200 - tax correction act

SB 1177 is the annual bill that makes technical and conforming changes to Arizona tax statutes.

The bill also places the director of DOR, or the director's representative, on the Municipal Tax Code Commission as a nonvoting member. DOR shall provide staff support and meeting accommodations for the Commission.

SB 1211 - Chapter 137 [E] - *property tax; ascertaining subject property

SB 1211 allows a county assessor to utilize aerial photography, applicable DOR records and building permits in order to list all property in the county that is subject to taxation.

The bill also extends the period a person has to appeal a personal property notice of valuation from 10 days to 30 days. The amount of time the assessor has to rule on these petitions is increased from 10 to 30 days. Any person appealing a notice of refusal may do so at any time prior to the monthly meeting of the county board of supervisors, provided that the date of the decision is at least 15 days prior to the next monthly meeting.

Finally, the bill requires DOR to reduce the minimum value for class 4 (agricultural) personal property by two and one-half percent per year, over four years, beginning in 1996. This provision conforms

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class 4 personal property to the same treatment as class 3 (industrial and commercial) personal property.

SB 1271 - Chapter 249 - property tax; valuation and appeals

SB 1271 makes changes to the locally assessed property valuation and administrative appeal process. The changes are as follows:

- ▶ Eliminates one level of appeal for rural counties, the administrative appeal process will be to the assessor and the county Board of Equalization, the State Board of Tax Appeals is eliminated from this process.
- ▶ Eliminates the review process for decisions of the State Board of Equalization.
- ▶ Requires DOR, in addition to the county assessor, to make locally assessed information available; the information will be available in the format that it is maintained. Allows the assessor or DOR to charge a fee for information for the reproduction costs only, and upon request, the assessor or DOR must provide written documentation to support the reproduction costs that are charged.
- ▶ When petitions are filed with the county assessor and a request for a hearing is made, the request must be in writing. Any agreement reached on the valuation at this hearing must be signed at the conclusion of the meeting, instead of up to five days after the meeting.
- ▶ The definition of "valuation date" is modified to refer to the secured tax roll instead of real property taxation. Requires certified mail notices from property tax errors to be sent to the taxpayer by return receipt requested. If a taxpayer is granted an extension for filing a written response to a property tax error, any response not filed within the extended-due-date period results in a consent of the proposed correction.
- ▶ For 1995 and 1996 "transition" tax years, the bill eliminates appeals from the assessor to the State Board of Tax Appeals; all appeals from the assessor will be made to the current county Board of Equalization. Additionally, the county assessor is allowed to increase limited property values pursuant to current law.
- ▶ Allows owners of commercial and industrial personal property with a value of \$50,000 or less the option of declaring a presumptive value of \$50,000 in lieu of existing reporting requirements.

SB 1271 also prescribes a definition of "small flight property" and establishes a small flight property valuation of 30% of original cost less depreciation.

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Additionally, the bill authorizes DOR to provide assistance to an assessor's office if any assessor determines that their office will be unable to comply with its constitutional and statutory requirements for tax year 1996. The assessor must request assistance by August 1, 1995, and any assistance by DOR is conditional upon a complete review of the assessor's office. If after September 1, 1995, it is determined by DOR that the county assessor of a county with a population of more than one million has failed to identify and value a significant amount of property, DOR shall notify the Governor. The Governor will then require DOR to identify and value the property and notify the county assessor for placement on the tax roll. The sum of \$290,000 is appropriated from the general fund to DOR in fiscal year 1995-96 to carry out these duties.

The bill also eliminates division one of the State Board of Tax Appeals as of July 31, 1995. All duties and personnel of division one will transfer to the State Board of Equalization on August 1, 1995. The Governor shall appoint a full-time chairman for the State Board of Equalization. The Board may hire employees it deems necessary to carry out its duties and shall hear appeals of property valuations determined by DOR and equalization orders.

SB 1275 - Chapter 252 - statement of agricultural lease

SB 1275 eliminates the requirement that the lessor of agricultural land that is leased in excess of 90 days submit an annual agricultural lease affidavit. The lessor is now required to submit a written statement of lease to the county assessor upon change of ownership or lease agreement. The new written statement is required to be filed with the county assessor within three months after the change or prior to January 31, whichever is later. This written statement must contain the same information as is currently required.

The bill also eliminates the class 2 misdemeanor charge for knowingly falsifying or failing to file an agricultural lease statement.

Additionally, SB 1275 prohibits the county assessor from requiring information from owners of livestock regarding the number, age, location or listing of breeds if the livestock is exempt from taxation.

SB 1287 - Chapter 256 - income tax; claim of right

SB 1287 establishes individual and corporate income tax claim of right adjustments retroactive to January 1, 1986. The bill establishes refundable individual and corporate income tax adjustments for a claim of right income in excess of \$3,000. The amount of the adjustment is equal to the decrease in tax that would have resulted by excluding the claim of right income in determining tax liability for the applicable prior tax years.

The claim of right adjustment is not allowed with respect to stock, inventory or ordinary resale items held by the taxpayer but does apply with respect to refunds or repayments of regulated public utility

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rates. If the claim of right adjustment impacts or creates net operating or capital losses in intervening years, the bill specifies carry forward and carry back provisions.

Any taxpayer who would normally be barred by the statute of limitation from filing an amended return in regard to these provisions, may file amended returns on or before December 31, 1995. If a refund claim exceeds \$1 million, then DOR is authorized to issue credit vouchers to offset future years' tax liabilities.

Finally, the bill clarifies that the family income tax credit passed during the First Special Session applies only to residents of this state.

SB 1336 - Chapter 264 - severance tax; timbering

SB 1336 changes the method for determining the timbering severance tax from a method based on market value to a method based on the amount of timber severed. The bill also changes the definition of "timbering" to exclude certain timbering contract activities from taxation under the prime contracting classification. Under SB 1336, the definition of "timbering" includes all activities ordinarily required under the terms of the U.S. Forest Service Timber contracts, regardless of whether they were performed by the severer or a contractor. This change is retroactive to January 1, 1983.

The current method of valuing a timber product is eliminated (1.5% multiplied by the value of timber product) and replaced with an amount of \$2.13 per thousand board-feet of Ponderosa pine timber and \$1.51 per thousand board-feet of all other timber. This change is retroactive to January 1, 1995.

SB 1338 - Chapter 17 - sales tax; consumables; interpretation

SB 1338 prohibits interpretation of the transaction privilege and use tax exemptions for machinery and equipment in conjunction with the exemptions enacted in 1994 for consumables.

The bill prohibits the citing or consideration of the 1994 enactment of the transaction privilege and use tax exemptions for consumables in the interpretation of the previously existing machinery and equipment exemptions.

SB 1338 requires the transaction privilege and use tax exemptions for machinery and equipment to be interpreted without regard to the consumables exemption. This bill is retroactive to July 17, 1994.

SB 1344 - Chapter 267 - sales tax; auto auction sales

SB 1344 provides for the following exemptions to the transaction privilege and use tax:

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- ▶ Retroactive to July 1, 1988, sales of motor vehicles at auction to nonresidents for use outside this state, if the vehicle is shipped out of Arizona, regardless of where title passes.
- ▶ Retroactive to June 1, 1990, personal hygiene hotel amenities, purchased by persons engaged in the business of transient lodging.
- ▶ Retroactive to January 1, 1994, bed and breakfast establishments that rent four or fewer rooms and have an annual average occupancy of 50% or less.

SB 1374 - Chapter 93 - tobacco tax for health care

SB 1374 revises DOR's tobacco tax enforcement and administrative procedures. The bill authorizes DOR to enter into contracts with tribal governments and to exchange confidential information with tribal agencies, governments or organizations if they grant substantially similar privileges to DOR.

The bill makes the transport for sale or sale of 10,000 or more unstamped or unlawfully stamped cigarettes, or the sale of on-reservation stamped cigarettes off the reservation a class 5 felony (up to two years in prison with a maximum fine of \$150,000). A person convicted of this offense is prevented from holding a license to sell tobacco.

The definition of "distributor" includes out-of-state, as well as in-state manufacturers, producers or transporters of tobacco products. The director of DOR is authorized to determine the form and manner in which the official tobacco tax stamps must be printed and used.

SECTION III

VETOED BILLS

FIRST REGULAR SESSION

42nd LEGISLATURE

VETOED BILLS

GOVERNOR FIFE SYMINGTON

* Strike-everything Amendment
E Emergency Clause
P Proposition 108 Clause

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HB 2015 - VETOED - intensive probation

HB 2015 would have made a number of changes to the intensive probation statutes as follows:

- ▶ Would have extended intensive probation supervision to a felony offender who:
 - Commits a new misdemeanor or petty offense while on regular probation.
 - Would be subject to probation violation proceedings based on his performance on probation if intensive probation supervision was not available.
- ▶ Would have allowed the probation officer to consider the offender's performance on probation when recommending the offender for intensive probation.
- ▶ Would have amended the intensive probation conditions as follows:
 - (1) Would have removed the requirement that intensive probation offenders maintain full-time student status.
 - (2) Would have increased from \$30 to \$40 the restitution and probation fee.
 - (3) Would have permitted offenders to leave their place of residence to participate in counseling or treatment.
 - (4) Would have allowed a surveillance officer to direct an offender to undergo drug or alcohol tests.
 - (5) Would have required offenders to perform specified hours of community service per month based on the offender's level of supervision. Offenders enrolled as full-time or part-time students would have been exempt from this requirement.
- ▶ Would have allowed the court to waive part or all of the employment or community service requirements of an offender's supervision conditions and would have allowed the court to modify the conditions of supervision on request by a probation officer.
- ▶ Would have created a one-person intensive-probation team consisting of one adult probation officer who must supervise no more than 15 probationers at one time.
- ▶ Would have removed the requirement that probation teams have visual contact with probationers at least four times per week and would have allowed contact to be prescribed by Supreme Court guidelines.
- ▶ Would have required probation officers to submit a modification request to the court if the probationer's performance warrants a change in the intensive probation level of supervision.

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- ▶ Would have required the defense attorney to be notified of any modification of intensive probation if the modification would have affected the probationer's contact with or safety of the victim.
- ▶ Would have required the court to notify the prosecutor and probationer of a proposal to transfer a probationer from probation to intensive probation. Would have required the victim to be notified if the proposed modification is based upon the probationer's commission of a new offense and if the victim requested notice. If any of the notified parties object to the modification, the matter would be referred to probation violation proceedings.
- ▶ Would have provided that if there is a proposal modification to move a probationer from intensive probation to regular probation or to terminate a probationer from intensive probation, notice would be given to the prosecutor, defendant and victim. If any of these persons object, the matter would be heard by the court.

HB 2255 - VETOED - game and fish training courses

The bill would have allowed the Game and Fish Commission to require anyone who had a suspended or revoked license to take an appropriate course before a new license would be issued.

SB 1107 - VETOED - *resident endangered species; prohibition

SB 1107 would have added a new section of law prescribing the applicability of the federal Endangered Species Act (ESA) in Arizona, as follows:

- ▶ The application of ESA's provisions relating to any resident threatened species of fish, wildlife or plant would have been an issue of exclusive concern to the State of Arizona.
- ▶ Only the Legislature could have approved the applicability of any provision of ESA in Arizona with respect to resident species of fish, wildlife or plants determined to be endangered or threatened. (The Legislature would have had exclusive authority to conserve resident species of fish, wildlife or plants determined to be endangered or threatened.)
- ▶ The federal government, the State of Arizona and their respective employees and political subdivisions would have been prohibited from directly or indirectly enforcing, upholding, accepting any benefit from or entering into any agreement concerning resident threatened species of fish, wildlife or plant under ESA, unless otherwise directed by the Legislature.

VETOED BILLS

- ▶ All approvals of regulations promulgated by the US Secretary of the Interior with respect to resident threatened species of fish, wildlife or plant in Arizona would have been cancelled with no further force and effect.
- ▶ The Governor's office would have been required to notify all applicable state employees that no agreement exists to apply ESA's provisions concerning resident threatened species of fish, wildlife or plant in Arizona.

SB 1133 - VETOED - DNA testing

SB 1133 would have removed the requirement that a person convicted of public sexual indecency, a crime against nature or a lewd and lascivious act submit to DNA testing for law enforcement identification purposes. These offenses are misdemeanors under current law. The bill also would have provided that certain felony sex offenses require DNA testing. Current law requires DNA testing for both felony and misdemeanor sex offenders.

SB 1138 - VETOED elections; recall; signatures

SB 1138 would have amended various statutes governing elections, as follows:

- (1) the timeframe during which a town organized under a common council may hold its general election would have been extended from between the first Monday in January and the third Tuesday in May to between the first Monday in September and the third Tuesday in May;
- (2) subject to voter approval, cities and towns would have been allowed to conduct non-partisan primary elections in which candidates that received the highest number of votes (plurality) would be declared elected to office with no further election held;
- (3) lists derived from absentee ballot applications would have been exempt from the statutorily prescribed fees charged for precinct registers and other lists and information derived from voter registration forms;
- (4) the maximum number of signatures required for school board candidates would have been limited to 400;
- (5) a provision would have been added stipulating that a signature on a nomination petition could not be disqualified on the basis that the address is deficient if the address is either the complete residence address (including street name and number, apartment or space number, city or town and zip code or other readily ascertained description) or the complete mailing address if different from residence address

VETOED BILLS

(including post office address, city or town, zip code or other designation used by the registrant for receiving mail);

- (6) write-in candidates seeking party nomination from a newly recognized political party would have been required to receive at least as many votes as the number of signatures required on a nomination petition for that office; and
- (7) a verification procedure for recall petitions that is substantively equivalent to that used to verify ballot measures would have been established and required if the minimum number of signatures was at least 200 and made optional if the signature requirement was less than 200.

SB 1206 - VETOED - sales tax; contracting

SB 1206 would have replaced the transaction privilege tax on prime contracting with a point of sale retail tax on tangible personal property purchased by contractors. Dealers of manufactured housing would have retained the current system of taxation that is imposed on the prime contracting classification.

As part of the change from prime contracting to point of sale, SB 1206 would have provided for the following:

- ▶ Machinery and equipment used in contracting would not be eligible for the manufacturing and mining machinery and equipment exemption.
- ▶ Eliminated the transaction privilege tax exemption from the prime contracting classification for qualified construction within a military reuse zone for manufacturers of aviation or aerospace products.
- ▶ Eliminated the transaction privilege tax exemption from the prime contracting classification for contracts relating to qualified environmental technology facilities.
- ▶ Decreased, from 40% to 36%, the portion of transaction privilege tax retail collections designated for the distribution base.
- ▶ Eliminated the definitions of the owner-builder sales classification.
- ▶ Provided a transition period for the taxation of contracts entered into and materials purchased prior to January 1, 1997.
- ▶ Contained several blending enactments and technical and conforming changes.

VETOED BILLS

SB 1245 - VETOED - ballot measures; advertising disclosure

SB 1245 would have amended the sections of law governing:

- (1) the reporting of contributions by committees acting on ballot measures;
- (2) initiative and referendum petitions; and
- (3) disclosure of funding sources in campaign literature and advertising.

Reporting of Contributions by Committees Acting on Ballot Measures

Violation of the section of law requiring reporting of contributions by committees acting on ballot measures would have been made a class 2 misdemeanor. (An action against the committee's chairman or treasurer could have been brought by the Attorney General or county attorney.)

Further, a campaign committee would have been liable for a civil penalty of three times the amount improperly reported. (The Attorney General or county attorney could have filed the action.)

Initiative and Referendum Petitions

The sections of law governing initiative and referendum petitions would have been amended with identical provisions, as follows:

- ▶ Petition circulators would have been required to wear a badge (at least 10 square inches in size with lettering at least 1/4 inch in height) indicating they are either a "paid circulator" or "volunteer" and the major funding sources described as a group of any payments made to a paid circulator. In the event there were more than two major funding sources, only the first two applicable funding sources as determined by the order in which they are listed in statute would have been identified.
- ▶ Rather than checking a box on the petition form indicating whether they are paid or a volunteer, petition circulators would have been required to verbally inform each signer as to whether they are a paid circulator or volunteer.
- ▶ A paid circulator who violated these provisions would have been guilty of a class 2 misdemeanor. (The Attorney General or county attorney could have brought an action against any person who violates these provisions.)
- ▶ Signatures obtained in violation of these provisions would not have counted in determining the legal sufficiency of the petition. (The presence of invalid signatures would not have invalidated other signatures obtained pursuant to law.)

Disclosure of Funding Sources in Campaign Literature/Advertising

Current law establishes various threshold amounts at which a political committee must disclose its major funding sources when making an expenditure for campaign literature or advertising to support or oppose a ballot measure.

VETOED BILLS

SB 1245 would have reduced and expanded the applicability of the following threshold amounts:

Statewide Ballot Measures

Current Law	SB 1245
Disclosure of the largest contributor who makes an individual contribution of at least \$100,000.	* Reduced the threshold to \$50,000. * Required disclosure of all individual contributions that would have met the threshold amount rather than just the largest contributor.
Disclosure of combined contributions from corporations or unions, as a group, of \$100,000 or more that constitute 50% or more of all contributions received.	* Reduced the threshold to \$50,000. * Required disclosure of all corporate or union contributions, as a group, that would have met the threshold amount rather than just those constituting over 50% of received contributions.

**Ballot Measures in Political Subdivisions
with Populations of 100,000 or more persons**

Current Law	SB 1245
Disclosure of the largest contributor who makes an individual contribution of \$10,000 or more.	Required disclosure of all individual contributions that would have met the threshold amount rather than just the largest contributor.
Disclosure of combined contributions from corporations or unions, as a group, of \$10,000 or more that constitute 50% or more of all contributions received.	Required disclosure of all corporate and union contributions, as a group, that would have met the threshold amount rather than just those constituting over 50% of the contributions received.

**Ballot Measures in Political Subdivisions
with Populations of less than 100,000 persons**

Current Law	SB 1245
Disclosure of the largest contributor who makes an individual contribution of at least \$2,000.	Required disclosure of all individual contributions that would have met the threshold amount rather than just the largest contributor.
Disclosure of combined contributions from corporations or unions, as a group, of \$2,000 or more that constitute 50% of all contributions received.	Required disclosure of all corporate or union contributions, as a group, that would have met the threshold amount rather than just those constituting over 50% of received contributions.

The section of law establishing various threshold amounts at which a political committee must disclose its major funding sources when making an expenditure for campaign literature or advertising in conjunction with a ballot measure would have been further amended, as follows:

VETOED BILLS

- ▶ A new provision would have required industries as a group, corporations as a group, unions as a group or persons that contributed to more than one political committee that supported or opposed the same ballot measure and whose cumulative contributions would make them a major funding source to notify each committee of its cumulative contributions. Cumulative totals would have applied to and would have to have been disclosed by each political committee that received contributions from the same contributor.
- ▶ Current law requires that when there are more than two major funding sources, disclosure is only required of the first two sources in the order in which they are listed in statute. SB 1245 instead would have required disclosure of the four major funding sources that contributed the largest amounts of money, based on cumulative dollar amounts contributed to all committees that support or oppose the same ballot measure. If there were less than four, all major funding sources would have been required to be listed.
- ▶ Disclosure statements would have been required to be printed in type at least as large as the majority of the printed text and disclosure information currently required to be written and/or spoken during television or radio broadcasts would have been required to be included at the end of the advertisement. However, a spoken disclosure statement could have been omitted if written disclosure was made for at least five seconds during a 30-second advertisement or 10 seconds during a 60-second advertisement. Further, written disclosure statements in television advertisements would have been required to be printed in letters at least as large as four percent of the vertical picture height.
- ▶ Public, private or professional corporations, limited liability corporations and limited partnerships would have been included under the definition of "person" and a definition of "population" would have been added.

Violation of the section of law governing disclosure of major funding sources in campaign literature and advertising would have been made a class 2 misdemeanor. (The Attorney General or county attorney could have brought an action against the campaign committee's chairman or treasurer.)

SB 1290 VETOED - environmental audit privilege

Environmental Self-Evaluation

An environmental self-evaluation is:

- ▶ a voluntary assessment;
- ▶ undertaken for the specific purpose of identifying and preventing noncompliance and improving compliance.

VETOED BILLS

Environmental Self-Evaluation Privilege

An environmental self-evaluation report would be privileged (confidential) information and not admissible in any civil, criminal or administrative proceedings.

This privileged status is qualified, but would be admissible if any of the following applies:

- (1) The person waives the privilege.
- (2) A court determines:
 - (a) a person was not in compliance and failed to promptly initiate and pursue efforts with reasonable diligence to achieve compliance;
 - (b) the privilege is asserted for a fraudulent purpose;
 - (c) the information contained in the environmental self-evaluation report demonstrates a clear, present and impending danger to the public health;
 - (d) the material contains evidence relevant to criminal activities in Title 49.

The privilege would not apply in any case if:

- (1) the information is required to be reported pursuant to law or regulation;
- (2) the information is required to be available to a regulatory agency pursuant to a law or regulation;
- (3) the information is monitored by a regulatory agency; or
- (4) information is obtained through a source independent of the environmental self-evaluation.

Voluntary Disclosure and Immunity from Penalties

A person who makes a voluntary disclosure is rebuttably presumed to be immune from civil and administrative penalties and is eligible for criminal leniency.

After a voluntary disclosure has been made, the presumption of immunity would be invalidated if one of the following applies:

- (1) the person making the disclosure fails to initiate appropriate action within a reasonable time to remedy known violations of environmental law suggested by the information disclosed; or
- (2) the person fails to achieve or make reasonable progress toward achieving compliance within a reasonable time after initiating action;
- (3) this does not apply, however, to a person who intentionally and wilfully violated environmental law or committed repeated serious violations of environmental law without mitigation or remediation.

A person who makes a voluntary disclosure shall do so in a manner prescribed by DEQ.

VETOED BILLS

Disclosure/Privilege

If an enforcement agency has probable cause to believe there was a violation, it may obtain the report via a search warrant, criminal subpoena or discovery. If it is obtained by a search warrant it has to be filed with the court immediately and the owner/operator has 30 days to either waive the privilege or file a petition with the court for the privilege. If the report was obtained by one of the other means, the owner/operator can either give the report to the agency or file a petition with the court for the privilege. If a petition is filed, the court has 45 days to make the determination of the privilege and what portions will be disclosed.

Burden of Proof

- ▶ A person asserting the privilege has to prove a prima facie case.
- ▶ An agency seeking disclosure because of the possibility of criminal activity has the burden of proof.
- ▶ A person who claims immunity has the burden of proving a voluntary disclosure was made; an agency seeking to impose a penalty has the burden of proving the immunity has been lost.

Other

- ▶ Individuals registered with the State Technical Registration Board who perform environmental self-evaluations and discover a serious threat to the public health, safety or welfare are not prevented from making this disclosure to the appropriate parties. (Allows them to comply with the rules of professional conduct.) Otherwise, a person who is involved in the preparation or review of the report cannot make any disclosures without the express consent of the person for whom the report was done.
- ▶ The parties at any time may stipulate which information is or is not privileged.
- ▶ All court actions are via in camera reviews.

SECTION IV

MEMORIALS AND RESOLUTIONS

FIRST REGULAR SESSION

42nd LEGISLATURE

MEMORIALS AND RESOLUTIONS

* Strike-Everything Amendment

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MEMORIALS & RESOLUTIONS

HOUSE CONCURRENT MEMORIAL

HCM 2001 - stream adjudication; settlement judge

A concurrent memorial requesting the Arizona Supreme Court to appoint a settlement judge to preside over settlement negotiations in the general stream adjudication proceedings.

In 1979, the Legislature enacted procedures to govern the General Adjudication of Water Rights (Title 45, Chapter 1, article 9). As presently constituted, the Gila and Little Colorado River adjudications comprise more than 75,000 claims on nine subwater-sheds.

In an effort to expedite the stream adjudication process, HCM 2001 requests the Arizona Supreme Court to appoint a settlement judge to preside over settlement negotiations in the Arizona general stream adjudication proceedings and suggests the following procedures be followed:

- ▶ For each water use to which objections have been filed, the claimant and objectors would be allowed to discuss the potential settlement of the objections with the settlement judge as well as the attributes of the water right.
- ▶ Prior to a settlement conference, the involved parties would submit initial disclosure statements to each other and also file a confidential memorandum with the settlement judge noting the basis for each objection and acceptable settlement alternatives.
- ▶ The settlement judge would then meet with each of the parties separately, or together, as necessary to facilitate a settlement of the contested case.
- ▶ Details of settlement discussions would not be made known to the adjudication court.
- ▶ Settlements resolving only a portion of the objections of a particular water right would be permitted. However, if a settlement addressed only a particular attribute(s) of a water right, it would have to resolve all objections involving the particular attribute(s).
- ▶ In the event that no settlement or only a partial settlement is agreed to, the remaining disputed issues would proceed to trial.
- ▶ A settlement would be binding only on the parties to the settlement until the settlement is incorporated in the final decree.

MEMORIALS & RESOLUTIONS

- ▶ Settlement agreements would have no precedential value in proceedings before the adjudication court but would be incorporated into the report containing findings of fact and conclusions of law required to be filed by the Master appointed pursuant to statutory general stream adjudication procedures.
- ▶ The settlement judge could confer with the Department of Water Resources (DWR) regarding the factual background of a settlement. DWR's role would be as technical advisor, similar to its role under statutory stream adjudication procedures.
- ▶ The settlement judge could not disclose to DWR any information submitted in confidence by the parties;
- ▶ The involved parties would be notified and allowed to participate in any conferences between DWR and the settlement judge.
- ▶ Any reports or other documents gathered by DWR regarding the settlement would be provided to the settlement judge and the parties and the involved parties given an opportunity to respond.
- ▶ Objections to settlements would only be permitted if they could not have been made or foreseen during the 180-day objection period currently prescribed in statute for filing objections to DWR's report.
- ▶ Partial or complete settlements would not be subject to modification by the adjudication court without the consent of the affected parties, but may be rejected by the court based on objections raised after the 180-day objection period.

The suggested procedures would apply only to voluntary proceedings before a settlement judge and would not apply to agreements pursuant to statutory stream adjudication procedures.

HCM 2002 -

objecting to ban on fluorocarbons

A concurrent memorial requesting the United States Congress and the Environmental protection Agency to repeal the prohibition on fluorocarbons because it was based on inconclusive scientific evidence that ozone depletion results from the use of this substance.

MEMORIALS & RESOLUTIONS

HCM 2005 - federal environmental rulemaking moratorium

A concurrent memorial urging the United States Congress to enact laws to provide immediate short-term relief from federal environmental laws, rules, regulations and policy directives which would be effective until long-term solutions to the environmental concerns facing our nation are formulated by Congress.

The proposed laws would do the following:

- ▶ place a moratorium on the issuance of new environmental rules, regulations and policy directives by the following federal entities:
 - Environmental Protection Agency [EPA];
 - Department of the Interior;
 - Department of Agriculture;
 - Army Corps of Engineers;
 - National Marine Fisheries Service; and
 - Council on Environmental Quality;
- ▶ notwithstanding federal environmental laws, rules, regulations and policy directives to the contrary, allow the continued operation of current contracts and the continued provision of vital government services; and
- ▶ notwithstanding federal environmental laws, rules, regulations and policy directives to the contrary, allow timber harvests and sales in national and tribal forests to proceed up to the maximum quantities specified in current forest plans.

HOUSE CONCURRENT RESOLUTION

HCR 2003 - effective date of acts

A concurrent resolution proposing an amendment to the Constitution of Arizona, amending Article IV, part 1, section 1 and Article IX, section 22, relating to effective dates of legislative enactments. A long-standing Arizona Supreme Court ruling holds that an act passed by a super majority vote, containing an emergency clause and signed by the Governor is effective immediately: "Such a measure can have no other effective date, and the inclusion of a provision in the act, making it effective on some other day, is a nullity . . . without force and effect and should be disregarded."

MEMORIALS & RESOLUTIONS

HCR 2003 proposes amending the provisions of the Constitution of Arizona that grant the Legislature authority to refer any legislative measure to a vote of the people, except for laws that are immediately necessary for the preservation of the public peace, health or safety or laws for the support and maintenance of state departments and institutions.

HCR 2003 proposes changing references to "laws that are immediately necessary" to "emergency laws" and, more importantly, adds a provision specifying that emergency laws and other laws that are exempt from the referendum become effective according to their terms in order to allow implementation of a specific effective date.

- HCR 2004** - **Taiwan in the UN**
A concurrent resolution relating to the participation of the Republic of China on Taiwan in the United Nations.
- HCR 2013** - **Jaime C. Teyechea, Jr.**
A concurrent resolution on the death of Jaime C. Teyechea, Jr. Mr. Teyechea died in March 1994 at the age of forty-four. In 1989 he was diagnosed with multiple myeloma, a rare form of bone marrow cancer. It was soon thereafter that this Nogales native began his tireless efforts to bring to light the high rate of cancer and lupus in the Nogales area.
- HCR 2015** - **tenth amendment; sovereignty**
A concurrent resolution regarding the Tenth Amendment to the United States Constitution and asserting the sovereignty of the State of Arizona. HCR 2015 reaffirms the sovereign status of the State of Arizona under the Tenth Amendment of the United States Constitution over all powers not constitutionally delegated to the federal government and demands that the federal government immediately cease and desist mandates that are beyond the scope of its constitutionally delegated powers.
- HCR 2021** - **honoring slain police officers**
A concurrent resolution honoring law enforcement officers who have been killed in the line of duty. People everywhere are encouraged to observe and participate in activities commemorating the National Law Enforcement Memorial Day, May 15, 1995.

MEMORIALS & RESOLUTIONS

HCR 2022 - *return of public lands; agreement

HCR 2022 resolves that members of the Arizona Legislature (appointed by the President of the Senate and Speaker of the House) meet with the Governor or his representatives to enter into an agreement with federal officials to return the authority over those unappropriated and ungranted public lands in Arizona determined to be in the best interests of this State.

The following are listed as reasons for the resolution:

- ▶ All states created after 1789 were to be added to the Union on an equal basis with the original states.
- ▶ Eleven states, including Arizona, were admitted to statehood upon a condition in their state constitutions whereby they forever disclaimed any right and title to unappropriated public lands within their boundaries controlled by the federal government.
- ▶ The disclaimer to public lands (Article XX, par. 4, Arizona Constitution) does not prohibit the federal government from returning authority over unappropriated lands to this State.
- ▶ Federally controlled public lands account for a large percentage of Arizona's public domain and results in less private land, dependency by the State and local governments on volatile taxes and loss of revenues and the use of public lands for potentially undesirable activities.
- ▶ Federal jurisdiction over the public domain is shared among several federal agencies or departments which causes problems concerning the proper management of the land and disrupts the normal relationship between the State, its residents and property.

HOUSE JOINT RESOLUTION

HJR 2003 - Pearl Harbor Memorial Highway

A joint resolution providing the following:

- ▶ designates the portion of Interstate 10 located within Arizona as the "Pearl Harbor Memorial Highway";
- ▶ designates the portion of Interstate 15 located within Arizona as the "Veterans Memorial Highway";

MEMORIALS & RESOLUTIONS

- ▶ designates State Highway 64 from Williams, Arizona to Cameron, Arizona as the "Bushmaster Memorial Highway";
- ▶ directs ADOT to erect signs indicating the designation of these highways.

HOUSE MEMORIAL

- HM 2001** - **Gila county flood emergency**
A House memorial urging the Governor to take emergency action to help remedy the flooding problems in Gila County.

HOUSE RESOLUTION

- HR 2001** - **Sahuarita corridor; highway construction plan**
A House resolution urging the State Transportation Board to include construction of a highway in the Sahuarita corridor between Interstate Highway 10 and Interstate Highway 19 in the Department of Transportation's state highway construction plan.
- HR 2002** - **state highway 85; five-year construction**
A House resolution urging the State Transportation Board to include State Highway 85 in the five-year highway construction program.

SENATE CONCURRENT MEMORIAL

- SCM 1002** - **'alternative E'; forest service plans**
A concurrent memorial urging the United States Forest service to consider and approve the amendment "Alternative E" proposed in the draft environmental impact statement for the proposed amendments of forest plans United States Department of Agriculture Forest Service Region 3.
- The Southwest Regional Office of the U.S. Forest Service plans to amend its Forest Land Management Plans for Arizona and New Mexico. The proposed amendments will establish the basis for ecosystem management in Arizona, focusing on the Mexican Spotted Owl and the Northern Goshawk. Several options have been proposed and this memorial asks the U.S. Forest Service

MEMORIALS & RESOLUTIONS

and the Region 3 Forester to select "Alternative E" as proposed in the draft environmental impact statement.

SCM 1003

international flight routes; negotiation; participation

A concurrent memorial urging the Congress of the United States to reduce federal regulations restricting the ability of states to participate in the negotiation of international flight routes.

SCM 1004 -

national highway system

A concurrent memorial urging the Congress of the United States to approve and designate the national highway system no later than September 30, 1995. The memorial also urges Congress to provide essential funding to this state and all other states for the maintenance, preservation and, where necessary, the improvement of the Congressionally designated national highway system.

SENATE CONCURRENT RESOLUTION

SCR 1006 -

***restoration of state powers; federal mandates**

A concurrent resolution adopting a declaration of sovereignty.

SCR 1006 declares the following principles as necessary to restore sovereignty to the states and the people under the Tenth Amendment of the United States Constitution:

- ▶ The federal government should be restored to the role assigned to it under the US Constitution and the powers that have been usurped from the states and the people by the federal government should be returned in an expeditious and orderly manner.
- ▶ Constitutional clauses (especially the "commerce clause") that have been the source of illegitimate federal expansion should be restored to their original meaning.
- ▶ The federal government should not impose mandates, either funded or unfunded, on the states or their subdivisions.
- ▶ The federal government has a legal obligation to fully finance all of its programs and should neither require nor entice state or local governments to participate in the funding of federal programs.

MEMORIALS & RESOLUTIONS

- ▶ All federal government relationships with local governments should go through the state government since direct federal/local government relationships are inappropriate, except those that are specifically authorized by the constitution or laws of a particular state.
- ▶ The federal government should not assign federal responsibilities to officers of the state or local governments unless specifically authorized by state constitution or law.
- ▶ The federal government's treaty powers should be limited to areas that are clearly within the federal government's scope of responsibility.
- ▶ Federal law should not preempt state and local police power, nor should the courts permit such preemption unless clearly permitted by the Constitution.

SCR 1006 asserts that in support of the above-listed principles, the State of Arizona may take any appropriate action to restore its sovereignty and the sovereignty of the people, including taking legal action to challenge the illegitimate exercise of federal power and repealing laws that have unlawfully expanded federal power.

SCR 1014 -

judicial taxing authority

A concurrent resolution urging the Congress of the United States to submit to the several states an amendment to the United States Constitution to prohibit federal judges from imposing state and local taxes. The proposed language states that "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes."

SCR 1018 -

constitutional amendments; states purpose

A concurrent resolution requesting the Congress of the United States to propose an amendment Article V of the Constitution of the United States to provide a third method of amending the Constitution whereby three-fourths of the state's legislatures could propose amendments that would be valid two years after submittal to Congress unless, within that time, two-thirds of both houses of Congress disapproved of the proposed amendments.

MEMORIALS & RESOLUTIONS

- SCR 1025** - honoring women in state legislatures
A concurrent resolution recognizing the one hundredth year of women in state legislatures and the many contributions made to Arizona's legislative process by the women currently or formerly serving in the Legislature.

SENATE JOINT RESOLUTION

- SJR 1001** - state sovereignty; federal mandates; interpretation
This resolution adds a provision to SJR 1003 which was signed by the Governor on February 14, 1995, and which authorized an Arizona delegation to be sent to the Conference of the States.

The new provision stipulates that the resolution to participate in the Conference of the States does not constitute an application for a federal constitutional convention nor shall the Conference of the States be convened as a federal constitutional convention.

- SJR 1003** - conference of the states
SJR 1003 requires that a delegation be appointed to represent Arizona at a Conference of the States to be convened no later than 270 days after at least 26 states adopt measures similar to SJR 1003, for the purpose of drafting, debating and voting on elements of an action plan to restore checks and balances between the states and the federal government.

SJR 1003 further provides the following:

- ▶ Measures agreed on at the Conference of the States will be formalized in a States' Petition and returned to the participating states for consideration by the state legislatures.
- ▶ Arizona's delegation will consist of the Governor or a constitutional officer selected by the Governor, as well as legislators from each political party selected by the Speaker of the House and the Senate President.
- ▶ Before the Conference of the States officially convenes, a steering committee will draft the governance structure and procedural rules for the Conference, the process for receiving proposals to balance the powers between the states and the federal government, as well as the financial and administrative functions of the Conference.

MEMORIALS & RESOLUTIONS

- ▶ Bylaws adopted for the Conference of the States must conform to the provisions of SJR 1003 and specify that each state delegation will have one vote at the Conference and that the agenda will be restricted to fundamental and structural reforms.

- ▶ Once the Conference of the States convenes, the state delegations will vote on and approve the governing structure, operation rules and bylaws of the Conference.

SECTION V

SUMMARY OF

LEGISLATION

FIRST SPECIAL SESSION

42nd LEGISLATURE

**SUMMARY OF LEGISLATION
OF THE FORTY - SECOND LEGISLATURE
FIRST SPECIAL SESSION
1995**

* Strike-Everything Amendment
E Emergency Clause
P Proposition 108 Clause

<u>Bill</u>	<u>Chapter</u>	<u>Short Title</u>	<u>Page</u>
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HB 2002	2	capital outlay appropriations	256
HB 2003	3	state budget reconciliation; public finances	258
HB 2004	4	state budget reconciliation; education	259
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HB 2008	8	state budget reconciliation; dependents assistance	263
SB 1009	9	property and income tax reduction	264

Session Convened
Tuesday, March 14, 1995
at 11:15 a.m.

Session Adjourned Sine Die
Thursday, March 16, 1995
at 5:43 p.m.

General Effective Date for Nonemergency Legislation is
June 15, 1995

FIRST SPECIAL SESSION

HB 2001 - Chapter 1 - general appropriations

HB 2001, the general appropriations act for FY 1995-96 appropriates \$4,446,324,400 in general fund monies for the operation of state government. The areas for which general fund appropriations are made are as follows:

	<u>FY 1995-1996</u>	<u>FY 1996-1997</u>
General Government	\$ 272,319,300	\$ 140,411,600
Health & Welfare	1,101,970,800	2,247,900
Inspection & Regulation	37,806,700	27,467,600
Education	2,502,075,800	7,643,500
Protection & Safety	485,538,300	6,080,700
Transportation	74,300	0
Natural Resources	33,275,000	31,379,600
Retirement Contribution Reduction (2,435,800)	0
FY 1996 Employee Pay Increase	12,700,000	0
FY 1996 Classification Review	<u>3,000,000</u>	<u>0</u>
TOTAL	\$ 4,446,324,400	\$ 215,230,900

In the area of K-12 education, for FY 1995-96, \$1,773,128,000 is provided from the general fund to the Arizona Department of Education.

The bill also provides for appropriations from other funds for FY 1995-96 totalling \$708,512,400, and for FY 1996-97 a total other funds appropriation of \$89,570,600.

HB 2001 appropriates from the general fund \$12,700,000 for a 2% state employees' merit increase effective January 1, 1996. In addition, the sum of \$3,000,000 is appropriated from the general fund for classification maintenance review adjustments.

HB 2001 also includes the following FY 1995-96 general fund salary adjustments: \$7,551,500 is added to the Department of Correction's budget for the correctional service officer pay plan; \$350,000 is included in the Department of Public Safety's budget for a DPS sergeants' pay increase; and \$924,000 is within the Department of Economic Security's budget to fund starting January 1, 1996, a 4% increase for Developmental Disability Providers.

Section I of this summary book contains the amounts appropriated to individual departments, agencies, boards and commissions.

HB 2002 - Chapter 2 - capital outlay appropriations

HB 2002 contains appropriations for capital outlay for FY 1995-96. The bill appropriates \$290,453,600 in FY 1995-96 for planning, building renewal and other capital projects from the following funds: \$65,718,200 from the general fund; \$1,000,000 from the Capital Outlay Stabilization Account [COSA]; and \$224,735,400 from other funds. An additional \$33,200,000 is appropriated for the 1996-97 fiscal year.

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	<u>GENERAL FUND</u>	<u>OTHER FUNDS</u>	<u>TOTAL</u>
<u>Building Renewal:</u>			
Board of Regents	\$ 19,247,300	\$ 0	\$ 19,247,300
DOA	7,171,400	1,000,000	8,171,400
ADOT [Highway Fund]	0	1,118,400	1,118,400
ADOT [Aviation Fund]	0	31,700	31,700
Coliseum Board	0	673,200	673,200
Game & Fish Dept.	0	128,300	128,300
Lottery Commission	0	13,500	13,500
Sub-Total	\$ 26,418,700	\$ 2,965,100	\$ 29,383,800
<u>Capital Projects:</u>			
DOA	\$ 5,821,500	\$ 2,000,000	\$ 7,821,500
ASDB	600,000	0	600,000
Dept. of Emer. & Military Affairs	53,000	0	53,000
DHS	175,000	0	175,000
DPS	8,200,000	0	8,200,000
Sec. of State	200,000	0	200,000
Board of Regents	4,000,000	0	4,000,000
DOC	0	19,850,000	19,850,000
Game & Fish Dept.	0	519,100	519,100
Lottery Commission	0	10,000	10,000
Community Coll. Bd.	400,000	0	400,000
ADOT [Highway Fund]	0	2,681,400	2,681,400
ADOT [Tank Fund]	0	375,000	375,000
Sub-Total	\$ 19,449,500	\$ 25,435,500	\$ 44,885,000
ADOT - Highway Planning & Construction	\$ 0	\$ 198,434,000	\$ 198,434,000
ADOT - Airport Planning, Construct. & Develop.	0	17,750,800	17,750,800
GRAND TOTAL FY 1995-96	\$ 45,868,200	\$ 244,585,400	\$ 290,453,600

In addition, HB 2002 appropriates from the general fund to the corrections fund \$21,434,000 in FY 1995-96, and \$18,000,000 in FY 1996-97.

Additional general fund capital appropriations of \$3,000,000 to DPS, \$2,000,000 to the Board of Regents and \$28,200,000 to DOC are to be made in FY 1996-97. [Although HB 2002 appropriates correctional facility construction monies directly to DOA, due to the functional application of these monies, they are shown on the DOC line.]

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HB 2003 - Chapter 3 - state budget reconciliation; public finances

HB 2003 is one of the four "Omnibus Reconciliation Bills" [ORBs] which enact statutory changes necessary for the implementation of the general appropriations act for FY 1995-96 [HB 2001, Chapter 1]. The other three ORBs, which are contained in this section are HB 2004, HB 2005 and HB 2008.

HB 2003, the "Public Finance ORB," contains the following provisions:

Department of Liquor Licenses and Control

Requires that two-thirds of all liquor license fees be deposited in the general fund rather than be retained by the Department for automation expenses.

Department of Public Safety

The statutory phase down of HURF and Highway Fund monies for DPS operating expenses is frozen for one year at the FY 1994-95 level.

State Parks Board

Updates 1994 session law to continue the requirement that deposits into the state parks enhancement fund in excess of \$3,254,800, up to a total of \$353,500, shall be used to offset the FY 1993-94 Parks Board general fund supplemental.

Judiciary

For FY 1995-96, the Court Appointed Special Advocate [CASA] fund may be used by the Foster Care Review Board.

Department of Revenue

Session law is added to allow the use of Tobacco Tax and Health Care Funds for department costs associated with enforcing the 1994 Proposition 200 - Tobacco tax.

Capital Provisions

- ▶ The director of DOA, on review of JCCR, may authorize an agency that vacates state-owned space after the beginning of the fiscal year an exemption from rental fee payment for reasons other than occupying private lease space.
- ▶ Permits the use of building renewal monies for building modifications in order to comply with the Americans with Disabilities Act.
- ▶ Session law is added to permit the use of Underground Storage Tank [UST] fund monies for the removal, clean-up, replacement of state-owned underground storage tanks.

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Other Provisions

- ▶ Through the repeal of ARS 35-190.01 the accounting technique commonly referred to as the "Midnight Reversion" was eliminated.
- ▶ The maximum balance that can be in the Budget Stabilization Fund [BSF] is reduced from 15% to 5% of general fund revenue.
- ▶ Session law is added to suspend the requirement that 40% of the non-Maricopa state vehicle fleet be alternatively fueled by December 31, 1995.

HB 2004 - Chapter 4 - state budget reconciliation; education

HB 2004 is one of the four "Omnibus Reconciliation Bills" [ORBs] which enact statutory changes necessary for the implementation of the general appropriations act for FY 1995-96 [HB 2001, Chapter 1]. The other three ORBs, which are contained in this section are HB 2003, HB 2005 and HB 2008.

HB 2004, the "Education ORB," contains the following provisions:

K-12 Education

- ▶ Laws 1994, 9th special session, chapter 1, is amended to exempt the Family Literacy Program's appropriation from lapsing.
- ▶ The growth rate for FY 1995-96 is set at 0.0%. The FY 1995-96 base level funding for K-12 is increased by \$30. This will provide approximately \$35 per elementary student and \$38 per high school student.
- ▶ Provides that in FY 1995-96 the allocation and distribution of monies for the following grants and programs be consolidated into a state block grant with no dollar change. The Department of Education will determine the distribution of these monies with the approval of the Joint Legislative Budget Committee.
 - The Dropout Prevention
 - Full Day Kindergarten
 - Gifted Support
 - K-3 Support
 - Pre-School At-Risk Programs
- ▶ A 13-member Joint Committee on Current Year Funding for Schools is established. Before December 15, 1995 the Committee shall submit a report on its findings and recommendations to the Speaker of the House and the President of the Senate. The Committee terminates on December 31, 1995.

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Community Colleges

- ▶ The FY 1995-96 community college growth rate is set at 0.0%.

Arizona Schools for the Deaf and the Blind [ASDB]

- ▶ Session law is added to increase from 3 to 5 the number of comparison schools for the ASDB salary equity studies.

Universities

- ▶ A 13-member Study Committee on Higher Education Charters is established. The Committee is charged with investigating the feasibility of establishing private higher education charter institutions in this state, and the feasibility of issuing tuition vouchers to Arizona residents to attend private higher education institutions in this state. The Committee shall submit a report on its findings and recommendations to JLBC by December 15, 1995. The Committee terminates on December 31, 1995.

HB 2005 - Chapter 5 - state budget reconciliation; health

HB 2005 is one of the four "Omnibus Reconciliation Bills" [ORBs] which enact statutory changes necessary for the implementation of the general appropriations act for FY 1995-96 [HB 2001, Chapter 1]. The other three ORBs, which are contained in this section are HB 2003, HB 2004 and HB 2008.

HB 2005, the "Health and Welfare ORB," contains the following provisions:

AHCCCS

- ▶ The phase down of the quick-pay discount is deferred for one year. The federally reimbursed discount was scheduled to drop from 6% in FY 1994-95 to 3% in FY 1996. The state only discount was scheduled to drop from 10% in FY 1994-95 to 9% in FY 1995-96.
- ▶ The counties' acute care contribution for FY 1995-96 is set at \$66,689,500.
- ▶ As session law the \$10,000,000 reduction in non-county hospital reimbursement for MN/MI services is continued in FY 1995-96.
- ▶ Session law revised the FY 1994-95 county repayment requirements under the disproportionate share hospital program. The result is a \$4,000,000 increase for Maricopa County and \$1,000,00 increase for Pima County in disproportionate share revenue.
- ▶ Disproportionate share payments shall be computed by AHCCCS based on information received by July 1, 1995.

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- ▶ Session law establishes that for FY 1995-96, county repayment requirements established under the disproportionate share hospital program shall be adjusted to reflect projected federal funding.
- ▶ Session law extends an additional year the county expenditure limit adjustments associated with disproportionate share payment.

Department of Health Services

- ▶ Session law continues, subject to legislative appropriation, the Arizona State Hospital disproportionate share payment fund.
- ▶ For FY 1995-96, session law removes the requirement for the DHS to operate a Southern Arizona Mental Health Center [SAMHC].

HB 2006 - Chapter 6 - 1994-1995 general appropriations; adjustments

HB 2006 provides supplemental appropriations for FY 1995-96. The net impact of these changes are additional general fund appropriations of \$10,566,800, additional other funds appropriations of \$4,287,500, and an increase in the Governor's expenditure authority of \$4,500,000.

The supplemental appropriation amounts and additional changes are described below.

	<u>General Fund</u>	<u>Other Funds</u>
<u>Department of Administration [DOA]</u>		
Risk Management Losses	\$ 0	\$ 4,400,000
<u>AHCCCS</u>		
Disproportionate Share Payments	\$ 5,819,800	\$ 0

This general fund appropriation is for the state match for a total of \$20,700,000 in new disproportionate share funding. Disproportionate share language is amended to reflect the increased program revenues: \$4,000,000 to Maricopa County; \$1,000,000 to Pima County; \$347,200 to other counties; and \$2,600,000 to private hospitals.

Arizona Supreme Court

Grand Jury Costs	\$ 223,500	\$ 0
Foster Care Review Board	\$ 41,900	\$ 0

Transfers 2 FTE positions and \$41,900 from the Adult Intensive Probation Program. The FTEs will support the workload growth related to the increased number of foster children and foster care review boards.

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Arizona Superior Court

Adult Intensive Probation	\$ (41,900)	\$ 0
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Transfer to the Foster Care Review Board

Department of Emergency Services and Military Affairs

Flood Relief	\$ 300,000	\$ 0
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Laws 1994, chapter 224 provides that the state shall pay for the political subdivisions' 10% of flood relief expenses for the 1993 floods.

Land Department

Delinquent CAP Assessments	\$ 850,000	\$ 0
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The state guarantees payment for the costs of CAP distribution systems on state lands.

Land 2000	\$ 30,000	\$ 0
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Begins the consolidation of five major public resource management agencies.

Department of Revenue

Tobacco Tax and Health Care Fund	\$ 0	\$ 380,500
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An additional appropriation to administer and enforce Proposition 200 (increased taxation on cigarettes and other tobacco products effective December 1, 1994).

Veterans' Service Commission

Veterans' State Nursing Home	\$ 1,143,500	\$ 0
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Department of Youth Treatment and Rehabilitation

Additional Appropriation	\$ 1,707,000	\$ 0
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Education Division Funding	\$ 493,000	\$ (493,000)
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Changes DYTR's Juvenile Education funding by providing for a direct appropriation from the general fund. The Arizona Department of Education will revert the same amount to the general fund.

Allows for DYTR to use surplus boot camp monies to offset other Departmental supplemental costs.

TOTAL SUPPLEMENTAL APPROPRIATIONS	<u>\$ 10,566,800</u>	<u>\$ 4,287,500</u>
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FIRST SPECIAL SESSION

In addition to the supplemental appropriations, HB 2006 allows for the following increases in expenditure authority:

Office of the Governor

Governor's Emergency Authority \$ 3,000,000 \$ 0

For FY 1994-95, session law increases from \$2,500,000 to \$5,500,000 the Governor's authorized expenditure on emergencies.

Wild Land Fires Expenditure Authority \$ 1,500,000 \$ 0

For FY 1994-95, session law increases from \$1,000,000 to \$2,500,000 the Governor's authorized expenditure for wild land fires.

Department of Economic Security

Increases the total funds expenditure for Long-term care caseload growth by \$9,385,000. No increase in general fund expenditures.

In reference to the Arizona State Hospital, HB 2006 allows the Department of Health Services to temporarily reallocate funds for cash-flow purposes while waiting for federal funds distribution. Furthermore, the bill amends laws 1994, chapter 195 to provide that the 100 minor prison beds are for male inmates only.

HB 2007 - Chapter 7 - supplemental capital outlay; asbestos abatement

HB 2007 provides a supplemental capital outlay appropriation of \$1,400,000 to the Department of Administration in FY 1995-96 for the purpose of asbestos abatement in the state capitol tower. This appropriation is exempt from ARS 35-190 relating to lapsing of appropriations.

	<u>GENERAL FUND</u>	<u>OTHER FUNDS</u>	<u>TOTAL</u>
DOA	\$ 1,400,000	\$ 0	\$ 1,400,000

HB 2008 - Chapter 8 - state budget reconciliation; dependents assistance

HB 2008 is one of the four "Omnibus Reconciliation Bills" [ORBs] which enact statutory changes necessary for the implementation of the general appropriations act for FY 1995-96 [HB 2001, Chapter 1]. The other three ORBs, which are contained in this section are HB 2003, HB 2004 and HB 2005.

HB 2008, the "Dependents Assistance ORB," contains the following provisions:

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Department of Economic Security

- ▶ Eliminates the annual inflation indexing of AFDC benefits in FY 1995-96 by providing that the level of assistance payments continue to be 36% of the 1992 federal poverty level.

SB 1009 - Chapter 9 - property and income tax reduction

SB 1009 provides \$200 million individual income tax reduction beginning with the 1995 tax year and appropriates \$200 million in FY 1996-97 to the property tax relief fund established in this bill.

Specifically, SB 1009 provides for the following:

Property Tax

- ▶ Establishes the property tax relief fund consisting of monies appropriated to the fund. The fund will be used, along with any other allocated monies, to permanently reduce the aggregate amount of property taxes that are levied and collected.
- ▶ The sum \$200 million is appropriated from the general fund for FY 1996-97 to the property tax relief fund. This appropriation is exempt from lapsing.
- ▶ Establishes a Joint Legislative Property Tax Study Committee consisting of five members from the House and five members of the Senate. The chairmen of the House Ways & Means Committee and Senate Finance Committee shall serve as co-chairmen. The Committee shall study the property tax system in this state, the distribution of property ownership and effect on local government finances and the feasibility of a statewide re-canvas of taxable property. The Committee shall develop recommendations, along with suggested legislation and present its report to the Speaker of the House and President of the Senate by December 1, 1995.
- ▶ For personal property, the bill increases the threshold for the 1% assessment ratio for classes 3 (commercial and industrial) and 4 (agricultural) personal property to \$50,000 beginning in tax year 1996. The current threshold for tax year 1995 is \$3,000. This is scheduled to increase to \$6,000 in 1996, and \$10,000 for 1997. The current phase-in is eliminated. The fiscal impact of this provision is approximately \$13.9 million.
- ▶ Sets the state property tax rate for education purposes at 47 cents per \$100 assessed valuation and the state property tax rate for general purposes at zero.

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Individual Income Tax

- ▶ Reduces individual income tax rates. This reduction, when combined with the individual income tax reduction of 1994 will provide a combined reduction of 20% for all taxpayers. The average income tax rate reduction in 1995 is 13.7%.
- ▶ Increases the standard deduction for single/married filing separately filers from \$3,500 to \$3,600, and for married filing joint/single head of household from \$7,000 to \$7,200.
- ▶ Establishes a family income tax credit for low-income families. A tax credit of \$30 is allowed for each person or dependent, up to a maximum of \$120. The credit applies only to those filers who have an Arizona gross income of \$20,000 or less for married filing joint/single head of household or an Arizona gross income of \$10,000 or less for single filers or married filing separately. This provision will allow a family of four with an Arizona gross income of \$20,000 or less to pay no state income tax.
- ▶ Increases the Urban Revenue Sharing Fund, beginning in FY 1997-98 to 15%. The Urban Revenue Sharing Fund receives a percentage of the state income tax collections two years after collections. This change will "hold harmless" the municipalities from any decrease associated with the income tax reduction and will establish the same percentage that was in statute when the Urban Revenue Sharing Program was first established in 1973 and continued through 1992.

Individual Income Tax Rate Changes

Taxable Income				Proposed
Single/MFS	Joint/HOH	1993 Rates	1994 Rates	1995 Rates
\$ 0-\$10,000	\$ 0-\$ 20,000	3.80%	3.25%	3.0%
\$10,001-\$25,000	\$ 20,001-\$ 50,000	4.40%	4.00%	3.5%
\$25,001-\$50,000	\$ 50,001-\$100,000	5.25%	5.05%	4.2%
\$50,001-\$50,000	\$100,001-\$300,000	6.50%	6.40%	5.2%
\$150,001 & over	\$300,001 & over	7.00%	6.90%	5.6%

SECTION VI

SUMMARY OF

LEGISLATION

SECOND SPECIAL SESSION

42nd LEGISLATURE

**SUMMARY OF LEGISLATION
OF THE FORTY - SECOND LEGISLATURE
SECOND SPECIAL SESSION
1995**

- * Strike-Everything Amendment
- E Emergency Clause
- P Proposition 108 Clause

<u>Bill</u>	<u>Chapter</u>	<u>Short Title</u>	<u>Page</u>
HB 2001	1	automobile insurance	268

Session Convened
Thursday, March 23, 1995
at 11:15 a.m.

Session Adjourned Sine Die
Tuesday, March 28, 1995
at 4:31 p.m.

General Effective Date for Nonemergency Legislation is
June 27, 1995

SECOND SPECIAL SESSION

HB 2001 - Chapter 1 - automobile insurance

HB 2001 removes the June 30, 1995 repeal of the mandatory auto insurance statutes.

The bill removes the requirement that the Department of Insurance hold public meetings regarding the annual profit or loss from motor vehicle liability insurance in five geographical areas of the state.

HB 2001 establishes a Joint Legislative Study Committee on Private Passenger Automobile Insurance consisting of eight members as follows:

- ▶ the Senate and House Banking and Insurance Chairmen as co-chairs of the committee.
- ▶ three members appointed by the Speaker of the House.
- ▶ three members appointed by the President of the Senate.

In addition, the bill stipulates that the Committee shall make inquiries into:

- ▶ the accessibility and availability of auto insurance;
- ▶ the feasibility of implementing a no-fault system of auto insurance;
- ▶ the feasibility of reinstating a financial responsibility system.

The Committee is required to make recommendations to the Legislature resulting from their findings and submit this report to the President of the Senate and the Speaker of the House by October 31, 1995.

The Study Committee is repealed on January 1, 1996.

SECTION VII

SUMMARY OF

LEGISLATION

NINTH SPECIAL SESSION

41st LEGISLATURE

**SUMMARY OF LEGISLATION
OF THE FORTY - FIRST LEGISLATURE
NINTH SPECIAL SESSION
1994**

* Strike-Everything Amendment
E Emergency Clause
P Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2001	1	children and families stability act	270
HB 2002	2	school improvement act	275
HB 2003	3	appropriations; anti-gang enforcement program	282
SB 1004	4	oversight committee on anti-gang enforcement	282
SB 1005	5	child day care standards	283
HR 2001		Honorable Jordan D. Holmes	284
HR 2002		Honorable Josephine Cauthorn	284

Session Convened
Wednesday, June 15, 1994
at 9:00 a.m.

Session Adjourned Sine Die
Friday, June 17, 1994
at 11:15 a.m.

General Effective Date for Nonemergency Legislation is
September 16, 1994

NINTH SPECIAL SESSION

HB 2001 - Chapter 1 - children and families stability act

The Arizona Children and Families Stability Act [ACFSA] establishes the Healthy Families Pilot Program, the Family Literacy Pilot Program and the Health Start pilot program.

HEALTHY FAMILIES PILOT PROGRAM

The Healthy Families Pilot Program is established in the Department of Economic Security [DES] for children under five years of age and their parents. The Program is designed to reduce parent child abuse or neglect and to promote child development and wellness. The goals of the pilot program include: reducing child abuse and neglect, promoting child wellness and proper development, strengthening family relations, promoting family unity, and reducing dependency on drugs and alcohol.

DES is required to do the following:

- ▶ develop a method for identifying families in greatest need of program services;
- ▶ develop a comprehensive standardized risk-assessment evaluation for newborns and their families;
- ▶ develop outreach services to be conducted primarily through prescheduled home visits;
- ▶ establish methods that will help participants to reduce illiteracy and dependency on welfare and encourage self-sufficiency and community involvement;
- ▶ develop employment guidelines for Program personnel.

Services provided to Program participants shall include:

- ▶ counseling or emotional-support services;
- ▶ assisting in parenting and coping skills;
- ▶ educating participants in nutrition, developmental assessments and preventative health care;
- ▶ assisting with childhood immunizations;
- ▶ assisting access to preschool programs;
- ▶ assisting in applying for financial aid, employment and assisting in accessing other community services.

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Consent

Program services shall not be provided unless:

- ▶ participation in the Program is initiated in response to a request by the Program participant;
- ▶ a verbal explanation of the Program is provided to Program participants including an explanation of the rights and responsibilities of both the participant and the Program provider;
- ▶ written consent is obtained. The consent form must include a description of the Program and its activities, the expected frequency of home visits, responsibilities of the parents, the right of the Program participant to terminate participation at any time, the fact that a record of the visits will be maintained and may be available in future court proceedings, and other information necessary to convey to parents a clear understanding of the program. The consent form shall contain a clear statement informing parents that the home visits will be made by a person who is required to report to DES any instances of suspected abuse or neglect of children.

Home Visits

Initial contact may be in person and at any convenient location, except that if the contact occurs at the home of the potential Program participant, the Program personnel shall not enter the residence during the initial contact without the permission of the potential Program participant. During the initial contact, Program personnel shall only provide potential Program participants with a description of the services and Program activities.

Home visits shall not be provided without the written consent of the parent or guardian of the minor living with the minor's parent or guardian.

Records

Program participants shall have access to their records at all times and are allowed to correct any inaccurate information within the record. Records shall be destroyed five years after the participant's last involvement in the Program. Program records are not available to government agencies and other programs within DES without prior written consent.

The bill appropriates the following amounts from the general fund to DES to implement the Healthy Families Pilot Program:

Fiscal Year 1994-95	\$1,750,000
Fiscal Year 1995-96	\$3,000,000

NINTH SPECIAL SESSION

FAMILY LITERACY PILOT PROGRAM

The Family Literacy Pilot Program is established and shall be administered by the State Board of Education to increase the basic academic and literacy skills of parents and their preschool children.

The State Board of Education shall establish and administer Family Literacy projects as part of the overall Pilot Program at locations where there is a high incidence of economic and educational disadvantage as determined by the State Board of Education in consultation with the Department of Economic Security.

Parents eligible for the program are parents with three or four year old children, parents lacking sufficient mastering of basic education or basic english or a high school diploma or its equivalent, and is a legal citizen or resident of the U.S. or otherwise lawfully present in the U.S.

Local education agencies and adult education programs are eligible for grants if the State Board of Education determines that a high percentage of adults in the specified area have not graduated from high school. The bill also establishes the criteria by which grants will be awarded.

The bill appropriates the following amounts from the general fund to the State Board of Education to implement the Family Literacy Pilot Program:

Fiscal Year 1994-95	\$ 975,000
Fiscal Year 1995-96	\$1,000,000

HEALTH START PILOT PROGRAM

The Health Start Pilot Program is established in the Department of Health Services [DHS] to assist pregnant women, children and their parents. The program shall be delivered by lay health workers through prescheduled home visits that begin before the child's birth and continue through the age of four.

The Department shall establish criteria to be used in evaluating communities and neighborhoods to be served. The evaluation criteria shall include at a minimum a high incidence of inadequate prenatal care, infant health care, low-birth-weight babies or inadequate early childhood immunizations.

The Department is required to:

- ▶ develop program criteria and staff training requirements;
- ▶ contract with local private and public agencies to recruit and train lay health workers;
- ▶ enter into interagency agreements to maximize funding for the Program;

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- ▶ distribute the Arizona Children and Families Resource Directory to hospitals for parents of any newly born child;
- ▶ develop employment guidelines for Program personnel;
- ▶ establish methods that assist Program participants to reduce illiteracy, reduce dependency on welfare, encourage employment, encourage self-sufficiency and community involvement through community service, employment or participation in religious or social organizations.

The lay health worker shall:

- ▶ identify pregnant women in their neighborhood or community;
- ▶ inform Program participants of how to receive prenatal care services;
- ▶ assist Program participants to access appropriate prenatal care;
- ▶ educate Program participants on appropriate prenatal and neonatal care, preventive health care and child wellness;
- ▶ assist and encourage Program participants to fully immunize their children;
- ▶ assist Program participants to apply for private and public financial assistance;
- ▶ assist Program participants and their families to access other applicable community and public services including employment services;
- ▶ provide participants with a list of local, private, non-profit and for-profit, public educational institutions and governmental agencies providing the services.

Consent

Program services shall not be provided unless:

- ▶ participation in the Program is initiated in response to a request by the Program participant;
- ▶ a verbal explanation of the Program is provided to Program participants including an explanation of the rights and responsibilities of both the participant and the Program provider;
- ▶ written consent is obtained. The consent form must include a description of the Program and its activities, the expected frequency of home visits, responsibilities of the parents, the right of Program participant to terminate participation at any time, the fact that a record will be maintained of the visits and may be available in future court proceedings, and other information necessary to convey to parents a clear

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understanding of the Program. The consent form shall contain a clear statement informing parents that the home visits will be made by a person who is required to report to DES any instances of suspected abuse or neglect of children.

Home Visits

Initial contact may be in person and at any convenient location, except that if the contact occurs at the home of the potential Program participant, the Program personnel shall not enter the residence during the initial contact without the permission of the potential Program participant. During the initial contact, Program personnel shall only provide a description of the services and Program activities.

Home visits shall not be provided without the written consent of the parent or guardian of the minor living with the minor's parent or guardian.

Records

Program participants shall have access to their records at all times and are allowed to correct any inaccurate information within the record. Records shall be destroyed five years after the participant's last involvement in the program. Program records are not available to government agencies and other programs within the Department without prior written consent.

The bill appropriates the following amounts from the general fund to DHS to implement the Health Start Pilot Program:

Fiscal Year 1994-95	\$ 975,000
Fiscal Year 1995-96	\$1,400,000

Resource Directory

DHS is required to develop the Arizona Children and Families Resource Directory which shall include a list of private and public organizations and providers that specialize in early childhood development and the services. The purpose of the directory is to enable parents to obtain information that is critical to the development of their children without relying on public programs.

Program Evaluations

The bill requires the Auditor General to conduct an annual programmatic evaluation of the Health Start Pilot Program, the Healthy Families Pilot Program, and the Family Literacy Pilot Program. The evaluations will be provided to the Legislature, the Governor, and the Joint Committee on Children and Families by December 31st of 1995, 1996, and 1997.

The bill specifies that these evaluations shall examine the effectiveness of the programs, the organizational structure and efficiency of the programs, the level and scope of services included within the program, the type and level of criteria used to establish eligibility within the programs, and the number and demographic characteristics of the persons who receive services by the programs.

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The Auditor General shall not rely solely on information concerning Program Participants and program performance prepared by contractors and Program service providers but shall develop information for the annual evaluations.

The bill specifies the information, in addition to that already required for the annual report, which must be included in the final evaluation.

The bill appropriates the following amount from the general fund to the Auditor General to conduct program evaluations:

Fiscal Year 1994-95 \$ 100,000

JOINT COMMITTEE ON CHILDREN AND FAMILIES

The bill establishes the Joint Committee on Children and Families consisting of specified members of the Legislature.

The chairman of the House Health Committee shall act as chairman of the Committee in even-numbered years and the chairman of the Senate Health, Welfare, and Aging Committee shall act as chairman of the Committee in odd-numbered years. The Committee shall meet at the call of the chairman with the approval of the Speaker of the House and the President of the Senate.

The Committee shall oversee the implementation of the pilot programs established in this act and shall make recommendations concerning all proposals to modify the pilot programs.

GENERAL FUND APPROPRIATIONS

ACFSA Total Two Year Appropriations

	FY 1994-95	FY 1995-96	FY 95/FY 96
Healthy Families	\$1,700,000	\$3,000,000	\$4,700,000
Health Start	\$ 975,000	\$1,400,000	\$2,375,000
Family Literacy	\$ 975,000	\$1,000,000	\$1,975,000
Program Evaluation	\$ 100,000		\$ 100,000
Total	<u>\$3,750,000</u>	<u>\$5,400,000</u>	<u>\$9,150,000</u>

HB 2002 - Chapter 2 - school improvement act

HB 2002 provides for education reform in several areas: establishment of charter schools, decentralization, school report cards, open enrollment and at-risk preschool program expansion.

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CHARTER SCHOOLS

- ▶ Authorizes the establishment of charter schools for the purpose of providing a unique setting for learning that will improve pupil achievement, and providing additional public school choices for students and parents. A charter school is defined as a public school established by contract with a district governing board, the State Board of Education or the newly established State Board for Charter Schools.
- ▶ Establishes the 11-member State Board for Charter Schools, the major purpose of which is to provide sponsorship for charter schools.
- ▶ Authorizes a charter school sponsor to contract with a public body, private person or private organization to establish the charter school.
- ▶ Provides for an application process which includes the following provisions:
 - 1) The applicant may seek sponsorship from either a school district governing board, the State Board of Education or the State Board for Charter Schools.
 - 2) The applicant submits an application to the sponsor that includes information regarding the establishment of a charter school. Suggested information items are included in the bill [§15-183 as added by the bill].
 - 3) The proposed sponsor will either reject or accept the application within 90 days. If the sponsor rejects the proposal, the governing board will notify the applicant in writing of the reasons for the rejection.
- ▶ Limits the State Board of Education or the State Board for Charter Schools to each sponsoring up to 25 charter schools each fiscal year.
- ▶ States that a district governing board has no legal authority over or responsibility for a charter school sponsored by either state board.
- ▶ Exempts charter schools from all state statutes except for the following:
 - 1) Federal, state and local rules, regulations and statutes relating to health, safety, civil rights, insurance and children with disabilities.
 - 2) All statutes relating specifically to charter schools and any specified statutes in the charter of a charter school.
- ▶ Requires that the charter of a charter school provide for a governing body which is to be responsible for the policy and operational decisions of the school.

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- ▶ Subjects charter schools to the same financial requirements as a district unless exceptions are approved within the charter application. ADE or the Auditor General may conduct financial, program or compliance audits of the charter school.
- ▶ Deems a charter effective for five years from the first day of operation. A sponsor must notify the charter school in writing of its intent to withdraw support at least 12 months before the expiration of the charter. A charter may be renewed for seven-year intervals if the sponsor and the school deem that the school is in compliance with its own charter.
- ▶ Requires charter schools to adhere to admission requirements that include enrolling all eligible pupils who submit a timely application, unless the number of applications exceeds capacity, in which case the charter school will select pupils through an equitable selection process such as a lottery. A charter school sponsored by the school district governing board is required to give enrollment preference to students who live within the district where the charter school is located. Pupils who reside in a district subject to a desegregation order or agreement may be admitted to a charter school unless the district notifies the charter school that the admission is not permitted under the order or agreement.
- ▶ Requires charter schools sponsored by a district governing board to receive per-pupil expenditures equal to the average cost per pupil for the district. A charter school that is sponsored by the State Board will calculate a base support level, a transportation support level, a capital outlay revenue limit and a capital levy revenue limit and will be funded accordingly by the state.
- ▶ Requires charter schools to provide transportation, limited to not more than 20 miles each way, for children with disabilities whose individualized education plans specify transportation and for students who meet the economic eligibility requirements for free or reduced lunch.
- ▶ Prohibits a district governing board or a district employee with control over personnel actions from taking unlawful reprisal against another district employee because the employee is involved in an application to establish a charter school, or because the application proposes the conversion of all or a portion of the educational program to a charter school. Defines "unlawful reprisal."
- ▶ Provides that a teacher in a charter school who was previously employed by a school district will not lose any right of certification, retirement or salary status due to teaching at a charter school if the teacher returns to the school district. Stipulates that a charter school teacher shall be given priority for rehire at the teacher's former district for a period of three years, if a suitable position is available.
- ▶ Requires the ADE, in conjunction with the Department of Administration, to annually publish a list of vacant and unused state buildings and portions of state buildings that may be suitable for use by a charter school. The ADE is to make this list available to existing charter schools and to charter school applicants.

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- ▶ Establishes a charter schools stimulus fund to provide grants to charter schools and their applicants for start-up costs and costs associated with renovating or remodeling existing buildings and structures. Grant amounts are specified, and an appropriation of \$1 million is included.

FY 1994-95 General Fund Appropriation: \$1,000,000

SCHOOL COUNCILS AND THE DECENTRALIZATION PROCESS

- ▶ Requires each school to establish a school council by December 31, 1995. A governing board is not required to do so if one of the following conditions exists:
 - 1) Existing school councils in a district include representation by more than one teacher and more than one parent.
 - 2) A district has only one school or fewer than 600 students and the governing board votes not to participate in decentralization.
- ▶ Requires the school councils to reflect the ethnic composition of the local community and consist of parents, teachers, noncertified employees, community members, and pupils (if the school is a high school). The bill includes provisions relating to the self-selection of council members.
- ▶ Requires the governing board to determine the initial number of members on the council. Thereafter, the school council will determine the number.
- ▶ Requires the school council to operate under the authority of the principal.
- ▶ Permits the district governing board to delegate curriculum-development responsibility to the school council, as well as other powers reasonably necessary to accomplish decentralization.
- ▶ Describes the role and responsibilities of the school principal, including serving as the school administrator and distributing a parental satisfaction survey.
- ▶ Authorizes governing boards to delegate to principals the authority to remove a disruptive pupil from the classroom.
- ▶ Modifies the membership of the Principals' Institute Advisory Committee and revises its duties.

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REPORT CARDS

- ▶ Requires schools to distribute an annual report card containing information designed to assist parents in selecting a school for their children to attend, such as a description of the school's academic goals, a summary of pupils' test results for the prior three years, and a description of the school's regular, magnet and special instructional programs.
- ▶ Requires each school to present a summary of the contents of the report cards at an annual public meeting held at the school.
- ▶ Requires ADE to develop the standardized school report card format and distribute a copy of the report card form, complete with the school's summary test scores, to the individual school. The school completes the report card and provides a copy to ADE which prepares an annual report containing each school's completed report card.

FY 1994-95 General Fund Appropriation: \$300,000

OPEN ENROLLMENT

- ▶ Beginning in the 1995-1996 school year, requires governing boards to permit pupils to enroll in any school within the district or in another school district.
- ▶ Requires governing boards, in conjunction with each school, to annually establish a pupil enrollment capacity for each school. If it is determined that capacity exists above and beyond the residents of the attendance area, each school must:
 - 1) First, accept all nonresident or resident transfer pupils who were enrolled in the school the previous year and any siblings who have completed the application process. If capacity does not exist, the school will select students through an equitable selection process such as a lottery.
 - 2) Second, accept all additional nonresident or resident transfer pupils who have completed the application process. Each school is required to give enrollment preference to pupils residing within the boundaries of the school district. If capacity does not exist, the school will select students through an equitable selection process such as a lottery.
- ▶ Requires each school to develop admission criteria. Schools are also required to accept or reject the application of nonresident or resident transfer children with disabilities under the same provisions utilized for resident nondisabled pupils. Provisions are included relating to the acceptance of a student currently residing within a desegregation attendance area. Pupils who reside in a district subject to a desegregation order or agreement may be admitted to a

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another school district unless the district of residence notifies the school that the admission is not permitted under the order or agreement.

- ▶ Establishes specific application procedures, including deadlines and notification information. Also, districts are prohibited from charging non-resident pupils tuition.
- ▶ Requires school districts to provide transportation, limited to not more than 20 miles each way, for non-resident children with disabilities whose individualized education plans specify transportation and for students who meet the economic eligibility requirements for free or reduced lunch.
- ▶ Includes many conforming changes relating to open enrollment and certificates of educational convenience [CEC].

FY 1994-95 General Fund Appropriation: \$200,000 for transportation

SCHOOL DISTRICT GROWTH RATE (INFLATION) FUNDING

- ▶ Removes the limitations for half of the two percent inflation funding amount which were added during this Legislature's Eighth Special Session. (H.B. 2003 required the entire two percent to be placed into the Classroom Improvement Fund; this bill would require one percent to be placed into the fund and would remove this limitation from the other one percent.)

CAPITAL NEEDS ASSESSMENT

- ▶ Requires the Joint Committee on Capital Review [JCCR] to hire a consultant to conduct a statewide school district facilities inventory and needs assessment and issue a report containing its recommendations to the Legislature. The sum of \$1 million is appropriated to the Joint Legislative Budget Committee for use by the JCCR for this purpose.
- ▶ Establishes a Statewide Standards for Public School District Facilities Advisory Committee which shall assist the JCCR in developing statewide standards for public school facilities.

FY 1994-95 General Fund Appropriation: \$1,000,000

AT-RISK PRESCHOOL PROGRAM EXPANSION

- ▶ Extends the at-risk preschool project grants program through 1994-1995, and expands the program to include private daycare operators and federally funded preschools in addition to public schools.

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- ▶ Requires the ADE to make a list available to the public of qualifying at-risk school attendance areas.
- ▶ Requires the school district to assist the private day care operator or federally funded preschool in meeting the application requirements.
- ▶ Requires the State Board of Education to develop a procedure by which school districts will reimburse private daycare operators and federally funded preschools participating in the program. Payment shall be made on behalf of the parent of the preschool child who resides in a qualified participating school attendance area and who requests placement in a participating private or federally funded program.
- ▶ Requires the ADE to prepare a list of all schools (public, private provider or federally funded preschool), that have been selected to participate in the at-risk preschool program and to distribute the list to all Arizona school districts.
- ▶ Requires the Auditor General to conduct annual programmatic evaluations of the at-risk preschool project, the first of which shall be provided to the Legislature and the Governor on or before December 31, 1995.
- ▶ Appropriates \$10 million to expand the current at-risk preschool program.

FY 1994-95 General Fund Appropriation: \$10,000,000

SUSPENSION OF IMPACT AID DEDUCTIONS

- ▶ Extends for an additional two years (FY 1994-95 and FY 1995-96) the suspension of the law which requires the Superintendent of Public Instruction to reduce state aid in districts which receive impact aid and the suspension of the law which requires the Superintendent of Public Instruction to apply to the federal government for certification to make state aid reductions in impact aid districts.

TOTAL FY 1994-95 GENERAL FUND APPROPRIATIONS

Charter Schools	\$ 1,000,000
Report Cards	300,000
Open Enrollment Transportation	200,000
Capital Needs Assessment	1,000,000
At-Risk Preschool	<u>10,000,000</u>
TOTAL	<u>\$12,500,000</u>

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HB 2003 - Chapter 3 - appropriations; anti-gang enforcement program

HB 2003 appropriates \$5 million from the general fund in FY 1994-95 to the Arizona Criminal Justice Commission [ACJC] for the enhancement of the statewide anti-gang intelligence and enforcement program. The bill provides that \$40,000 of these monies must be distributed to the Auditor General to conduct an audit of ACJC's expenditures. The remaining monies must be used for the funding and training of police officers who participate in community antiviolence and anti-gang enforcement programs. ACJC is required to report quarterly to the Governor, the Speaker, the President and the Joint Oversight Committee on Anti-Gang Enforcement and Prosecution Programs regarding Program expenditures and participants receiving grants.

The bill also appropriates \$670,000 from the general fund in FY 1994-95 to ACJC to enhance the prosecution of street gang-related crimes. The monies must be distributed to state, county and municipal prosecution offices to train prosecutors, provide personnel and prosecute offenses related to street gangs. ACJC must report quarterly to the Governor, the Speaker, the President and the Joint Oversight Committee on Anti-Gang Enforcement and Prosecution Programs regarding prosecution resulting from this appropriation, as well as program expenditures, participants receiving grants, and enforcement and prosecution programs.

The bill provides that the appropriations to ACJC cannot be expended until ACJC submits to the Governor, the Speaker, the President, JLBC and OSPB a plan of proposed expenditures and operations for the statewide anti-gang intelligence and enforcement program. The bill also requires the Auditor General to perform an audit of ACJC's expenditures by October 30, 1995, and report to the Governor, the Speaker, the President and the Joint Oversight Committee on Anti-Gang Enforcement and Prosecution Programs.

In addition, the bill appropriates \$250,000 from the general fund in FY 1994-95 to the Department of Emergency and Military Affairs to allow the National Guard to support state and local law enforcement with neighborhood recreation programs, communications and street gang information analysis.

SB 1004 - Chapter 4 - oversight committee on anti-gang enforcement

SB 1004 establishes the Joint Oversight Committee on Anti-Gang Enforcement and Prosecution Programs. The Committee contains eight legislative members:

- ▶ the chairmen of the House and Senate Judiciary committees who serve as cochairmen,
- ▶ the chairmen of the House and Senate Appropriations committees, and
- ▶ two members of the House from different political parties and two members of the Senate from different political parties.

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The bill provides that the Committee's purpose regarding state anti-gang enforcement and prosecution programs is as follows:

- 1) to approve reports submitted to the committee by Arizona Criminal Justice Commission;
- 2) to study and make recommendations concerning programs;
- 3) to recommend to the Speaker, the President and the full Legislature whether the programs and their respective appropriations should continue beyond June 30, 1996.

The bill repeals the Committee on December 31, 1995.

SB 1005 - Chapter 5 - child day care standards

Beginning June 30, 1995, the Department of Health Services [DHS] shall prescribe rules pertaining to the health, safety and well-being of children in public school day care programs. Rules shall also be prescribed pertaining to the enforcement of the standards of care, including penalties for noncompliance with these standards. Rules shall be adopted by March 31, 1996, and shall be comparable to those rules currently in place for private day care programs.

Effective June 30, 1996, child day care providers that provide child day care programs during non-school hours or involve non-school students shall comply with rules established pursuant to §36-883.04.

SB 1005 bill requires DHS, DES, and ADE to establish a Child Care Standards Review Committee consisting of 12 members, in order to conduct a study to determine ways to lessen the regulatory burden on providers and to create a regulatory system which is comparably applied to public and private child care providers and to protect the health, safety and well-being of the children in all day care settings.

The Committee is required to submit a report to the Governor, the Speaker and the President by December 31, 1994, pertaining to the square-footage requirements and staff-to-children ratios; a final report of the Committee's finding and recommendations shall be submitted to the Governor, the Speaker and the President by June 30, 1995.

SB 1005 includes an intent section stipulating the legislative intent of the act.

The bill appropriates \$39,400 from the general fund to DHS in FY 1994-95 to conduct the study.

HR 2001 Honorable Jordan D. Holmes

On the death of the Honorable Jordan D. Holmes. The Honorable Jordan D. Holmes was elected to the Arizona House of Representatives to serve in the Twenty-fifth Legislature beginning in 1961 and also served in the Twenty-sixth Legislature ending in 1965. Representative Holmes served with distinction on the Committees on Administration, Highways and Bridges, Livestock and Public Lands, Municipalities, Public Health, Public Institutions, Fish and Game and Tourism and Industry Development.

The first bill sponsored by Representative Holmes in the 1961 session proposed prohibiting discrimination because of race, color, religion, ancestry or national origin in public places. While unsuccessful, the bill was one of the early legislative efforts to promote civil rights in the State of Arizona.

HR 2002 Honorable Josephine Cauthorn

On the death of the Honorable Josephine Cauthorn. The Honorable Josephine "Jo" Cauthorn was elected to the Arizona House of Representatives to serve in the Thirty-second Legislature that began in 1975 and ended in 1976. She served with distinction on the Agriculture and Transportation Committees.

SECTION VIII

INDEX AND CROSS REFERENCE

FIRST REGULAR SESSION

42nd LEGISLATURE

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