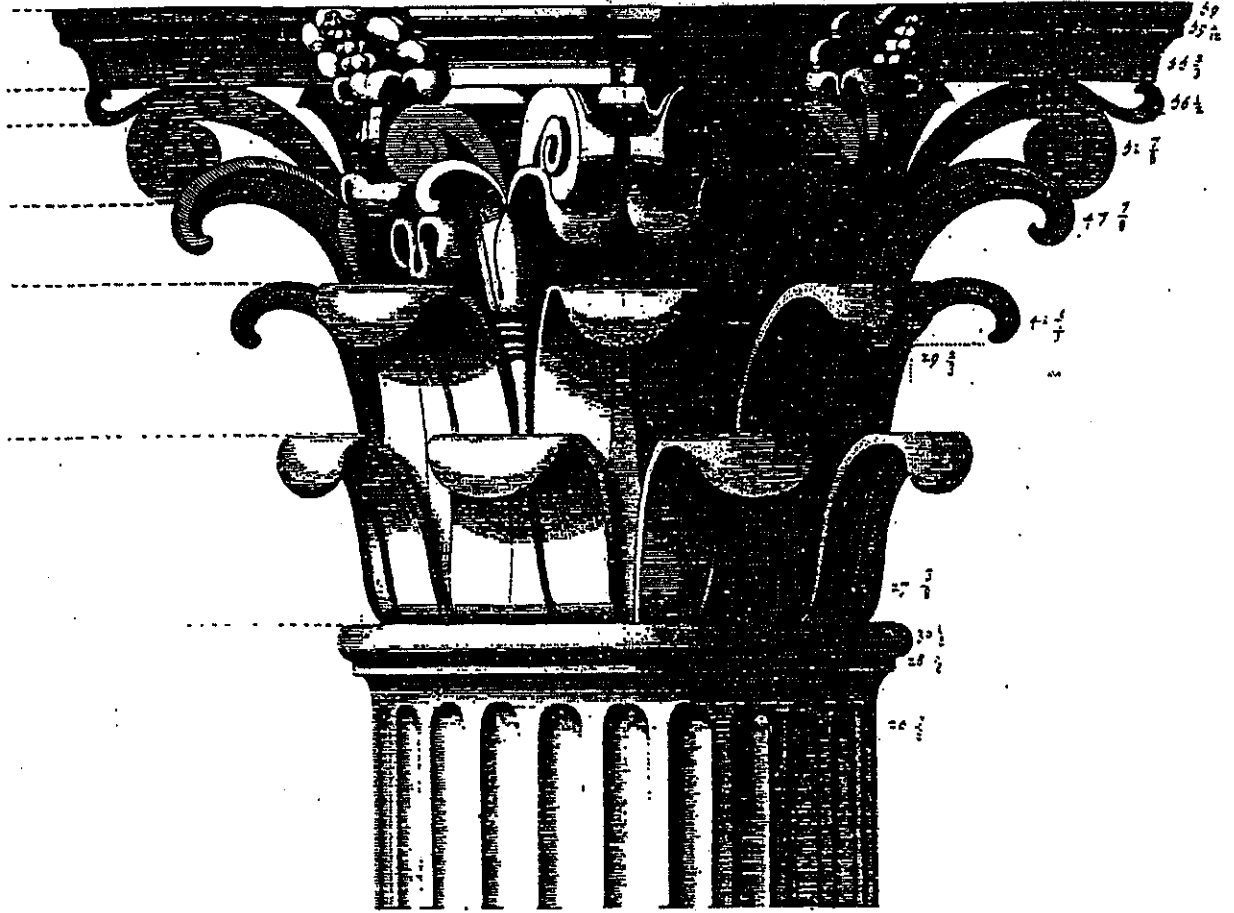


THE
ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL
2023 – 2024



ARIZONA LEGISLATIVE COUNCIL

REVISIONS IN THE 2023-2024 ARIZONA LEGISLATIVE BILL DRAFTING MANUAL

This edition of the *Arizona Legislative Bill Drafting Manual* includes the following revisions, as well as several minor changes throughout the *Manual*:

- Specified that reimbursements are also appropriations and should be included in the bill title as "APPROPRIATING MONIES." (§§2.7 and 5.10)
- Deleted provisions regarding program and committee termination. (§§4.2 and 4.35)
- Clarified that a bill must contain a conditional enactment section if the bill is contingent on a referendum petition. (§4.4)
- Included an example of a purpose section for a new individual or corporate tax credit. (§4.18)
- Modified the list of sections that impose assessments on certain offenses that are in addition to other penalties and assessments to include § 12-116.01, A.R.S. (§4.24)
- Updated the population for each county according to the United States 2020 census. (§4.25)
- Added an example of a saving clause used in technical tax correction legislation. (§4.31)
- Clarified that supplemental appropriation bills are for the "support and maintenance" of an existing agency for an existing function of the agency. (§5.5)
- Provided an example of an appropriation to a fund in which those monies are "subject to appropriation". (§5.11)
- Clarified that the inclusion of "Amend title to conform" in an amendment to a referendum directs the engrosser to update both legal titles to conform with the changes made by the amendment. (§7.5)
- Clarified how to draft an amendment that adds or strikes a new statutory section that changes the numbering of subsequent statutory sections. (§7.8 and Sample No. 31)

**THE
ARIZONA LEGISLATIVE
BILL DRAFTING MANUAL**

2023 – 2024

**ARIZONA LEGISLATIVE COUNCIL
STATE CAPITOL BUILDING**

THIS MANUAL WAS PREPARED UNDER THE AUTHORITY OF:

THE ARIZONA LEGISLATIVE COUNCIL

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This manual is available online at www.azleg.gov

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

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

CHAPTER 1
THE DRAFTING PROCESS

- 1.1 Bill Requests
- 1.2 Drafting Requirements
- 1.3 Confidential Nature of Records
- 1.4 Legislative Council Drafting Rules and Deadlines

CHAPTER 1

THE DRAFTING PROCESS

1.1 BILL REQUESTS

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

A legislator-elect who is not currently serving in the legislature may submit a bill request after that person's election is certified by the secretary of state. Others, including private citizens and lobbyists, must obtain authorization from a legislator to use that legislator's name before giving instructions to the legislative council regarding a request.

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

1.2 DRAFTING REQUIREMENTS

The bill drafting process begins with the drafter obtaining the objectives for a legislative proposal either from the legislator who is sponsoring the measure or from the legislator's authorized agent. The drafter then converts the sponsor's request into legislation using proper form, style and legal terminology and fits the proposal into the framework of existing statutory law. The drafter reviews pertinent provisions of the Arizona Constitution, the United States Constitution, court decisions, existing statutes, the *Arizona Revised Statutes Internal Reference Manual*, the *Annual Report on Defects in the Arizona Revised Statutes and State Constitution*, the *Affected Session Laws*, the *Arizona Legislative Council Proposition 105 Requirements*, the *Table of Sections Affected*, Sutherland, *Statutes and Statutory Construction* and other relevant sources and advises the legislator of any known problems or conflicts.

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

Note: The drafter may make further revisions to the bill, memorial or resolution only when the sponsor returns this introduction set to the legislative council.

1.3 CONFIDENTIAL NATURE OF RECORDS

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

1.4 LEGISLATIVE COUNCIL DRAFTING RULES AND DEADLINES

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

CHAPTER 2

A BILL AND ITS PARTS

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

CHAPTER 2

A BILL AND ITS PARTS

2.1 APPROPRIATE USE OF A BILL

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

- Establish or consolidate governmental agencies and programs.
- Prescribe the powers and duties of state agencies and of individual officers and employees.
- Define crimes and classify punishments for actions that are prohibited as public offenses.
- Appropriate monies for capital outlay and operating expenditures.
- Determine or limit licensing and regulatory standards for professions and occupations.
- Prescribe qualifications, duties, terms of office and compensation of public officers.
- Provide for imposing, collecting and distributing tax monies.

2.2 STATUTORY LAW AND SESSION LAW

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

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

Enacted provisions that have only a temporary application are not codified in the Arizona Revised Statutes. Temporary laws could be used, for example, to establish a study committee or provide a temporary exemption from or suspension of statutory law. In the annotated Thomson Reuters/West edition of the Arizona Revised Statutes, a temporary law may appear in small type as a statutory note following a related statutory law for the purpose of making a historical record of provisions relating to that statutory law.

Note:

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

- Although a law may appear to be temporary in nature, it is not automatically terminated or repealed unless the termination or repeal is enacted by the legislature. Likewise, the fact that a law is not codified in Arizona Revised Statutes does not mean that it has no continuing effect. The termination of a law must be stated by the law's terms or by a separate repeal. Otherwise the law is subject to any continuing application that can be derived from its terms. Therefore, the drafter should specify a specific termination or repeal date whenever possible.

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

- While temporary law may contain a reference to statutory law, a statutory section should not refer to temporary law.

2.3 SAMPLE BILL

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

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

(2.5) State of Arizona
(Introducing House)
Fifty-sixth Legislature
First Regular Session
2023

__ . B. ____

(2.6) Introduced by _____

AN ACT

(2.7) AMENDING SECTION 50-123, ARIZONA REVISED STATUTES; AMENDING TITLE 50, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 50-124; REPEALING SECTION 50-129, ARIZONA REVISED STATUTES; REPEALING LAWS 2016, CHAPTER 10, SECTION 3; APPROPRIATING MONIES; RELATING TO CHARITABLE SOLICITATIONS.

* * *

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

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

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

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

50-124. Hearing officers

THE DIRECTOR SHALL USE HEARING OFFICERS TO ENFORCE THIS ARTICLE.

Sec. 3. Repeal

Section 50-129, Arizona Revised Statutes, is repealed.

Sec. 4. Repeal

Laws 2016, chapter 10, section 3 is repealed.

Sec. 5. Appropriation; department of charitable solicitations; hearing officers

The sum of \$45,653 is appropriated from the state general fund in fiscal year 2023-2024 to the department of charitable solicitations to hire hearing officers as required by this act.

Note: The text of a bill begins on the first page that follows the bill title page.

2.4 REFERENCE TITLE

The reference title, sometimes referred to as the short title, appears in the upper right-hand corner of each bill, resolution and memorial. (This is not to be confused with the short title discussed in § 4.32.) The reference title gives a brief idea of the nature of the measure and aids in indexing, but it is not part of the substantive law of the measure. The reference title is limited to five or fewer words; commonly used acronyms may be included. Words and phrases used in the reference title are separated by a semicolon. Only proper nouns are capitalized. Do not begin a reference title with a number.

Use identical reference titles only for identical measures, and add a period to the end of one of the reference titles to distinguish that measure from the other. Identical reference titles without a period may be used for a bill and a companion resolution relating to the same subject matter.

Pursuant to council rule 22, the legislative council has determined that the reference title must be an accurate and inclusive description of the contents of the measure and may not reflect political, promotional or advocacy considerations. Legislative council staff make the final determination of the contents of the reference title of each measure that is introduced. (Adopted 11/7/1996.)

2.5 INTRODUCING BODY AND LEGISLATIVE SESSION DESIGNATION

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

2.6 BILL NUMBER AND SPONSOR

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

2.7 BILL TITLE

Constitutional Requirements

A title is a constitutional requirement of every bill and has a significant legal effect. The Arizona supreme court has ruled that the title need not be a complete description or index of the substantive law in the bill, but it may not be deceptive or misleading. While the title need not be a synopsis of the bill's contents, it must state the subject of the legislation with sufficient clarity to enable persons reading the title to know what to expect in the body of the act. See White v. Kaibab Rd. Improvement Dist., 113 Ariz. 209 (1976); Hoyle v. Superior Court, 161 Ariz. 224 (App. 1989).

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

Order of Title

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

- A listing of all changes to the Arizona Revised Statutes (e.g., amendments, repeals and additions of statutory sections). The order of the list generally follows the order that these sections appear in the bill. The drafter should individually list each title, chapter, article or section being amended, repealed or added. Never use "through" in a bill title.

- A listing of amendments to or repeals of previously enacted temporary laws.

- "APPROPRIATING MONIES" if the bill contains an appropriation or multiple appropriations in temporary (session) law. If all a bill does is appropriate monies, the bill title should state that the bill is appropriating monies and name the agency or fund receiving the appropriation, e.g., "APPROPRIATING MONIES TO THE DEPARTMENT OF LAW". Transfers, reductions, distributions, allocations, reimbursements and specified or permissive uses of monies are also appropriations and should be included in the bill title as "APPROPRIATING MONIES". Note that appropriations made in statutory sections are not included in the bill title as "APPROPRIATING MONIES". Rather, statutory sections that include appropriations are listed in the bill title as amended or added sections.

- "RELATING TO..." This should be a single phrase containing a general statement of the single subject of the bill (art. IV, part 2, § 13, Constitution of Arizona). Since this is a statement of a subject, do not use a verb. (For example, use "RELATING TO SCHOOL BOARD ELECTIONS" rather than "RELATING TO ELECTING SCHOOL BOARDS".) There is no limit to the length of the "relating to" clause, except that it should be a single, brief comprehensive statement. The heading of the existing article or chapter in which the statutory changes are located may be used as an appropriate "relating to" clause. However, don't use the language of a new chapter or article heading being added in that bill unless the subject is already addressed in current statute. If the bill contains only temporary law, the bill title may begin with "RELATING TO", "PROVIDING FOR", "ESTABLISHING" or any other appropriate phrase along with a brief description of what the bill does. If the bill contains new temporary law that includes an appropriation, the clause should also include "APPROPRIATING MONIES".

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

Title Format

If a bill amends, repeals or adds statutory text, note the change in the title by using the appropriate phrase from the following list:

• AMENDING SECTION(S) _____, ARIZONA REVISED STATUTES;
(Note: This example also applies when the only change is to a section heading in the Uniform Commercial Code (title 47). See § 1-212, A.R.S.)

• AMENDING TITLE _____, ARIZONA REVISED STATUTES, BY ADDING CHAPTER _____;

• AMENDING TITLE _____, CHAPTER _____, ARIZONA REVISED STATUTES, BY ADDING ARTICLE _____;

• AMENDING TITLE _____, CHAPTER _____, ARTICLE _____, ARIZONA REVISED STATUTES, BY ADDING SECTION _____;

• AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS ADDED BY PROPOSITION _____, SECTION _____, ELECTION OF _____;

• REPEALING SECTION(S) _____, ARIZONA REVISED STATUTES;
(Note: Use this phrase for both a regular repeal and a delayed repeal.)

• REPEALING TITLE _____, CHAPTER _____, ARIZONA REVISED STATUTES;

• REPEALING TITLE _____, CHAPTER _____, ARTICLE _____, ARIZONA REVISED STATUTES;

Note: If a specific version of a statute is being amended or repealed, cite that version as, for example, "AMENDING (OR REPEALING) SECTION _____, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS _____, CHAPTER _____, SECTION _____;"

If a bill repeals a section, article or chapter and also adds a new section, article or chapter with the same number, use the word "new" in the title as follows:

• REPEALING SECTION 12-1624, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 12-1624;

• REPEALING TITLE 12, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 7;

• REPEALING TITLE 12, CHAPTER 9, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 9;

If a bill amends or repeals previously enacted temporary law, note the change in the title by using the appropriate phrase from the following list:

• AMENDING LAWS _____, CHAPTER _____, SECTION _____;

• REPEALING LAWS _____, CHAPTER _____, SECTION _____, AS AMENDED BY LAWS _____, CHAPTER _____, SECTION _____;

Note: The repeal of a new temporary law in conjunction with the law's enactment is not included in the title.

Note also: Refer to a special session as, for example, "LAWS 2015, FIRST SPECIAL SESSION, CHAPTER 5, SECTION 17".

If a bill transfers or renumbers or transfers and renumbers a section, article or chapter, note the change in the title by using the appropriate phrase from the following list (without noting the section, article or chapter number):

- PROVIDING FOR TRANSFERRING;
- PROVIDING FOR RENUMBERING;
- PROVIDING FOR TRANSFERRING AND RENUMBERING;

Note: Include the appropriate phrase in the bill title only once even if the bill contains multiple transfers or renumberings in one or more sections of the bill.

If a bill amends a section that the bill has also transferred, renumbered or transferred and renumbered, use the following appropriate phrase for each amended section:

- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS TRANSFERRED;
- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS RENUMBERED;
- AMENDING SECTION _____, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED;

Not Included in Title

The following are not noted in the bill title:

- Delayed effective dates and retroactivity.
- Emergency clauses.
- Proposition 105 requirements.
- Proposition 108 requirements.
- Conditional enactments.
- Conditional repeals.
- Heading changes or repeals (of a statutory title, chapter or article).
- New temporary laws, unless the temporary law is the only provision in the bill.

2.8 ENACTING CLAUSE

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

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

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

2.9 BILL SECTION NUMBERING

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

2.10 THE BODY OF THE BILL

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

Order of sections

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

- Changes to the Arizona Revised Statutes, including delayed repeals of existing or new statutes, in an order that corresponds to the numerical sequence of the statutes. Include a heading change or repeal (of a statutory title, chapter or article) before any changes to statutory sections that fall under that heading.
- Amendments to and repeals of previously enacted temporary law.
- Treatment of new temporary law.
- An intent or purpose clause, if necessary (see § 4.18), or an applicability clause.
- An appropriation or appropriations. (See §§ 5.1 through 5.10.)
- A retroactivity clause or any section or sections relating to the effective date or delayed effective date of the bill or specific sections of the bill. (See §§ 4.7 and 4.10.)
- A saving clause. (See § 4.31.)

- A nonseverability or severability clause. (See § 4.21.)
- A conditional enactment or repeal. (See § 4.4.)
- A short title. (See § 4.32.)
- A requirements for enactment; three-fourths vote section (Prop. 105). (See § 4.14.)
- An emergency clause or a requirements for enactment; two-thirds vote section (Prop. 108). (See §§ 4.10 and 4.15.)

Section headings

Each section of statutory law has a section heading that consists of the statutory section number and an underscored description of the section. Except in the Uniform Commercial Code (title 47), section headings do not constitute part of the law and may be changed without showing the added material in uppercase or the deleted material as stricken. (See § 1-212, A.R.S. and § 7.12.) However, it has been held that if an ambiguity exists, the section heading may be used to aid in interpreting the statute. State v. Eagle, 196 Ariz. 188, 190, ¶7 (2000); State v. Barnett, 142 Ariz. 592, 597 (1984); see also Meyer v. State, 246 Ariz. 188, 195, ¶22 (App. 2019); Minjares v. State, 223 Ariz. 54, 62, ¶ 34 (App. 2009). It is important that the drafter revise the section heading when amending a section to reflect any changes in statutory text.

Sections of temporary law have section headings that consist of the bill section number and an underscored description of the section.

Appropriations sections have section headings that consist of the bill section number and an underscored description of the appropriation's recipient and purpose.

The following are terms commonly included in section headings, if applicable:

- Appropriation(s).
- Supplemental appropriation(s).
- Definition(s) (if the term is defined for the entire section).
- Delayed repeal of temporary law.
- Exemption(s).
- Exception(s).
- Applicability.

- Penalties or civil penalty.
- Violation; classification (except for title 13 sections).
- Classification (without "violation" for title 13 sections).
- State preemption.
- Hearing.
- Report or annual report.

Section headings in title 47

Unlike section headings in the rest of the Arizona Revised Statutes, section headings in title 47 are considered part of the law and thus should be amended in the same manner as statutory text. New language appears in uppercase, existing language appears in lowercase and repealed language appears as stricken text.

- The following illustrates how to amend a section heading in title 47:

Section 1. Section 47-9203, Arizona Revised Statutes, is amended to read:

47-9203. ~~Attachment and enforceability of security interest~~ ATTACHED TO COLLATERAL; ~~proceeds; supporting obligations; formal requisites~~

A. A security interest attaches TO COLLATERAL when it becomes enforceable against the debtor....

- The following illustrates how to add a section heading in title 47:

Section 1. Title 47, chapter 9, article 4, Arizona Revised Statutes, is amended by adding section 47-9410, to read:

47-9410. PENALTIES; EXEMPTIONS

A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION B OF THIS SECTION, A SECURED PARTY THAT FAILS....

Amending statutory or temporary law

When amending existing statutory or temporary law, follow article IV, part 2, § 14, Constitution of Arizona, which provides:

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

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

Note: It is essential that the correct version of a statute be amended. When preparing a bill during a legislative session, check the *Table of Sections Affected* to ensure that the latest version of the statute is used. Checking the *Table of Sections Affected* is important to determine whether the section has been amended during that session in an act with an emergency clause or a "Prop. 108" clause. Because such an act is effective on the signature of the governor, the drafter must use the version of the section as amended in the emergency act in any later legislation.

Note also: Check the *Affected Session Laws* to determine whether a previously enacted temporary law has subsequently been amended or repealed.

Legislative council rule 24 (see Appendix B) requires that, when amending existing text, whether statutory or temporary, new language appear in UPPERCASE. Stricken language appears in ~~lowercase with a line through it~~. If new language is replacing stricken language, it generally appears after the stricken language. These same requirements also apply when amending section headings in the Uniform Commercial Code (title 47). See § 7.12.

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

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

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

Sec. 2. Laws 2015, chapter 213, section 7, as amended
by Laws 2021, chapter 56, section 14, is amended to read:
Sec. 7. Study committee; membership; duties
A. A study committee is....

Adding new statutory law or temporary law sections

If a bill adds a new statutory section, the text of the entire section is shown in UPPERCASE. Any new temporary law section is shown in lowercase. The section heading appears in lowercase (unless the new section is in title 47, A.R.S., in which case the section heading appears in uppercase).

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

Sec. 4. Title 32, chapter 14, article 2, Arizona Revised Statutes, is amended by adding section 32-1430, to read:

32-1430. Scope of practice

A. A PHYSICIAN WHO PRACTICES MEDICINE IN THIS STATE SHALL....

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

Sec. 9. Title 32, chapter 4, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. FEES

32-3601. Definitions

IN THIS ARTICLE....

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

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

CHAPTER 35

HOME HEALTH CARE WORKERS

ARTICLE 1. GENERAL PROVISIONS

32-3601. Definitions

IN THIS CHAPTER....

- New temporary law is introduced as follows:

Sec. 14. Committee on care; membership; duties

A. The committee on care....

Repealing statutory or temporary law

If an entire statute or temporary law section is being repealed, the language of that statute or temporary law is not set out in the body of the bill. If all of the sections in an article (or chapter) are being repealed and are not being replaced by new sections, the article (or chapter) itself should be repealed instead of the individual sections to ensure that the article (or chapter) heading is also repealed.

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

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

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

Internal references

When amending or repealing statutory law, the drafter must determine whether these changes are inconsistent with other existing statutes. If the proposed measure would result in a substantive or technical conflict with an existing statute, the drafter must amend or repeal that existing law by making any internal reference or other changes necessary to conform the existing statute to changes made in other amended or repealed sections of the same bill.

The drafter can find a statute's cross-references by using Perceptive or Westlaw. References to titles, chapters and articles, as well as incorrectly cited sections and sections indicated by a "through" phrase (e.g., sections 13-3612 through 13-3618), can be found in the *Internal Reference Manual*, which is updated each year by legislative council staff.

Technical changes

When the drafter is making a substantive change to a law, the drafter may also make nonsubstantive (technical) changes to that law. The drafter can find a list of the most significant technical problems in existing statutory law in the Recommended Statutory Improvements section of the *Annual Report on Defects in the Arizona Revised Statutes and State Constitution*, which is updated each year by legislative council staff. The drafter may also make less significant technical changes that are not listed in that document. Note that optional technical changes should not overshadow any substantive changes in a section or the simple substantive changes may be lost among many technical changes.

2.11 GERMANENESS

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

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

This provision is generally construed liberally, but it is important to check that the bill does not comprise more than a single subject and any related matters. Generally, a

court will sustain an act if there is any reasonable basis for grouping the various matters and if a deception would not be perpetrated by the combination.

The drafter must be aware that liberal interpretation can be taken too far. In State v. Sutton, 115 Ariz. 417, 419 (1977), the Arizona supreme court said that the various provisions in a bill "*will not be interpreted 'so foolishly liberal[ly]. . . as to render the constitutional provision nugatory.'*" (Citation omitted).

The particular facts of each case will be the basis for any court determination. In In re Miller, 29 Ariz. 582 (1926), the Arizona supreme court stated:

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

The same case supplies reasons for the one-subject limitation:

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

In each house of the legislature the committee on rules is charged with considering the constitutionality and proper form of bills and the reasonable germaneness of amendments. In addition to the constitutional requirements, the Senate and the House of Representatives have adopted rules regarding the germaneness of amendments. These rules state in part:

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

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

CHAPTER 3

MEASURES OTHER THAN BILLS

- 3.1 Memorials and Resolutions
- 3.2 Initiatives and Referendums

CHAPTER 3

MEASURES OTHER THAN BILLS

3.1 MEMORIALS AND RESOLUTIONS

Bills are the most common of the different types of legislative measures that come before the legislature. Other common forms of legislation are memorials and resolutions. These are used to accomplish legislative purposes, described below, for which a bill is not appropriate. Likewise, memorials and resolutions have their own particular purposes, and they should not be used interchangeably.

Memorials

A memorial allows the legislature to petition, plead, beseech or pray that a recipient (1) acknowledge stated facts (contained in one or more clauses, introduced by the word "whereas") and (2) act in a manner consistent with the request. It implies that the "memorialist," i.e., the House, the Senate or the entire legislature, lacks authority to act directly on the subject. Accordingly, a memorial is used to petition Congress, the President of the United States, other state or federal agencies and officers and other states to do things that the Arizona legislature itself has no jurisdiction to do. It is merely a request and has no official standing or effect. A memorial is not signed by the governor.

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

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

Resolutions

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

- A simple resolution is processed only through the chamber in which it is introduced. It may express an opinion, appoint a committee, express regret on the death of a former legislator or other prominent person, request the return of a bill from the other house of the legislature for a stated purpose, recognize a person's or group's meritorious service or commemorate a special event. A simple resolution is not signed by the governor.

• A concurrent resolution is processed through both houses but is not signed by the governor. Like a simple resolution, it may provide for an expression of opinion, commemoration, congratulations or sentiment for both the House and the Senate. Additionally, a concurrent resolution may provide for the following:

- Submittal of a referendum of a legislative act to the voters. (See Sample No. 20).
- Legislative action involving the process of amending the Arizona Constitution (See Sample Nos. 15 — 18) or the United States Constitution (See Sample Nos. 21 — 23).
- Requesting the secretary of state to return a previously presented concurrent resolution. See e.g., H.C.R. 2051, 52nd Legislature, 2nd Regular Session.

• A joint resolution is processed through both houses, is signed by the governor and is effective on the general effective date, unless it includes an emergency or Prop. 108 clause, in which case it becomes effective immediately on the governor's signature. It is used to provide for temporary measures having the effect of law (e.g., a contract or other official action). See e.g., H.J.R. 2002, 53rd Legislature, 1st Regular Session. Since the governor signs joint resolutions, they are not used for any purpose in amending either the Arizona or United States Constitutions. Constitutional amendments are the exclusive purview of the legislature and the people.

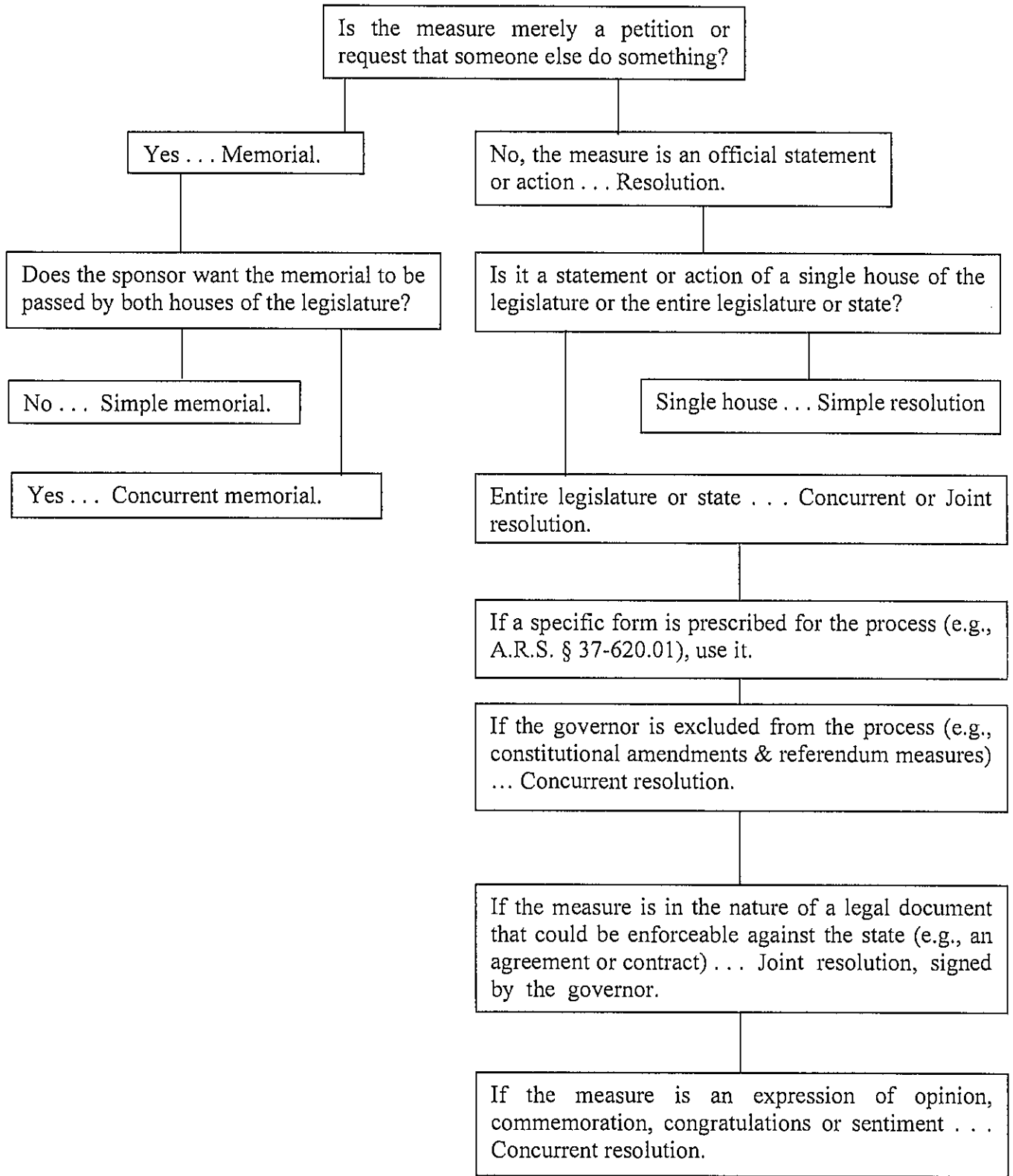
Titles

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

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

A CONCURRENT RESOLUTION
DESIGNATING OCTOBER 4, 2023 AS....

Refer to the guide on the following page to determine the proper vehicle to use for a particular purpose.



3.2 INITIATIVES AND REFERENDUMS

Constitutional requirements

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

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

Initiatives

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

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

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

Referendums

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

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

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

1. An emergency measure that is passed by a "supermajority" vote of the legislature.
2. An act for the "support and maintenance" of the agencies of state government and state institutions (i.e., the general appropriations act and the capital outlay bill).
3. An act increasing state revenues through new or increased taxes or assessments ("Prop. 108"). (See § 4.15)

Additionally, the legislature itself may order that an act be referred as a referendum to the people at the polls before it can become effective. (See Sample No. 20). Under article V, § 7, Constitution of Arizona, measures that are referred to the voters for approval are exempt from veto of the governor. See § 4.4 for examples of conditional enactment clauses for bills accompanying referendums that are referred by the legislature.

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

Note: Concurrent resolutions containing measures to be referred by the legislature to the voters have two titles — one for the resolution itself and one in the body of the resolution for the measure being referred. (See Appendix A for examples of referendum measures and proposed amendments to the state constitution.)

CHAPTER 4
COMMON BILL PROVISIONS

- 4.1 Appointments by the Governor; Consent of Senate
- 4.2 Committees
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CHAPTER 4

COMMON BILL PROVISIONS

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

4.1 APPOINTMENTS BY THE GOVERNOR; CONSENT OF SENATE

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

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

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

4.2 COMMITTEES

Placement

Draft a bill that establishes a committee (or a commission) as temporary law if the committee is to disband after it completes its duties and as statutory law if the committee is permanent. (See § 4.33.)

Checklist

When establishing a committee, consider all of the following:

- Membership and qualifications. A committee should be composed of an odd number of members to limit the chances that a vote will end in a tie. Note: When prescribing qualifications, the drafter should not refer to a specific private entity from which a committee member is to be selected. (See § 4.29.) Note also: When prescribing membership of legislators, say "NOT MORE THAN _____ OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY".

- Terms of office. Initial terms of statutory committees must be staggered. (See § 4.33.)

- Appointing authority. Identify who appoints the members.

- Officers. The language should either specify who is to serve as chairperson of the committee or allow the committee members to select a chairperson. The language may also provide for cochairpersons or for the rotation of chairpersons.

- Compensation and expenses. It is unusual for committee members to receive compensation, but a common provision makes members "eligible to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes." (See § 4.3.)

- Meetings. The drafter may wish to include language that prescribes the number or frequency of meetings. The language may allow the chairperson and a majority of committee members to call meetings and may prescribe the location of meetings.

- Powers and duties. Describe, by a list if necessary, the committee's powers and duties. Note: In most situations the drafter should include the following language:

- On or before (date), the committee shall submit a report of its findings and recommendations to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of this report to the secretary of state.

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

- Duration. If the committee is temporary, the drafter must include a delayed repeal provision for the relevant bill section. This date should be September 30 of the year following the date the final report is due to allow the committee to complete unfinished work and to give the legislature an opportunity to extend the committee before the committee's enabling legislation is repealed.

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

Ex officio members; advisory members

If a committee member is specified as an ex officio member, that person serves by virtue of holding a particular office and may exercise the same powers as the other members, including voting, unless the law provides otherwise. See, e.g., Barber Pure Milk Co. of Montgomery v. Alabama State Milk Control Bd., 156 So. 2d 351, 357-58 (Ala. 1963); see also Johnson v. Knowles, 113 F. 3d 1114, 1116-17 (9th Cir. 1997) (ex officio committee member has same rights and powers as other committee members); State ex rel. DeConcini v. Garvey, 67 Ariz. 304, 311 (1948) (ex officio or acting governor invested with all powers and duties of that office).

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

Legislators as committee or board members; restrictions

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

In State ex rel. Woods v. Block, 189 Ariz. 269, 277-78 (1997), citing a federal court ruling, the Arizona supreme court stated that allowing members of a legislative body to serve, even as advisory members, on a board that performs an executive function may violate separation of powers.

4.3 COMPENSATION FOR STATE OFFICERS AND EMPLOYEES

Compensation

The general rules of compensation for employees under the state personnel system as well as exempt positions and members of boards, commissions and committees are stated in § 38-611, A.R.S. The following language may be used to accomplish this:

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

Note: Do not use mandatory language such as "The director shall receive compensation of . . .". This language has the unintended effect of being a continuing appropriation. McDonald v. Frohmiller, 63 Ariz. 479, 486-87 (1945).

Reimbursement of expenses

If compensation is not authorized but reimbursement for travel and subsistence expenses is desired, the drafter should include language similar to the following:

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

4.4 CONDITIONAL ENACTMENTS AND REPEALS; REFERENDUM AS CONDITION OF ENACTMENT

Conditional enactments

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

- Submission to the voters of a related proposed constitutional amendment. A bill that requires a constitutional change must include a conditional enactment section or the

bill could be invalidated. An example of language providing for conditional enactment that is contingent on additional constitutional authority is:

Sec. __. Conditional enactment

This act does not (or specified statutory sections do not) become effective unless the Constitution of Arizona is amended by a vote of the people at the next general election by passage of _____ Concurrent Resolution _____, _____ legislature, _____ regular session, relating to...

Note: In this example, a companion House or Senate concurrent resolution must be prepared with the statutory changes being conditioned on voters passing the constitutional change being sought.

- The passage of another related act. An example of a clause providing for a conditional enactment contingent on passage of another act is:

Sec. __. Conditional enactment

This act does not become effective unless ____ Bill ____, _____ legislature, _____ regular session, relating to _____, becomes law.

- The occurrence of some other condition such as the enactment of similar legislation in another state or congressional authorization of funding or jurisdiction. The following illustrates a conditional enactment contingent on other conditions:

Sec. __. Conditional enactment; notice

A. This act does not (or specific statutory sections do not) become effective unless on or before (specific date) both of the following occur:

1. Funding is provided under federal law to reimburse community colleges for at least seventy-five percent of the cost of the tuition and fee waivers prescribed in this act.

2. Funding is provided by this state to reimburse community colleges for at least twenty-five percent of the cost of the tuition and fee waivers prescribed by this act.

B. The (appropriate state entity) shall notify the director of the Arizona legislative council in writing on or before (specific date) either:

1. Of the date on which the condition was met.
2. That the condition was not met.

It is very important for such a conditional enactment section to include both of the following:

1. A date by which the condition must be met to avoid an indefinite conditional status.

2. A requirement that the director of the Arizona legislative council be notified *in writing* by a specific date, preferably not more than 30 days after the condition date, that the condition was met or that the condition was not met.

- A referendum petition.

If a bill is amending a statutory section that was previously enacted subject to a condition and the condition has not yet been met, the drafter should use language similar to the following to ensure that the current bill's amendments to the section are also subject to the same condition:

Sec. __. Conditional enactment

Section 41-2123, Arizona Revised Statutes, as amended by Laws 2005, chapter 104, section 2 and this act, becomes effective on the date prescribed by Laws 2005, chapter 104, section 7, but only on the occurrence of the condition prescribed by Laws 2005, chapter 104, section 7 (and not before the specific effective date of the act if different than the general effective date).

The following are additional examples of conditional enactments:

Conditional enactment with reference to retroactivity:

Sec. __. Conditional enactment; retroactivity

Section 43-1022, Arizona Revised Statutes, as amended by Laws 2021, chapter 436, section 6 and this act, is effective, and applies retroactively to from and after May 22, 2022, only if Laws 2021, chapter 436, the subject of referendum petition R-06-2021, is approved by a vote of the people at the next general election or fails to be referred to the voters at the next general election.

Conditional enactment with reference to a delayed effective date after the condition is met:

Sec. __. Conditional enactment; effective date

Section 43-1022, Arizona Revised Statutes, as amended by Laws 2021, chapter 436, section 6 and this act, is effective from and after December 31, 2022, only if Laws 2021, chapter 436, the subject of referendum petition R-06-2021, is approved by a vote of the people at the next general election or fails to be referred to the voters at the next general election.

Note: A bill may not contain both a conditional enactment and a requirements for enactment ("Prop. 108") section or an emergency clause. However, a bill may contain both a conditional enactment section and a requirements for enactment ("Prop. 105") section.

Conditional repeals

Do not use a conditional repeal of a statutory section unless there is a compelling reason to do so. Like conditional enactments, conditional repeals of statutory sections are problematic because of the uncertainty they cause in determining whether a condition has been met and the specific date of the repeal.

The following is an example of a clause providing for a conditional repeal of an added statute:

Sec. __. Conditional repeal; notice

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

B. The administration shall notify in writing the director of the Arizona legislative council of this date.

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

To conditionally repeal only the changes made to an existing statute, use a conditional enactment similar to a delayed repeal. See Sample No. 7.

4.5 CONFORMING LEGISLATION

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

Sec. __. Conforming legislation

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

4.6 DEFINITIONS

The role of definitions

By rule of statutory construction, words and terms that are not specifically defined are defined by their common accepted usage. See Mid Kan. Fed. Sav. & Loan Ass'n of Wichita v. Dynamic Dev. Corp., 167 Ariz. 122 (1991). See also 2A Sutherland Statutory Construction § 46:1 (7th ed. 2014). However, the drafter should consider defining a word or term used in statute or in session law that might be unclear or unfamiliar to the reader or that has more than one meaning and the reader cannot determine that meaning from the context. Do not define a term that does not appear in the statutory text.

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

Format

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

Alphabetize definitions in a word-by-word manner in accordance with the style of alphabetizing in *Merriam-Webster's Collegiate Dictionary*, eleventh edition, as follows:

- Always alphabetize by letter first, disregarding spaces or hyphens. Alphabetize terms that begin with a number (e.g., "340B drug pricing program") as if written in words (three forty B . . .).
- Alphabetize one word before two (e.g., "dropout" before "drop out" and "drop-off" before "drop off").
- Alphabetize one word with no spaces before one word that is hyphenated (e.g., "dropkick" before "drop-kick").

The introduction must indicate whether the definitions apply to the title, chapter or article and state that the definitions apply "unless the context otherwise requires." Each word defined is initially enclosed in quotation marks, but on subsequent use within the definitions section the word does not appear in quotation marks. A term that is described by what it does not mean or include is not enclosed in quotation marks. The following is an example of a statutory law definitions section:

32-3801. Definitions

In this article, unless the context otherwise requires:

1. "Board" means....
2. "Clinical laboratory" means....
3. "Frontline" means....
4. "Front line" means....
5. "Laboratory technician" means....
6. "Licensee" means....
7. "License fees" means....
8. "Life-support" means....
9. "Life support" means....
10. "Life-threatening illnesses" includes....
11. Medical records do not include....

Note in the example above that defined terms that appear in the plural form are still followed by either the singular "includes" or "means."

Restrictive vs. extensive definitions

A definition that is restrictive is followed by the word "means." A definition that is extensive is followed by the word "includes." See 2A Sutherland Statutory Construction § 47:7 (7th ed. 2014). Do not use the phrase "means and includes."

General definitions sections vs. internal definitions

If a word or term appears in only one statutory section, it should be defined in that section rather than in a general definitions section. A statutory section has its own definitions subsection for any words and terms that are used in that section. This subsection appears at the end of the section and is introduced by the words "FOR THE PURPOSES OF THIS SECTION,...".

Section headings

The inclusion of a definitions subsection is noted in the section heading. Since the definitions subsection is the last subsection of a section, definitions are noted last in the section heading as either ": definition" or ": definitions". If a section contains only one definition and no other provisions, the section heading should read, for example, "Definition of commercial contract".

Note: Indicating that a word or phrase "does not mean" or "does not include" is not a definition, although it may be included in the definitions section or subsection. However, the word or phrase is not enclosed in quotation marks or noted in the section heading.

Citations to definitions

If a word is already defined in another statute, the drafter may cite that statute by cross-reference instead of repeating the definition. This has the advantage of promoting statutory uniformity, but it can also be inconvenient to the reader, especially if the definition is located in a different title of the statutes. For example, refer to a definition that is in another section by the words "FOR THE PURPOSES OF THIS _____, 'PROVIDER' HAS THE SAME MEANING PRESCRIBED IN SECTION 00-0000", "A PERSON MAY USE A PROVIDER AS DEFINED IN SECTION 00-0000" or "ANY TERM THAT IS NOT DEFINED IN THIS _____ AND THAT IS DEFINED IN SECTION 42-5075 HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075."

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

"Stuffed" definitions

A definition should not contain substantive law in addition to the definition since the substantive law would be "hidden" in a place the reader would not expect to find it. A definition that contains substantive law is known as a "stuffed" definition. See Dickerson, *The Fundamentals of Legal Drafting* § 7.6 (1st ed. 1965). The following example illustrates a stuffed definition:

5. "ANNUAL INSPECTION" MEANS AN INSPECTION CONDUCTED BY THE DEPARTMENT AT LEAST SIXTY DAYS BEFORE A FACILITY'S LICENSE EXPIRES, AT WHICH TIME THE FACILITY SHALL FULLY COMPLY WITH THIS ARTICLE AND RULES ADOPTED PURSUANT TO THIS ARTICLE.

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

4.7 DELAYED REPEAL PROVISIONS

Temporary law

Delayed repeal provisions may be included as a separate subsection at the end of a temporary law section, but before the definitions subsection, if any. The subsection should read, "This section is repealed from and after _____." An incorporated delayed repeal provision is included in the section heading of the temporary law but not included in the bill title.

Statutory law

The following example of a delayed repeal provision is appropriate for new statutes (including an entire article or chapter):

Sec. __. Delayed repeal
(Section 42-101) (Title 42, chapter 4, article 9),
Arizona Revised Statutes, as added by this act, is repealed
from and after December 31, 2024.

Note:

- To repeal only the changes made to an existing statute, see Sample No. 7.
- A delayed repeal of either an existing statute or a new statute is included in numerical sequence in the body of the bill.
- A repealed statutory section must be listed as repealed in the bill title, but the fact that it is "delayed repealed" is not noted in the title.
- The drafter should always check the *Statutory Delayed Repeals* publication to determine whether a delayed repeal already exists for a particular section, article or chapter.

4.8 DELEGATING LEGISLATIVE REGULATORY POWER

When drafting a bill giving regulatory powers to an agency, consider the words of the court in the case of State v. Marana Plantations, Inc., 75 Ariz. 111, 114 (1953):

The line of demarcation between what is legitimate granting of power for administrative regulation and an illegitimate delegation of legislative power is often quite dim. . . . It may safely be said that a statute which gives unlimited regulatory power to a commission, board or agency

with no prescribed restraints nor criterion nor guide to its action offends the Constitution as a delegation of legislative power. The board must be corralled in some reasonable degree and must not be permitted to range at large and determine for itself the conditions under which a law should exist and pass the law it thinks appropriate.

4.9 DEPUTY OFFICERS OF STATE AND COUNTY AGENCIES; POWERS

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

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

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

4.10 EFFECTIVE DATE AND TIME OF ENACTMENTS

General effective date

As stated in article IV, part 1, § 1 (3), Constitution of Arizona, the general effective date of enactments is the ninety-first day after the date on which the session of the legislature enacting them adjourns *sine die*. For example, if the legislature adjourns *sine die* on May 15, the general effective date is August 14 the instant after midnight (i.e., 12:01 a.m.). State v. Soloman, 117 Ariz. 228 (1977). Exceptions to the general effective date are as follows:

- A bill that has a specific delayed effective date.
- A bill that is conditionally enacted. (See § 4.4.)
- An emergency measure that is passed by a "supermajority" vote of the legislature. (Article IV, part 1, § 1 (3), Constitution of Arizona.)
- A supplemental appropriation. (See § 5.5.)
- An act increasing state revenues through new or increased taxes or assessments ("Prop. 108"). (Article IX, § 22, Constitution of Arizona.) (See § 4.15.)

Note: If a law goes into effect during a legislative session because it contained an emergency clause or met "Prop. 108" requirements, the drafter must conform other applicable bills and amendments that are still being considered during the same session to that now-current law.

Note also: A listing of the general effective dates of all legislation enacted since 1956 can be found in the front of the hardbound volumes and pocket parts of the Thomson Reuters/West publication of Arizona Revised Statutes and, since 1989, online at www.azleg.gov.

Conflicting provisions; effect

An act that purports to take effect on a specified date before the general effective date but that is not a duly enacted emergency measure takes effect on the general effective date, notwithstanding the act's specified effective date.

A duly enacted emergency measure, a "Prop. 108" bill or a supplemental appropriation bill is immediately effective on approval by the governor, even if it contains a provision stating that it is to become effective on another date.

Vetoed or unsigned bills; effect

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

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

A duly enacted emergency measure or a requirements for enactment measure ("Prop. 108") that is vetoed by the governor within five days (Sunday excepted) after it was presented to the governor and that, after reconsideration, is passed by each house by a three-fourths vote takes effect on the date it is filed with the secretary of state.

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

If, while the legislature is in session, the governor does not sign or veto a duly enacted emergency measure or requirements for enactment measure ("Prop. 108") within five days (Sunday excepted), the measure takes effect on the sixth day; if the governor does not file the measure with the secretary of state within ten days (Sundays excepted) after the final adjournment of the legislature, the measure takes effect on the eleventh day.

Time of day enactments take effect

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

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

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

For example, an act or statute that takes effect "from and after September 30" takes effect on October 1 at 12:00 a.m. (midnight). In contrast, an act or statute that takes effect "on October 1" takes effect on October 1 at 12:00 p.m. (noon).

Emergency clauses

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

Sec. __. Emergency

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

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

Note: An emergency measure cannot be given an effective date that is applicable to the entire bill or sections of the bill other than the date on which the governor signs the bill. An attempt to make an emergency bill effective on a date after the date of enactment will fail, and the act will become effective immediately on signature of the governor. Article IV, part 1, § 1 (3), Constitution of Arizona; Indus. Comm'n v. Frohmiller, 60 Ariz. 464 (1943). Nevertheless, specific provisions of the bill may be so worded as to become *operative* at subsequent times, even though the bill itself is *effective* on the governor's signature. See Ariz. Op. Att'y Gen. No. I82-026 (Feb. 26, 1982). A typical way to accomplish this is by inserting a date in the statutory or temporary law text. For example, a section could state "BEGINNING OCTOBER 1, 2023, THE DEPARTMENT SHALL...."

Delayed effective date

The following is an example of a delayed effective date:

Sec. __. Effective date

Section 23-113, Arizona Revised Statutes, as added by this act, sections 23-527 and 23-528, Arizona Revised Statutes, as amended by this act, and the repeal of section 23-554, Arizona Revised Statutes, by this act are effective from and after December 31, 2024.

Note: If amending a previously enacted section that has a delayed effective date, the drafter must make sure that the new changes do not become effective before the

underlying section by including a delayed effective date section like the one in the above example.

Retroactivity of statutes

Section 1-244, A.R.S., requires that the retroactivity of a statute be "*expressly declared*." However, a statute may have retroactive effect if it is merely procedural and the statute does not affect or impair vested rights. Bouldin v. Turek, 125 Ariz. 77 (1979). To expressly declare that an act or a statute applies retroactively, the drafter should add a section toward the end of the bill similar to the following:

Sec. __. Retroactivity

This act (or, section 42-6102, Arizona Revised Statutes, as added (or amended) by this act,) applies retroactively to from and after June 30, 2023.

Effective date for tax measures

In drafting bills that levy a tax or change the way a tax is computed, applied or administered, the effective date should reflect accounting and administrative requirements and should be either January 1 (or "from and after December 31") or the beginning of another appropriate taxing period. Frequently, an income tax act is effective on the *general effective date* but specifically applies:

- Retroactively to the entire taxable year as in the following example:

Sec. __. Retroactivity

This act applies retroactively to taxable years beginning from and after December 31, 2024.

- To future taxable periods as in the following example:

Sec. __. Applicability

This act applies to taxable periods beginning on or after the first day of the month following the general effective date.

4.11 USING "THE EFFECTIVE DATE OF THIS SECTION"

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

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

If the bill has a delayed effective date and it is necessary to refer to the effective date of the new section or the amendment to existing statutory text, use the specific delayed effective date. For example, the section should state "A PERSON WHO IS REGISTERED ON OR BEFORE JANUARY 1, 2024" rather than "a person who is registered on or before the effective date of this section".

Note: In new or existing statutory text, do not use the phrase "the effective date of this act". Use this language only in temporary law.

4.12 FINGERPRINTING REQUIREMENTS

The following language allows state agencies access to state and federal criminal record information for noncriminal justice purposes such as licensing, certification and employment:

EACH APPLICANT FOR (category of regulation or the type of employment) SHALL SUBMIT A FULL SET OF FINGERPRINTS TO (name of the office or agency) FOR THE PURPOSE OF OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

Note: If an agency requires an applicant to obtain a fingerprint clearance card, the drafter should also amend §§ 41-619.51, 41-1758 and 41-1758.01, A.R.S., accordingly.

4.13 ESTABLISHING FUNDS AND RECEIVING AND DISBURSING MONIES

Examples of common clauses used for receiving and disbursing monies and establishing funds, or funds for special purposes, are as follows:

Establishing a state fund

THE (name) FUND IS ESTABLISHED CONSISTING OF (source of funding). THE (name of agency) SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE (SUBJECT TO LEGISLATIVE APPROPRIATION) (CONTINUOUSLY APPROPRIATED).

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

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

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

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

Accepting federal monies and private gifts

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

Disbursing fees; self-supporting regulatory agencies ("90/10 boards")

A. THE BOARD OF RESPIRATORY CARE EXAMINERS FUND IS ESTABLISHED CONSISTING OF (FEES COLLECTED PURSUANT TO SECTION 00-0000). THE BOARD SHALL ADMINISTER THE FUND. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, NINETY PERCENT OF ALL MONIES COLLECTED UNDER THIS CHAPTER IN THE BOARD OF RESPIRATORY CARE EXAMINERS FUND AND THE REMAINING TEN PERCENT IN THE STATE GENERAL FUND.

B. MONIES DEPOSITED IN THE BOARD OF RESPIRATORY CARE EXAMINERS FUND ARE SUBJECT TO SECTION 35-143.01.

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

Note also that the reference to §§ 35-146 and 35-147, A.R.S., as in the above example, is not included if the monies are:

- From a federal funding source that is otherwise required to remain separate from state treasury monies. (See § 35-142, subsections H and I, A.R.S.)
- Taxes received by the state treasurer from a county. (See § 35-145, A.R.S.)
- Private monies and contributions. (See § 35-149, A.R.S.)
- Received by statutorily created authorities.

In general, an agency may not charge or collect a fee unless the fee is for a specific activity expressly authorized by statute. (See § 41-1008, A.R.S.) A fee established or

increased by exempt rulemaking is effective for only two years unless the governor's regulatory review council grants an extension. (See § 41-1008, subsection E, A.R.S.)

Nonlapsing clauses for funds

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

MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS (, EXCEPT THAT ALL MONIES IN THE FUND EXCEEDING \$ _____ REVERT TO THE STATE GENERAL FUND).

The drafter should note this clause by adding ";exemption" at the end of the section heading.

Revolving funds

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

Transferring fund monies (from one specific fund to another specific fund)

Use the following to account for the remaining balance in a fund being repealed:

Sec. __. Repeal; transfer of monies

A. Section 2-101, Arizona Revised Statutes, is repealed.

B. All unexpended and unencumbered monies remaining in the _____ fund established by section 2-101, Arizona Revised Statutes, as repealed by subsection A of this section, are transferred to the _____ fund on the effective date of this section.

Note: Subsection B above requires the addition of "APPROPRIATING MONIES" to the bill title.

Note also: Pursuant to § 35-142, A.R.S., subsection B above is not necessary if the remaining balance will go to the state general fund.

Properly citing a fund

To cite a fund that is established in another statutory section, the drafter should refer to the "(exact name of fund) ESTABLISHED BY SECTION _____". If the other statute only provides authority for an entity to establish the fund, refer to the

"(exact name of fund) ESTABLISHED PURSUANT TO SECTION _____. Do not use "fund established in section _____".

4.14 VOTER-APPROVED MEASURES; REQUIREMENTS FOR ENACTMENT ("PROP. 105")

In the 1998 general election the voters passed Proposition 105, which amended article IV, part 1, § 1, Constitution of Arizona, to prohibit the legislature from repealing "*an initiative measure approved by a majority of the votes cast thereon . . .*" and to allow the legislature to amend laws enacted or amended through an initiative or referendum only if "*the amending legislation furthers the purposes of such measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to amend such measure.*" Proposition 105 applies to all legislation enacted by initiative or referendum beginning with the 1998 general election.

The drafter must refer to the *Proposition 105 Requirements* publication prepared and updated by the legislative council staff to determine whether a statutory section is subject to the Proposition 105 requirements for enactment. To amend a statutory section that is subject to those requirements for enactment, the drafter must use the following lead-in language:

Sec. __. Subject to the requirements of article IV, part 1, section 1, Constitution of Arizona, section X-XXX, Arizona Revised Statutes, is amended to read:

The bill must also include the following session law section placed at the end of the bill:

Sec. __. Requirements for enactment: three-fourths vote

Pursuant to article IV, part 1, section 1, Constitution of Arizona, section _____ (or sections _____, _____ and _____), Arizona Revised Statutes, as amended (or added) by this act, is (are) effective only on the affirmative vote of at least three-fourths of the members of each house of the legislature.

Likewise, if the legislature is adding a new statutory section, renumbering a statutory section or adding an appropriation (see S.B. 1061 from the 2018 regular session) that is subject to Proposition 105, the drafter must use similar lead-in language and include a similar requirements for enactment session law section.

Note:

- Unlike bills that must comply with the requirements of Proposition 108 (See § 4.15), if a bill that includes a section that must comply with the requirements of Proposition 105 also includes sections that are not affected by Proposition 105

requirements, those specific sections may be enacted into law if the bill receives only a simple majority in each house.

- It is possible for a bill or portion of a bill that is subject to Proposition 105 requirements to also be subject to Proposition 108 requirements.

Unless the bill contains an emergency provision or triggers the requirements of Proposition 108, a Proposition 105 bill has a general effective date.

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

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

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

Sec. _____. Requirements for enactment: two-thirds vote
Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.

Note: A bill that requires a two-thirds vote goes into effect on the day the governor signs the bill into law. Therefore, if the bill also contains a delayed effective date section or a conditional enactment, that provision has no effect. (See Sample No. 3).

4.16 INTERSTATE COMPACTS

An interstate compact is an agreement between two or more states on interstate policy or procedure. To ensure enforceability, compacts are usually enacted into the laws of the compacting states.

As a general rule, an interstate compact should be enacted as identical text by each state except as required to accommodate the unique needs and internal operation of the compact in each state. Changes to correct spelling and other clerical and technical errors and minor form and style conformity issues may be acceptable, but the drafter should keep

in mind that text variance from state to state tends to undermine the unity and utility of the interstate agreement.

The entire compact is given a single A.R.S. section number and should include the following lead-in language:

17-502. Wildlife violator compact
THE WILDLIFE VIOLATOR COMPACT IS ADOPTED AND ENACTED
INTO LAW AS FOLLOWS:
(insert text of compact, including numbering and
formatting)

If an existing state officer or department is to function for purposes of an interstate compact, that authority should be established in a separate A.R.S. section following the text of the compact:

17-503. Administration
THE ARIZONA GAME AND FISH DEPARTMENT IS DESIGNATED AS
THE AGENCY RESPONSIBLE FOR PERFORMING ANY ADMINISTRATIVE AND
ENFORCEMENT DUTIES ASSIGNED TO THIS STATE BY THE WILDLIFE
VIOLATOR COMPACT.

4.17 JUDICIAL AND ADMINISTRATIVE REVIEW

Administrative review

Except as provided in § 41-1092.02, A.R.S., uniform administrative hearing procedures apply to all appealable agency actions and contested cases. These procedures are found in title 41, chapter 6, article 10, A.R.S., and include hearing requirements and requirements for notice, service and review of administrative decisions.

If the sponsor does not want these procedures to apply to administrative decisions of a particular state agency or to particular decisions made by a state agency, the drafter should add the exemption to § 41-1092.02, A.R.S.

Note: If a state agency is exempt from title 41, chapter 6, article 10, A.R.S., the drafter should cite the administrative procedures that *do* apply, for example, title 41, chapter 6, article 6, A.R.S.

Judicial review

Final administrative decisions of state agencies are subject to judicial review pursuant to title 12, chapter 7, article 6, A.R.S. Section 41-1092.08, subsection H, A.R.S., provides certain exceptions to judicial review for agencies that are subject to uniform administrative hearing procedures. See title 41, chapter 6, article 10, A.R.S.

The drafter may use the following language to provide for judicial review of administrative decisions:

If an agency is subject to title 41, chapter 6, article 10, A.R.S.:

EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A
DECISION OF THE DEPARTMENT IS SUBJECT TO JUDICIAL REVIEW
PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

If an agency is not subject to title 41, chapter 6, article 10, A.R.S.:

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

4.18 LEGISLATIVE INTENT; FINDINGS SECTIONS

General rule

Generally, a bill should not include an "intent" or "legislative intent" section (also called a "purpose" or "legislative findings" section). There are several reasons for this:

- Redundancy. Because each bill draft should include all provisions that are necessary to carry out legislative intent in the substantive text of the bill, a statement of intent, purpose or findings that mirrors the substantive text is redundant and thus unnecessary.
- Conflict. A statement of intent, purpose or findings that is initially drafted to be in harmony with substantive provisions of a bill may become irrelevant to or in direct conflict with the provisions as subsequently amended. If the statement is not also amended or repealed at the time of the subsequent statutory amendment, the unchanged original statement may confuse the status of the law.
- Misuse of undefined terms. A statement of intent, purpose or findings that purports to state the goal of the proposed legislation may do so by using undefined terms that differ from the terms used in substantive provisions of the bill. The undefined terms may be used later by a court to interpret the act's substantive language either more broadly or more narrowly than was intended. See, e.g., Friends of Mammoth v. Board of Supervisors of Mono County, 502 P.2d 1049 (Cal. 1972), *disapproved on other grounds in* Kowis v. Howard, 838 P.2d 250 (Cal. 1992), in which the court construed the undefined term "project" by using a broad legislative intent statement, achieving a result that appears to be significantly at odds with the act's substantive language.
- Unforeseen effects. A statement of intent, purpose or findings may include provisions that directly or indirectly grant rights, prohibit actions or are otherwise substantive in nature, having unforeseen effects on other seemingly unrelated laws.

- Judicial and administrative misuse of argumentative language. A statement of intent, purpose or findings may contain language intended to promote the merits of a bill. If the language is construed by a court in the context of rights or privileges accorded in the substantive provisions of the act, the court's interpretation may yield a result that may not have been intended. See, e.g., Matter of D.E.R., 455 N.W. 2d 239 (Wis. 1990), *superseded by statute*, 1995 Wis. Act 92, *as recognized in* In re Guardianship of Judy K., 647 N.W.2d 799, 802-03, ¶¶ 14-16 (Wis. 2002), in which the court interpreted a phrase within a legislative intent statement that included sweeping language about protecting individuals to mean that a developmentally disabled individual is entitled to be protectively placed in an environment that requires funding by the county over and above federal, state and county matching monies. See also Grand Canyon Tr. v. Ariz. Corp. Comm'n, 210 Ariz. 30, 40, ¶ 43 (App. 2005) (stating that when the legislature specifies its purpose in session law, it is appropriate for the court to interpret the statute "in light of that enacted purpose").

Exceptions

An intent clause may be useful under the following circumstances:

- Recodification. If a bill only recodifies existing law without making any substantive changes, a statement of legislative intent may clarify this fact.
- Constitutionality. If there is significant concern on the part of the sponsor of a bill or amendment that a provision of the bill or amendment may be declared unconstitutional, a statement of legislative intent may indicate compliance with constitutional requirements that is not otherwise apparent. Also, a statement of legislative purpose or intent may counter an allegation of unreasonableness or arbitrariness by indicating a rational basis for action by the legislature. See 1A Sutherland Statutory Construction §§ 20:3 to 20:5 (7th ed. 2009).

Required uses

- Section 41-2955, subsection E, A.R.S., requires that the enabling legislation for each new agency contain a "policy or purpose statement," setting forth the objectives of the program. Section 41-2955, subsection B, A.R.S., makes the same requirement for the continuation of each agency for a new cycle. The purpose of these statements is to assist the auditor general in determining whether an agency is meeting its legislative mandate.

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

Sec. ____ Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the board of technical registration to promote the public safety and welfare by regulating architects, assayers, engineers, geologists, home inspectors, landscape architects and land surveyors.

- Section 41-1107, A.R.S., provides that "*[a]ll legislation that diminishes a previous grant of authority to a political subdivision of this state shall contain an intent clause that explains the reason for the diminution of authority.*"

- Section 43-223, A.R.S., requires that the enabling legislation for any new individual or corporate income tax credit contain a purpose clause that explains the rationale and objective of the tax credit.

The following is an example of a purpose section for any new individual or corporate tax credit:

Sec. __. Purpose

Pursuant to section 43-223, Arizona Revised Statutes, the legislature enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by this act, to support the construction of new affordable housing projects in this state.

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

4.19 LIBERAL INTERPRETATION

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

4.20 LICENSURE, CERTIFICATION AND REGISTRATION

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

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

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

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

4.21 NONSEVERABILITY AND SEVERABILITY CLAUSES

Nonseverability

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

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

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

Severability

A severability clause is unnecessary for legal purposes because the courts have repeatedly ruled that regardless of the presence or absence of a severability clause they will sever invalid portions from an otherwise valid act whenever possible. See Republic Inv. Fund I v. Town of Surprise, 166 Ariz. 143 (1990). Moreover, a court may refuse to sever parts of an act even if the act contains a severability clause. See Dobson v. State ex rel. Comm'n on Appellate Court Appointments, 233 Ariz. 119, 124, ¶17 (2013). Although severability provisions are unwarranted, if requested by the sponsor to include it, the drafter should use the following:

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

4.22 "NOTWITHSTANDING" CLAUSES

To state an exception to existing law, the drafter may introduce language with "NOTWITHSTANDING ANY OTHER LAW,", "NOTWITHSTANDING ANY LAW TO THE CONTRARY,", "NOTWITHSTANDING ANY STATUTE TO THE CONTRARY," or "NOTWITHSTANDING ANY OTHER STATUTE,": Do not say "Notwithstanding any other law to the contrary."

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

To avoid confusion, do not include an "except as provided" clause that refers back to the "notwithstanding" clause.

4.23 OPEN MEETINGS

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

4.24 PENALTIES; CIVIL AND CRIMINAL

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

Penalties may be civil or criminal, or both. Civil penalties may be imposed by a public officer or agency, may give an injured person a cause of action against the offender or may suspend or revoke a license or permit. Criminal penalties are imposed by a court. When establishing a new criminal offense in title 13, it is customary to place the criminal classification as the last subsection in the section, followed by a definitions subsection, if applicable. Outside title 13, if the criminal provision of a bill relates to a single section, it is customary to insert the criminal classification within that section as the last subsection, if possible. If the criminal provision is contained within a subsection, it is customary to include the criminal classification at the end of that subsection.

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

Civil penalties

An example of a monetary civil penalty is as follows:

AFTER A HEARING, THE BOARD MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN \$_____ AGAINST A LICENSEE WHO KNOWINGLY VIOLATES THIS CHAPTER. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, PENALTIES COLLECTED PURSUANT TO THIS SECTION IN THE _____ FUND.

Note: Add "; civil penalty" to the section heading unless the civil penalty is just one of several disciplinary measures or penalties, in which case use "; penalties".

Note also: The drafter is cautioned to specify where penalty monies collected by the state will be deposited. Otherwise, if the bill does not specify where the state monies are to be deposited, the monies will go to the state general fund pursuant to § 35-142, A.R.S.

An example of a nonmonetary civil penalty is as follows:

* * *

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

Criminal offenses and penalties

Criminal offenses are divided into six felony classifications, three misdemeanor classifications and petty offenses. Except for class 1 felonies, there is a presumptive term of imprisonment for each felony. This term may be increased or decreased depending on the nature of the offense, the defendant's criminal history and the existence of any mitigating or aggravating circumstances. Fines may also be imposed. Fines for enterprises are set out in § 13-803, A.R.S. Prison terms and maximum fines for individuals convicted of felony offenses are prescribed in title 13, chapter 7 and § 13-801, A.R.S. Jail terms and maximum fines for individuals convicted of misdemeanor offenses are prescribed in §§ 13-707 and 13-802, A.R.S.

All lesser offenses are termed "petty offenses," with no imprisonment authorized and a maximum fine of \$300 for an individual or \$1,000 for an enterprise. Any offense defined outside the criminal code that lacks either designation as a felony or misdemeanor or specification of the classification or the penalty is a petty offense. (See § 13-602, A.R.S.)

Note: Mandatory surcharges and assessments are added to every fine, penalty and forfeiture pursuant to §§ 12-116.01, 12-116.02, 12-116.04, 12-116.08, 12-116.09 and 16-954, A.R.S. Sections 12-116.05, 12-116.06, 12-116.07, 12-116.10 and 12-116.11,

A.R.S. also impose assessments on certain offenses that are in addition to other penalties and assessments.

The following are two examples of criminal penalty provisions:

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

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

* * *

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

Note:

- Add ": classification" to the section heading. Use the singular "classification" even if there is more than one criminal offense classification.

- For a criminal offense that is prescribed outside the criminal code (title 13, A.R.S.), add ": violation; classification" to the section heading. The term "violation" is not necessary, however, for section headings in title 13.

Note also: State a criminal penalty as a classified offense (e.g., "class 3 felony") instead of as a specific penalty ("imprisonment for 2 to 7 years and a fine of up to \$150,000").

Fines versus penalties

For drafting purposes it is important to note the distinction between penalties and fines if the legislative intent is to impose monetary sanctions as a result of prohibited activity. The Arizona supreme court has held that "penalty" and "fine" are not the same in law. Frazier v. Terrill, 65 Ariz. 131, 136 (1946). The term "fine" must always be used in the context of criminal activity.

4.25 POPULATION

If a bill applies different standards to different categories of locations measured by population, the drafter should use language that refers to "a (county) (city or town) with a population of (less than) (more than) _____ (million) (thousand) persons".

The word "population" is defined in § 1-215, A.R.S., as "*the population according to the most recent United States decennial census.*" This definition applies to all of the statutes and laws of this state. Note that at times a bill should use language that refers to both the most recent United States decennial census and the most recent special census.

This is usually necessary when a bill distributes tax revenues or apportions monies. (See §§ 28-6532 and 42-5029, A.R.S.)

The population for each county according to the United States 2020 census is as follows:

Greenlee:	9,563	Apache:	66,021	Mohave:	213,267
La Paz:	16,557	Navajo:	106,717	Yavapai:	236,209
Graham:	38,533	Cochise:	125,447	Pinal:	425,264
Santa Cruz:	47,669	Coconino:	145,101	Pima:	1,043,433
Gila:	53,272	Yuma:	203,881	Maricopa:	4,420,568

4.26 PREEMPTION

The following is an example of language the drafter should use if the drafter is asked to provide for state preemption. Note that "state preemption" is included in the section heading:

3-243. Seed labeling regulation; state preemption
THE REGULATION AND USE OF SEEDS ARE OF STATEWIDE CONCERN. THE REGULATION OF SEEDS PURSUANT TO THIS ARTICLE AND THEIR USE IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

The drafter should make the application of the preemption clear by specifying whether the preemption, for example, supersedes any other law or is prospective only, such as:

THE REGULATION OF THE USE OF PUBLIC MONIES AND PUBLIC EMPLOYEES FOR UNION ACTIVITIES PURSUANT TO THIS ARTICLE IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE AND PREEMPTS ALL INCONSISTENT LAWS, RULES, REGULATIONS, CODES, ORDINANCES, POLICIES OR OTHER LAWS ADOPTED BY ANY PUBLIC EMPLOYER.

4.27 PROCUREMENT CODE; EXEMPTION

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

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

Sec. __. Exemption from the procurement code

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

Note: Section 41-2501, A.R.S., includes various examples of permanent exemptions in statutory law.

4.28 QUORUM; JOINT AUTHORITY OF BOARD OR COMMISSION MEMBERS

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

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

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

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

4.29 REFERENCES TO NONSTATUTORY ENTITIES

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

4.30 RULES

Authority to make rules

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

THE (name of agency) MAY ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS (CHAPTER) (ARTICLE) (SECTION).

Exemption from rules

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

Sec. __. Exemption from rulemaking

Notwithstanding any other law, for the purposes of this act, the department of health services is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

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

Note:

- Section 41-1095, A.R.S., requires an agency to which the legislature has granted a onetime rulemaking exemption to review the rule within one year after the rule has been adopted to determine whether the rule should be amended or repealed.
- The drafter should amend § 41-1005, A.R.S., to enact permanent exemptions from the administrative procedure act.
- Pursuant to § 41-1008, subsection E, A.R.S., a fee that is established or increased by exempt rulemaking on or after October 1, 2012 is effective for two years unless the governor's regulatory review council grants an extension.

Retention of rules

In transferring administrative functions from one agency to another, consider including language to retain current rules, such as:

Sec. __. Retention of rules

All rules adopted by the department of health services pursuant to section 36-1300, Arizona Revised Statutes, remain in full force until superseded by administrative action the department of economic security.

(See also § 4.38.)

4.31 SAVING CLAUSES

General rule

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

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

1-249. Repealing act; effect on pending action or accrued right
No action or proceeding commenced before a repealing act takes effect, and no right accrued is affected by the repealing act, but proceedings therein shall conform to the new act so far as applicable.

1-252. Repeal of repealing statute; effect
The repeal or abrogation of a statute, law or rule does not revive the former statute, law or rule theretofore repealed or abrogated, nor does it affect any right then already existing or accrued at the time of such repeal, nor any action or proceeding theretofore taken, except such as may be provided in the subsequent repealing statute, nor shall it affect any private statute not expressly repealed thereby.

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

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

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

Sec. ____ Saving clause
This act does not affect any devise made by a will executed before the effective date of this act.

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

Required use

Note: Section 43-224, A.R.S., requires technical tax correction legislation to include a saving clause to allow for the continued use of the carried forward amounts for the remainder of the carryforward period if a repealed credit has unused credits carried forward from prior years. The following is an example of a saving clause used in technical tax correction legislation:

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

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

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

1-252. Repeal of repealing statute; effect

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

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

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

Sec. __. Saving clause

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

Sec. __. Saving clause

This act does not affect any devise made by a will executed before the effective date of this act.

Sec. __. Saving clause

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

Required use

Note: Section 43-224, A.R.S., requires technical tax correction legislation to include a saving clause to allow for the continued use of the carried forward amounts for the remainder of the carryforward period if a repealed credit has unused credits carried forward from prior years. The following is an example of a saving clause used in technical tax correction legislation:

Sec. ____ Saving clause

The repeal of the income tax credits by this act does not affect the continuing validity of any amount of the credit carried forward from previous taxable years for application against subsequent tax liabilities as allowed by prior law.

"Grandfather" clauses

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

Sec. ____ Current licensees

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

4.32 SHORT TITLE

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

Sec. ____ Short title

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

Note: If the drafter makes changes to a uniform act, the drafter should cite it, for example, as the "Revised Arizona Probate Code" instead of the "Uniform Probate Code".

4.33 STATUTORY BOARDS, COMMISSIONS, COMMITTEES AND COUNCILS

Placement

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

Sunset

Include a "sunset" provision in the bill unless the board, commission, committee or council is part of an agency that is already on a sunset schedule. (See § 4.35.)

Checklist

When creating a statutory board, commission, committee or council, the drafter should consult relevant provisions of the checklist found in § 4.2. Unlike temporary committee members, members of these statutory public bodies typically do receive compensation. Such compensation should be prescribed "IN THE AMOUNT OF \$_____ PER DAY FOR EACH DAY OF ACTUAL SERVICE IN THE BUSINESS OF THE BOARD AND ALL EXPENSES NECESSARILY INCURRED IN ATTENDING BOARD MEETINGS" or "AS PRESCRIBED BY SECTION 38-611."

Appointment of members by legislature

Drafters should be careful in establishing a board, commission, committee or council that performs an executive function for which the legislature appoints members. If the legislature appoints a majority of the members, a possible violation of the separation of powers doctrine may occur. See State ex rel. Woods v. Block, 189 Ariz. 269 (1997).

Initial terms of members; terms of additional members

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

Sec. __. (Initial) terms of (additional) members of
(name of board, commission, committee or
council)

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

1. One term ending January _____, 2024.
2. Two terms ending January _____, 2025.

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

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

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

New terms for previously appointed committee members

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

Sec. __. Terms of board members

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

B. On the expiration of the term in January 2024 of two members of the Arizona board of regents, the governor shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for a term beginning January 19, 2024 and ending January 15, 2030.

C. On the expiration of the term in January 2025 of two members of the Arizona board of regents, the governor shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for a term beginning January 17, 2025 and ending January 20, 2031. Thereafter, the governor shall appoint two members pursuant to section 38-211, Arizona Revised Statutes, for terms beginning on the third Monday of January of the year of the expiration of the term and ending on the third Monday of January four years thereafter.

Election of officers previously appointed

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

Vacancies

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

A. Unless otherwise specified by law, every officer holds office at the pleasure of the appointing power.

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

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

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

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

Retention of members

In bills providing for the reorganization of state functions, it is often appropriate to clarify the effect on appointed or elected officials. The following examples illustrate various ways to continue certain terms:

Sec. __. Retention of members

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

Sec. __. Terms of state officers

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

Sec. __. Retention of members

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

Abolishing an office; restrictions

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

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

The Arizona supreme court has analyzed this matter as involving two distinct issues, the abolition of an executive office and the ousting of a tenured office holder, and has held that the legislature cannot accomplish the second by means of the first, because that would violate the principles of separation of powers. Ahearn v. Bailey, 104 Ariz. 250 (1969). However, that case recognized that if "an office is abolished and no substitute created, the office may be so abolished whatever may be the reason for its abolishment" even if officeholders incidentally lose their positions. Id. at 255 (emphasis added).

4.34 SUNRISE LEGISLATION

Regulation of health and nonhealth professions

If a bill would regulate a health profession that is currently unregulated by this state or would increase the scope of practice of a board-regulated health profession, the drafter should be aware of title 32, chapter 31, A.R.S. That chapter prescribes the requirements that applicants for either initial regulation or an increased scope of practice must meet. Title 41, chapter 33, A.R.S., prescribes the requirements that applicants for initial regulation of nonhealth professions and occupations must meet.

Mandated health coverage

If a bill would mandate certain health coverage as a component of individual or group health insurance policies, the drafter should be aware of the reporting requirements of title 20, chapter 1, article 3, A.R.S.

Workers' compensation; presumptions of compensability

If a bill establishes or substantially modifies a statute that establishes a presumption of compensability for a disease or condition, the drafter should be aware of the reporting requirements of title 23, chapter 6, article 12, A.R.S.

4.35 SUNSET LEGISLATION

Agency termination

Under state law each new and existing agency has not more than a ten-year life span, at the end of which the agency is subject to a sunset review. Title 41, chapter 27, A.R.S., sets out the sunset conditions and procedures, and article 2 of that chapter establishes the sunset schedule for the various agencies.

Each agency is assigned a sunset statute, for example:

41-3026.05. State land department; termination
July 1, 2026

A. The state land department terminates on July 1, 2026.

B. Title 37, chapters 1 and 2 and this section are repealed on January 1, 2027.

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

- The section number corresponds to the year of the sunset termination. In the example above, § 41-3026.05 corresponds with the year 2026. All agencies that terminate in 2026 are assigned a statutory section in the 41-3026.___ series.
- The agency terminates "on July 1" of the appropriate year.
- The enabling statutes for the agency are repealed six months later "on January 1" of the following year under the assumption that even though the agency is officially terminated, it may still require continuing statutory existence while it concludes its affairs.

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

Section 41-2955, A.R.S., requires legislation that establishes a new agency (subsection E) or continues an existing agency (subsection B) to contain a statement of policy, purpose or objectives of the agency. (See the following example and § 4.18.)

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

Section 1. Repeal

Section 41-3023.11, Arizona Revised Statutes, is repealed.

Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3031.11, to read:

41-3031.11. Board of behavioral health examiners; termination July 1, 2031

A. THE BOARD OF BEHAVIORAL HEALTH EXAMINERS TERMINATES ON JULY 1, 2031.

B. TITLE 32, CHAPTER 33 AND THIS SECTION ARE REPEALED ON JANUARY 1, 2032.

Sec. 3. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the board of behavioral health examiners to promote the safe and professional practice of behavioral health and its related professions.

Sec. 4. Retroactivity

Sections 1 and 2 of this act apply retroactively to from and after July 1, 2023.

For purposes of drafting sunset legislation:

- Always number a ten-year or eight-year sunset continuation section so that it ends in the same number as the number assigned to the current sunset section (.11 in the above example).
- Always number a ten-year sunset section for a new agency so that it ends as .01 regardless of any other bill that may also add that same section number. After the legislative session is over, the legislative council will renumber any duplicate section numbers.
- For a sunset continuation or a sunset section for a new agency that is scheduled for review in fewer than eight years, always number the sunset section so that it ends in the first available number for the year in which the sunset is scheduled. After the legislative session is over, the legislative council will renumber any duplicate section numbers.
- Always check the statutory reference and any applicable recommended statute improvement note to make sure a name change has not occurred since the last sunset legislation.

Review of new income tax credits

Section 43-223, A.R.S., provides that "*[a]ny new individual or corporate income tax credit that is enacted by the legislature shall include in its enabling legislation...a specific review year for the joint legislative income tax credit review committee to review the credit.*" The drafter must amend § 43-222, A.R.S., to include a reference to the statutory section establishing the tax credit and the year the tax credit is to be reviewed. The specific review year should be the fifth full calendar year following the date the credit is enacted.

4.36 TAX MEASURES (PROPERTY); REQUIRED STATEMENT OF OBJECTIVES

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

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

4.37 TRANSFERRING COST OF PROGRAM FROM POLITICAL SUBDIVISION TO STATE; REDUCING EXPENDITURES AND ADJUSTING TAX REVENUES

If a bill transfers the cost of a program from a political subdivision to the state and fails to require that tax revenues of the political subdivision be commensurately reduced, the new state obligation would be subject to the seven percent spending limitation imposed

by article IX, § 17, Constitution of Arizona. In addition, this article allows the state to adjust the seven percent limit during the first fiscal year of the transfer. To enable the economic estimates commission to make the adjustment, in the case of a legislative transfer the effective date prescribed by the bill should be July 1, the beginning date of the fiscal year following the fiscal year in which the bill is proposed for enactment.

Include provisions similar to the following temporary law sections in an act transferring program costs from a political subdivision to the state. Each situation involving a transfer is unique, however, and the following is only an example:

Sec. __. Reducing expenditures and tax revenues

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

B. Not later than October 1, 20__, the economic estimates commission shall adjust the state appropriation percentage limitation in the manner prescribed by article IX, section 17, Constitution of Arizona, and report this adjustment to the legislature.

**4.38 TRANSFERRING PERSONNEL, EQUIPMENT AND MONIES;
TRANSFERRING POWERS AND SUCCESSION**

Transferring personnel, equipment and monies

The following example provides for transferring personnel, equipment and monies from old agencies to a new or successor agency or department:

Sec. __. Succession

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

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the (old agencies) in existence before January 1, 20__.

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

D. All administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process, of the (old agencies) on January 1, 20__ are transferred to and retain the same status with the (new department).

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were

issued by the (old agencies) retain their validity for the duration of their terms of validity as provided by law.

F. All equipment, records, furnishings and other property, all data and investigative findings, all obligations and all appropriated monies that remain unexpended and unencumbered on January 1, 20__ of the (old agencies) are transferred to the (new department).

G. All personnel who are under the state personnel system and employed by the (old agencies) are transferred to comparable positions and pay classifications in the respective administrative units of the (new department) on January 1, 20__.

Note: The transfer of monies in subsection F of this example requires the addition of "APPROPRIATING MONIES" to the bill title.

Transferring powers and succession

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

Sec. __. Transferring powers

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

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

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

Sec. __. Transfer; effect; succession

A. All matters, including contracts, orders and judicial or quasi-judicial actions, whether completed or pending, of the (existing agency #1) are transferred, on the effective date of this act, and maintain the same status with the (existing agency #2).

B. Rules adopted by the (existing agency #1) are effective until superseded by rules adopted by the (existing agency #2).

C. All personnel, property and records, all data and investigative findings, all obligations and all appropriated

monies remaining unspent and unencumbered of the (existing agency #1) are transferred to the (existing agency #2) and may be used for the purposes of this act.

Note: The transfer of monies in subsection C of this example requires the addition of "APPROPRIATING MONIES" to the bill title.

4.39 TRANSFERRING AND RENUMBERING STATUTORY SECTIONS

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

- A section of codified law is renumbered if it is moved to a different placement in the same statutory article (or in title 13, in the same chapter). A section of codified law is transferred and renumbered if it is moved to a different title, chapter or article. In transferring and renumbering sections or in amending transferred and renumbered sections in a bill, place them in numerical order according to the new section number.

A section of a bill may renumber or transfer and renumber a statutory section, article or chapter as in the following examples:

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

Sec. __. Transfer and renumber
Section 16-292, Arizona Revised Statutes, is transferred and renumbered for placement in title 16, chapter 23, article 2, Arizona Revised Statutes, as section 16-2309.

Sec. __. Transfer and renumber
A. Title 41, chapter 32, Arizona Revised Statutes, is transferred and renumbered for placement in title 18, Arizona Revised Statutes, as added by this act, as chapter 1. Title 41, chapter 32, articles 1, 2 and 3, Arizona Revised Statutes, are transferred and renumbered for placement in title 18, chapter 1, Arizona Revised Statutes, as added by this act, as articles 1, 2 and 3, respectively. The following sections are transferred and renumbered for placement in title 18, chapter 1, article 1, Arizona Revised Statutes:

<u>Former Sections</u>	<u>New Sections</u>
41-3501.....	18-101
41-3502.....	18-102
41-3503.....	18-103
41-3503.01.....	18-104
41-3504.....	18-105
41-3505.....	18-106
41-3506.....	18-107
41-3507.....	18-108
41-3508.....	18-109

The following section is transferred and renumbered for placement in title 18, chapter 1, article 2:

<u>Former Section</u>	<u>New Section</u>
41-3521.....	18-121

* * *

Note: Use "as added by this act" only if the bill adds the unit referenced.

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

Sec. __. Section 16-2309, Arizona Revised Statutes, as transferred and renumbered, is amended to read:

16-2309. Political parties; notice; reports

* * *

Amending a section may also be combined with transferring and renumbering that section as follows:

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

13-2409. Obstructing criminal investigations; classification

* * *

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

PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING TITLE 20, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED, BY ADDING SECTION 20-520; AMENDING SECTION 32-4331, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED....

Note: In the bill title, use the phrase "PROVIDING FOR TRANSFERRING AND RENUMBERING" or "PROVIDING FOR RENUMBERING", as applicable, only once.

4.40 HEADING CHANGE

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

Sec. __. Heading change

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

Sec. __. Heading repeal

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

Use "former" if the chapter or article was repealed in the past, but not if it is being repealed in the current bill. The second example above illustrates the heading repeal of an article that was previously repealed.

Heading repeals and changes are not noted in the bill title.

4.41 UNIFORM AND MODEL ACTS

The National Conference of Commissioners on Uniform State Laws (now commonly known as the Uniform Law Commission) is an interstate organization of attorneys who draft and propose uniform acts intended to be adopted by all states for the purpose of consistency of laws from state to state. The most notable example of a uniform law is the Uniform Commercial Code (A.R.S. title 47). Consistent with the goal of uniformity, uniform laws should be drafted with as few changes as possible. (See also § 4.32.)

Model acts may be occasionally submitted for drafting. A model act should be considered to be a guide for proposed legislation. Unlike uniform acts, model acts may originate from any number of sources and are prepared with varying degrees of skill and quality. The text of a model act should be changed only as necessary to conform to the drafting rules, forms and styles of this manual.

4.42 VACANCY SAVINGS

Section 35-174, A.R.S., provides that vacancy savings must revert to the state general fund at the end of each fiscal year. Vacancy savings are monies saved or generated in personal services and employee-related expenditures by not filling vacant or newly authorized positions, filling a position at a step or grade lower than authorized or a

downward reclassification of an authorized position. An example of creating an exemption to the vacancy savings law as well as authorizing additional positions is as follows:

Sec. ____ Authorization for additional positions:
vacancy savings exemption

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

CHAPTER 5
APPROPRIATIONS

- 5.1 Requirements
- 5.2 Prescribing Amounts
- 5.3 Funding Source Other Than State General Fund
- 5.4 Appropriations Over Multiple Fiscal Years
- 5.5 Types of Appropriations Bills
- 5.6 Lapsing of Appropriation; Exemption from Lapsing
- 5.7 Reversion of Appropriation
- 5.8 Line-Item Veto of Appropriation
- 5.9 Bill Title
- 5.10 Additional Types of Appropriations
- 5.11 Appropriating Monies That Are "Subject To Appropriation"

CHAPTER 5

APPROPRIATIONS

5.1 REQUIREMENTS

A valid appropriation must contain a sum certain, a specified object and authority to spend. Rios v. Symington, 172 Ariz. 3 (1992).

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

- An amount of monies ("The sum of \$_____").
- A source of the monies ("is appropriated from _____").
- A fiscal year of applicability ("in fiscal year ____").
- A recipient that is either a fund or a state agency ("to _____").
- A purpose ("for/to _____").

The drafter can usually place these requirements in a single sentence. Omit the purpose phrase for an appropriation to a specific fund.

5.2 PRESCRIBING AMOUNTS

All appropriations, whether temporary or statutory, should be prescribed using numerals ("185,000") rather than words (not "one hundred eighty-five thousand dollars").

5.3 FUNDING SOURCE OTHER THAN STATE GENERAL FUND

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

Section 1. Appropriation: _____ department _____ of
transportation; _____ furnishings _____ and
equipment

The sum of \$185,000 is appropriated from the state highway fund established by section 28-6991, Arizona Revised Statutes, in fiscal year 2023-2024 to the department of transportation to purchase furnishings and equipment.

5.4 APPROPRIATIONS OVER MULTIPLE FISCAL YEARS

The following example shows how to appropriate a sum of monies over multiple fiscal years:

Sec. 3. Appropriations

The sum of \$_____ is appropriated from the state general fund in each of fiscal years 2023-2024, 2024-2025 and 2025-2026 to...

5.5 TYPES OF APPROPRIATIONS BILLS

There are four types of appropriations bills:

- The general appropriations bill contains numerous appropriations for the different departments of the state, state institutions, public schools and interest on the public debt.

Note: The general appropriations and capital outlay bills are effective on the signature of the governor but, by their terms, are applicable for the following fiscal year.

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

The general appropriation bill shall embrace nothing but appropriations for the different departments of the state, for state institutions, for public schools, and for interest on the public debt. (See also Ariz. Op. Att'y Gen. No. I78-224 (Sept. 20, 1978).)

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

- Separate appropriations bills contain only appropriations and information incidental to the appropriations, all relating to a single subject. They may be for new programs that were not anticipated but nonetheless need to be implemented. A common example is an appropriation for a new program to conform to the prior year's enactment.

Note: Separate appropriations go into effect on the general effective date unless the bill contains an emergency clause or a requirements for enactment clause ("Prop. 108"). Note also that, for purposes of accountability, a separate appropriation for a governmental entity other than the state should be made to a state agency for distribution to the local government.

The following is an example of a separate appropriations bill:

Section 1. Appropriation; insect control

The sum of \$50,000 is appropriated from the state general fund in fiscal year 20__-20__ to the governor to defray the cost of controlling insects in agricultural areas.

- Incidental appropriations bills are those that include an appropriations section to fund an activity that is required by the statutory or temporary law sections in the same bill.

Note: Incidental appropriations have the same effective date as the entire bill.

The following is an example of an incidental appropriation:

Sec. 3. Appropriation; Arizona state parks board

The sum of \$50,000 is appropriated from the state general fund in fiscal year 20__-20__ to the Arizona state parks board for the purposes provided in this act.

- Supplemental appropriations bills are for the "support and maintenance" of an existing agency for an existing function of the agency. (Article IV, part 1, § 1 (3), Constitution of Arizona; Garvey v. Trew, 64 Ariz. 342 (1946).) A supplemental appropriation is a specific appropriation and may not contain statutory or session law.

Note: Supplemental appropriations go into effect on the signature of the governor.

The following is an example of funding supplied by a supplemental appropriation to an existing appropriation made by the general appropriations bill in the previous year:

Section 1. Supplemental appropriation; registrar of contractors fund

In addition to the appropriation made by Laws 20__, chapter __, section __, the sum of \$150,000 is appropriated from the state general fund in fiscal year 20__-20__ to the registrar of contractors fund established by section 32-1107, Arizona Revised Statutes.

The term "supplemental" is not included in the bill title but is always included in the section heading.

5.6 LAPSING OF APPROPRIATIONS; EXEMPTION FROM LAPSING

Section 35-190, A.R.S., provides, in part, that obligations may not be incurred and expenditures may not be made from an appropriation after the end of the fiscal year for which the appropriation was made. This section also provides that all appropriations lapse at the expiration of one month after the end of the fiscal year.

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

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

In this example, add ; lapsing of appropriation to the section heading.

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

* * *

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

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

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

B. The appropriation made in subsection A of this section is available for use in fiscal year 2023-2024.

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

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

5.7 REVERSION OF APPROPRIATION

If the sponsor of a bill wants an appropriation to lapse on a date other than July 1, the drafter should use a reversion clause. An example of a section that authorizes the reversion of unexpended monies that were exempted from lapsing is as follows:

Sec. __. Reversion

All monies remaining unexpended and unencumbered on October 1, 2024 from the appropriation made by Laws 2023, chapter __, section __ revert to the state general fund.

5.8 LINE-ITEM VETO OF APPROPRIATION

Article V, § 7, Constitution of Arizona, provides that "*if any bill presented to the governor contains several items of appropriations of money, he may object to one or more of such items...*". In the case of Rios v. Symington, 172 Ariz. 3 (1992), the Arizona supreme court held that the line-item veto power extends to certain new appropriations, reductions, increases, transfers or eliminations of monies.

5.9 BILL TITLE

Regardless of the type of appropriation contained in a temporary law, the bill's title should include the phrase "APPROPRIATING MONIES". However, an appropriation made in a statutory section is not noted in the bill title as "APPROPRIATING MONIES". Rather, the statutory section that includes an appropriation is listed in the bill title as an amended or added section.

5.10 ADDITIONAL TYPES OF APPROPRIATIONS

In addition to provisions that are clearly designated as appropriations, the following are temporary law examples that are also appropriations and should be noted in the bill title as "APPROPRIATING MONIES":

Transferring monies

- All unexpended and unencumbered monies remaining in the _____ fund established by section 2-201, Arizona Revised Statutes, as repealed by subsection A of this section, are transferred to the _____ fund on the effective date of this section. (Note: Pursuant to § 35-142, A.R.S., this provision is not necessary if the remaining monies will go to the state general fund rather than being transferred to a specific fund.)

- All equipment, records, furnishings and other property, all data and investigative findings, all obligations and all appropriated monies that remain unexpended and unencumbered on January 1, 2025 of the ABC agency are transferred to the XYZ agency. (See also § 4.38.)

Reducing monies

- Notwithstanding section 15-1642, subsection C, Arizona Revised Statutes, for fiscal year 2023-2024, each dollar raised pursuant to the surcharge on student registration fees assessed pursuant to section 15-1642, subsection A, Arizona Revised Statutes, may be matched by less than \$2 appropriated by the legislature.

- For fiscal year 2023-2024, the department of education shall reduce the amount of basic state aid that otherwise would be apportioned to school districts statewide for district additional assistance by \$200,000,000 and shall reduce school district budget limits accordingly.

Distributing monies

Notwithstanding any other law, before the distribution of revenues of the Arizona highway user revenue fund pursuant to section 28-6538, Arizona Revised Statutes, the department of transportation shall allocate and the state treasurer shall distribute \$30,000,000 in each of fiscal years 2023-2024 and 2024-2025 as follows:

1. To the counties, 33.231 percent.
2. To the incorporated cities and towns, 48.097 percent.
3. To incorporated cities with a population of three hundred thousand or more persons, 5.247 percent.
4. To counties with a population of more than eight hundred thousand persons, 13.425 percent.

Allocating monies

Notwithstanding section 5-113, subsection K, Arizona Revised Statutes, as added by this act, the amount of in-state handle allocated to the department of gaming pursuant to section 5-113, subsection K, Arizona Revised Statutes, as added by this act, shall be as follows:

1. For fiscal year 2023-2024, thirty-four percent of the monies that would otherwise be allocated pursuant to section 5-113, subsection K, Arizona Revised Statutes, as added by this act.
2. For fiscal year 2024-2025 and each fiscal year thereafter, the monies shall be allocated as prescribed in section 5-113, subsection K, Arizona Revised Statutes, as added by this act.

Reimbursing monies

Notwithstanding any other law, each owner or operator that properly reported and confirmed a release of regulated substances after the owner's or operator's requirement to establish evidence of financial responsibility but failed to comply with the financial responsibility requirement and received at least one payment from the assurance account costs for corrective actions that were conducted between July 1, 2010 and

December 31, 2016 is eligible for reimbursement of up to \$1,000,000 per facility without regard to the number of releases at the facility as assurance account time-barred claims.

Permissive uses of monies

- Notwithstanding any other law, in fiscal year 2023-2024 the department of education may use up to \$500,000 of the amount appropriated for K-3 reading by Laws 2023, chapter 8, section 34 for technical assistance and state-level administration of the K-3 reading program.

- Any unrestricted federal monies received by this state beginning July 1, 2023 through June 30, 2024 shall be deposited in the state general fund. The monies shall be used to pay essential governmental services.

5.11 APPROPRIATING MONIES THAT ARE "SUBJECT TO APPROPRIATION"

Monies that are appropriated to a fund and that are "subject to appropriation" may be spent only if those monies are appropriated from that fund to the administrator of the fund. This type of appropriation is made as follows:

Section 1. Appropriation: automation projects fund

The sum of \$1,500,000 is appropriated from the state general fund in fiscal year 20__-20__ to the automation projects fund established by section 41-714, Arizona Revised Statutes, and is appropriated from the automation projects fund to the department of administration.

CHAPTER 6

GENERAL INSTRUCTIONS AS TO FORM AND STYLE

- 6.1 General Drafting Rules
- 6.2 A.R.S. Classification, Arrangement and Numbering
- 6.3 Capitalization
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- 6.5 Federal Statutes and Regulations
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CHAPTER 6

GENERAL INSTRUCTIONS AS TO FORM AND STYLE

6.1 GENERAL DRAFTING RULES

The goal of good bill drafting is to make legislation as short, simple and understandable as possible while not sacrificing clarity or precision. The instructions provided in this chapter are designed to achieve this goal. The following are some basic drafting guidelines discussed in this chapter:

- Use the singular form of nouns, if possible.
- Use only necessary and understandable words. (See §§ 6.12 and 6.13.)
- Do not use unnecessary legalese or redundant legal phrases. (See §§ 6.12 and 6.13.)
- Do not use slang or abbreviations. Use acronyms sparingly.
- Keep sentences as brief as possible by limiting them to a single thought.
- Keep new statutory sections as short as possible.
- Use section divisions to break down lengthy statutes into understandable units. (See § 6.7.)
- Use a list to describe multiple duties or actions. (See § 6.20.)
- Use "shall" only to impose a duty to act. (See § 6.35.)
- Use "may" to grant discretion or authority to act. (See § 6.35.)
- Use "may not" to impose a prohibition. (See § 6.35.)
- Use the present tense. (See § 6.14.)
- Use the active voice. (See § 6.15.)
- Avoid using pronouns. (See § 6.16.)

6.2 A.R.S. CLASSIFICATION, ARRANGEMENT AND NUMBERING

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

Title and chapter headings take the following form:

TITLE 16
ELECTIONS AND ELECTORS
CHAPTER 1
QUALIFICATION AND REGISTRATION OF ELECTORS

Article headings take the following form:

ARTICLE 1. QUALIFICATIONS FOR REGISTRATION

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

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

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

When determining what number should be used to begin a new chapter or article, the drafter must remember that the legislative process is not static. If possible, leave sufficient free numbers to allow the current law to expand. Title 41, chapter 13, A.R.S., beginning with § 41-1901, contains only four sections; therefore, chapter 14 of that title begins with § 41-1951. If title 41, chapter 13 contained forty sections, however, chapter 14 would have to begin with § 41-2001 to leave room for chapter 13 to expand.

6.3 CAPITALIZATION

In drafting statutory sections, only the following terms are capitalized:

- Proper nouns (proper names). However, do not capitalize derivatives of proper names with acquired independent meaning, as in "congressional district" or "roman numerals."

- Arizona Revised Statutes.

- Congress (when referring to the Congress of the United States).

- Constitution (when preceded by "Arizona" or "United States," or followed by "of Arizona" or "of the United States").

In memorials and resolutions, proper nouns, including titles of officers and names of agencies, are capitalized.

Note: When drafting, if adding a word or words to the beginning of an existing sentence, do not strike the word that appeared first in the original sentence to show the initial letter of the word in lowercase. Likewise, if a draft strikes a word or words from the beginning of a sentence, do not strike the word that is now the first word in the sentence to capitalize that word. In both instances the drafter only has to show the proper capitalization for the new sentence.

6.4 AGE

Use the following language to prescribe age categories:

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

"A person who is at least eighteen years of age...." (not "over eighteen years of age")

If stating a range of ages, don't say, for example, "between five and sixteen years of age" because it is unclear whether the ages of five and sixteen are intended to be included. In this example, say instead, "at least five and under seventeen years of age".

6.5 FEDERAL STATUTES AND REGULATIONS

Delegation issues

The legislature may not delegate its power to make laws. See Lake Havasu City v. Mohave Cty., 138 Ariz. 552 (App. 1983). Therefore, do not use language that makes a

statute appear dependent on federal law for its administration or enforcement. The drafter may use the following techniques to avoid such an unlawful delegation:

- If the intent of the bill is to conform state law to current federal law, simply incorporate the pertinent federal language into the bill.
- If it is impracticable to restate or repeat the federal law, require the appropriate state agency to adopt rules based on the federal law and to revise the rules as necessary to keep them current.

Using "as amended" or "and regulations adopted"

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

If the legislature adopts by reference a measure to which amendments have previously been made, using "as amended" indicates that the legislature intended to include the amendments previously made and not subsequent amendments. However, the legislature may not constitutionally delegate its authority by using "as amended" to include future amendments by the authorities of another state or the United States to the measure that the other state or the United States adopts. See Scappaticci v. Sw. Sav. & Loan Ass'n, 135 Ariz. 456, 460 (1983); 2B Sutherland Statutory Construction § 51.8 (7th ed. 2012).

Similarly, using the phrase "and regulations adopted" can cause confusion. If the legislature enacts by reference a measure to which associated regulations have previously been adopted, using "and regulations adopted" indicates that the legislature intended to include the regulations previously adopted and not subsequent regulations. In other words, the regulations that apply are only those that exist at the time the legislature enacts the measure.

Citing a federal act

Citing federal acts should be avoided for the reasons stated above and because federal law is subject to frequent and often substantial changes. A federal citation may be correct when first added to the A. R. S., but if the act or United States Code section cited is repealed or substantially modified, the reference in the A. R. S. may no longer be correct. If a drafter believes that a citation to a federal act is necessary, the drafter should carefully consider the most appropriate citation to the federal act or portion of the federal act.

If a drafter intends the reference to cover the entire federal act, the most appropriate reference may include only the federal act name and the public law citation. It is important to keep in mind that many public laws contain material unrelated to the United States Code section or contain only amendments that do not include all of the text that the drafter intends to cite. If only a portion of the federal act applies, use the most specific reference for that provision of law. If that provision of law is codified, a cite to the specific United States Code section is most appropriate. If the provision is not codified, a reference to the section of the act should be used.

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

"BOARD" MEANS THE UNITED STATES METRIC BOARD EXISTING UNDER THE METRIC CONVERSION ACT OF 1975 (P.L. 94-168; 89 STAT. 1007; 15 UNITED STATES CODE SECTION 205a).

Note the following:

- If citing consecutive sections or subsections, give inclusive numbers. Do not use "et seq."
- If a federal act has no popular name, it should be cited by the date of enactment: "Act of _____, 20 __", followed by the statutory references.
- Cite to the official United States Code, not to the unofficial United States Code Annotated (e.g., 15 United States Code section 260a, not 15 United States Code Annotated section 260a).
- Use the abbreviation "P.L." in citations to federal acts, but use "Public Law" in the text of the A. R. S. unless "P.L." is part of a defined term for that act.
- Use "national" or "federal" in the act's name only if that term is part of the official name.

Citing a federal regulation

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

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

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

Citing the federal poverty guidelines

The term "federal poverty guidelines" is defined in § 1-215, A.R.S., as meaning the *"guidelines as updated annually in the federal register by the United States department of health and human services."* This definition applies to all statutes and laws of this state.

Note: The term "federal poverty level" by itself is ambiguous. There are several poverty levels that depend on an individual's or family's circumstances. The poverty "level" is not synonymous with the poverty "guidelines." The poverty levels are set, revised annually and reported in the guidelines. Any use of the term "federal poverty level" should include a specific reference to the "federal poverty guidelines" as defined in § 1-215, A.R.S.

6.6 CITING THE ARIZONA CONSTITUTION

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

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

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

6.7 A.R.S. DIVISION UNITS; CITING INTERNAL REFERENCES

Division units

A.R.S. sections can be divided into the following division units, designated as:

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

The proper citation of an A.R.S. section that contains all of these division units is, for example, "section 15-957, subsection C, paragraph 2, subdivision (a), item (i)". Divisions beyond items are not used in the A.R.S. (See § 6.20.)

Note: Do not divide a section into division units unless there are at least two division units involved. If there is a subsection A, there must be at least a subsection B as well.

A division unit must introduce any further subdivided unit with lead-in language that ends in a colon, and each of those subsequent units must be consistent with the lead-in language. For example:

A. The peace officer shall include in the notice of removal all of the following:

1. The word "warning" in boldfaced type.

2. A statement that, if the owner disturbs the notice of removal, both of the following apply:

(a) The owner of the real property is subject to:

(i) A civil penalty the first time the notice is disturbed.

(ii) A class 5 felony a subsequent time the notice is disturbed.

(b) A buyer, tenant or customer may void a purchase contract, rental agreement or other agreement.

* * *

B. The owner of the real property shall remediate the contaminated....

An A.R.S. section that is not divided into subsections but that includes a tabulated list that follows lead-in language is divided into numbered paragraphs and is correctly cited as, for example, "section 1-215, paragraph 25." (See also §§ 4.6 and 6.20.)

Citing internal references to the A.R.S.

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

If making a reference within a section to another division unit in that section, use the following style:

...as provided in subsection A of this section.

...as provided in subsection A, paragraph 1 of this section.

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

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

Use "of this subsection" after a reference to a paragraph in that subsection. Likewise, use "of this paragraph" after a reference to a subdivision in that paragraph or "of this subdivision" after a reference to an item in that subdivision.

If a reference is made to a division unit of another A.R.S. section, the designation would be "as provided in section 42-101, subsection A".

In citing a complete article, use the following style:

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

Note: Do not cite session law or Arizona administrative rules in statutory text.

6.8 NUMBERS, DATES AND TIMES

Generally in the A. R. S. numerals and simple fractions are written out, as "three hundred fifty thousand" and "two-thirds." Do not use the word "and" when writing a numeral, as "six hundred and fifty thousand," and do not follow the spelled-out numeral with the figure in parentheses, as "one thousand five hundred (1,500)."

The following are exceptions to the general practice of writing out numerals:

- Statutory citations ("section 15-101, paragraph 2").
- Legal descriptions of real property.
- Dates ("January 1, 2023" or "fiscal year 2023-2024").
- Times ("4:00 p.m.").
- Criminal classes ("class 1 felony").
- Complex numbers or fractions ("multiplied by .0324", "2.43 percent" or "1/36").
- Ratios ("1:2").
- All dollar amounts, including:
 - Appropriations, whether in statute or session law ("200,000" or "\$5,014,200.50").
 - Other dollar amounts ("the rate is \$1.26" or "the maximum annual benefit is \$5,000").
 - Amounts under one dollar (\$.25 per page").
 - Amounts under one cent (\$0.00001 per gallon").

- Road or highway designations ("Interstate Highway 40").
- Numerals included as such in a definition or term of art ("340 B drug pricing", "K-3 reading program" or "COVID-19").

When writing dates and times:

<u>Do not use:</u>	<u>Use:</u>
July first, two thousand twenty-three	<i>July 1, 2023</i>
June 30th, June thirtieth, or the thirtieth of June	<i>June 30</i>
2023-24	<i>2023-2024</i>
twelve o'clock noon	<i>noon</i>
twelve o'clock midnight	<i>midnight</i>
beginning on October 1, 2024	<i>beginning October 1, 2024</i>
ten o'clock p.m.	<i>10:00 p.m.</i>
two-fifteen a.m.	<i>2:15 a.m.</i>

When specifying a low and high range, do not use "between". "Between fifty and one hundred" means "more than fifty and less than one hundred." If "fifty through one hundred" is intended, use "fifty or more but not more than one hundred." If the drafter does not wish to include "one hundred," use "fifty or more but less than one hundred."

6.9 OFFICER AND AGENCY NAMES

Precision requires the use of the correct, complete title of any governmental officer or agency. If in doubt, check the authorizing statute for that officer or entity. The proper names of commonly used state entities are as follows:

Arizona Board of Regents	15-1621
Arizona Commerce Authority	41-1502
Arizona Commission of African-American Affairs	41-531
Arizona Commission on the Arts	41-981
Arizona Department of Agriculture	3-102
Arizona Department of Forestry and Fire Management.....	37-1301
Arizona Department of Homeland Security	41-4252
Arizona Department of Housing	41-3952

Arizona Game and Fish Commission	17-101
Arizona Game and Fish Department.....	17-101
Arizona Geological Survey.....	27-102
Arizona Health Care Cost Containment System Administration.....	36-2903
Arizona Historical Society.....	41-821
Arizona Medical Board.....	32-1402
Arizona State Board of Pharmacy.....	32-1902
Arizona State Hospital.....	36-202
Arizona State Library, Archives and Public Records	41-151.01
Arizona State Lottery Commission.....	5-552
Arizona State Parks Board.....	41-511
Arizona State Retirement System	38-711
Arizona State Schools for the Deaf and the Blind	15-1302
Attorney General	41-191
Citizens Clean Elections Commission	16-955
Commission for the Deaf and the Hard of Hearing	36-1942
Corporation Commission.....	40-102
Department of Administration	41-701
Department of Child Safety	8-451
Department of Economic Security.....	41-1952
Department of Education	15-231
Department of Emergency and Military Affairs	26-101
Department of Environmental Quality.....	49-102
Department of Gaming	5-604
Department of Health Services	36-102
Department of Insurance and Financial Institutions	6-110 and 20-101
Department of Juvenile Corrections	41-2802
Department of Law	41-193
Department of Liquor Licenses and Control.....	4-111
Department of Public Safety.....	41-1711
Department of Revenue	42-1002
Department of State	41-121.02
Department of Transportation.....	28-331
Department of Veterans' Services.....	41-601
Department of Water Resources	45-102
Division of Racing.....	5-101.01
Governor.....	41-101
Governor's Office on Tribal Relations.....	41-2051
Industrial Commission of Arizona.....	23-101
Joint Legislative Budget Committee.....	41-1271
Legislative Council	41-1301
Office of Administrative Hearings.....	41-1092.01
Office of Economic Opportunity	41-5302
Office of Ombudsman-Citizens Aide	41-1375
Office of Tourism	41-2301
Pest Management Division	3-3601
Public Safety Personnel Retirement System.....	38-841
Secretary of State.....	41-121
State Board of Education	15-201
State Board of Equalization	42-16152
State Board of Tax Appeals	42-1252
State Board of Technical Registration	32-102
State Department of Corrections.....	41-1602
State Forester	37-1301

State Land Department.....	37-102
State Mine Inspector	27-121
State Real Estate Department.....	32-2101
State Treasurer	41-171
Superintendent of Public Instruction.....	15-251

6.10 PUNCTUATION

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

The following guidelines promote uniformity in punctuation:

Colons

Use a colon in the text of a section only to introduce a series or a list. For a series of paragraphs, subdivisions or items following a colon, use a period at the end of each. See §§ 6.7 and 6.20.

Commas

Use commas in the following instances:

- To separate the items in a series, as in "the governor, the director, the attorney general and the secretary of state" Note: Omit commas before the conjunction "and" or "or" within a series of words, phrases or clauses, unless the elements in the series are unusually complex. Consider the following:

THE COMMISSION SHALL PUBLISH SCHEDULES SHOWING ALL RATES, TOLLS, RENTALS, CHARGES AND CLASSIFICATIONS TO BE COLLECTED OR ENFORCED, ANY RULES, REGULATIONS, CONTRACTS, PRIVILEGES AND FACILITIES THAT RELATE TO RATES, TOLLS, RENTALS, CLASSIFICATIONS OR SERVICE, AND THE NAMES OF THE PUBLIC SERVICE CORPORATIONS THAT ARE PARTIES TO ANY JOINT TARIFF, RATE, FARE, TOLL, CONTRACT, CLASSIFICATION OR CHARGE.

In this example, it is helpful to insert a comma before the last "AND." It is even more clear to set out each group of elements in a separate paragraph. (See § 6.20.)

- In introductory clauses, as in "BEGINNING JULY 1, 2023, THE DIRECTOR SHALL", "IN FIVE YEARS, THE DIRECTOR SHALL" or "ON THE LAST TUESDAY OF THE MONTH, THE DIRECTOR SHALL"

- Note: Do not use a comma between the month and year if no day is included ("THE AVERAGE DAILY MEMBERSHIP FOR APRIL 2023 IS CALCULATED BY"). If a full date appears in the middle of a sentence, do not use a comma after the year

("THE COMMITTEE SHALL MEET ON OR BEFORE JANUARY 1, 2024 AND EACH YEAR THEREAFTER.").

- Before a conjunction if both clauses are a complete sentence.
- Before "EXCEPT THAT" if what follows is a complete sentence.
- To set off clauses describing a subject that is already identified ("THE DIRECTOR, WHO IS APPOINTED PURSUANT TO SECTION 36-2903, SHALL") but not clauses that are essential to identifying the subject ("A COMMISSIONER WHO SERVES A THREE-YEAR TERM SHALL. . . .").

Note: Never separate the subject of the sentence from its verb by only one comma.

Quotation marks

Generally, in statutory drafting place periods and commas *outside* the last quotation mark. For example: FOR THE PURPOSES OF THIS SUBSECTION, "STOP", "STOPPED" OR "STOPPING" MEANS. . . . However, use the correct grammatical placement of punctuation *inside* the last quotation mark in narrative provisions of statutory or session law, such as an intent or purpose provision, in memorials and resolutions and in legal memos.

In all instances, place final semicolons and colons *outside* the last quotation mark.

6.11 SPELLING

Use of dictionary

Generally, follow *Webster's New International Dictionary* (unabridged) or *Merriam-Webster's Collegiate Dictionary*, eleventh edition, in spelling, compounding and dividing words unless otherwise provided in this manual.

Using hyphens

In most cases, follow *Merriam-Webster's Collegiate Dictionary*, eleventh edition, for guidance in hyphenating words. Hyphenate compound words such as "right-of-way" and "for-profit" as the dictionary prescribes. Use hyphens in fractions such as "one-half" and "nine-tenths" and in written numbers such as "three hundred sixty-five." Follow the dictionary in hyphenating prefixes (e.g., "pretrial," "postelection," "quasi-judicial").

Use hyphens to connect two or more words that together modify a noun. In the phrases "on-site facility" and "twenty-four-hour notice," for example, "on-site" and "twenty-four-hour" are compound adjectives that modify "facility" and "notice," respectively. However, do not use a hyphen for an "-ly" adverb, as in "federally insured depository."

Exceptions to hyphenating as indicated in the dictionary include words that are part of a statutorily defined term or fund name. For example, the term "irrigation non-expansion area" is defined in statute, so spell it accordingly if using the term in this context despite the dictionary's preferred spelling of the word "nonexpansion."

To add a hyphen to existing language when drafting, strike the necessary words and reinsert those words in upstyle with the appropriate hyphen. For example, to correct "third party investigator," strike "third party" and insert "THIRD-PARTY" in upstyle. Likewise, to correct "publicly-owned," strike "publicly-owned" and insert "PUBLICLY OWNED" in upstyle.

6.12 SYNONYMS

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

6.13 WORDS AND PHRASES TO AVOID

Do not use the following words and phrases:

aforesaid
aforementioned
before-mentioned

duly

herein
hereinabove
hereinafter
hereunder

in no event

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

thereof
thereto
therewith
to wit

whatsoever
whensoever
wheresoever

- Do not use "the Maricopa county superior court." When referring to the superior court, use "THE SUPERIOR COURT IN MARICOPA COUNTY."

- When referring to a statutory section, do not say "the provisions of section 36-2903 do not apply." Say "SECTION 36-2903 DOES NOT APPLY" unless the reference is to a specific provision of that statutory section, such as "THE PROVISIONS OF SECTION 36-2903 RELATING TO THE ATTORNEY GENERAL DO NOT APPLY...."

Do not use:

Use instead:

above and beyond
accord
adequate number of
administrative penalty
afforded
aid and abet
and/or
any and all
as long as
at the place
at the time
attorney's fees

above
give
enough
civil penalty
given
aid
_ or _, or both,
all
if
where
when
attorney fees

by (date)
by and with

on or before (date)
by

constitute and appoint
create
crisis situation

appoint
establish
crisis

do and perform
Dominion of Canada
during such time as

do
Canada
while

each and every
emergency situation
evidence, documentary or otherwise

each
emergency
evidence

fail, refuse and neglect
facsimile (system of transmitting)
for the purpose of
forthwith
full and complete

fail
fax
to
promptly [or] immediately
full

Do not use:

Use instead:

give consideration to
greater than (when referring to quantity)

*consider
more than*

however [or] provided
he or she

*if [or] unless [or] state the condition
he, the applicant, etc.*

if any person shall violate
if it shall appear that
if it shall be necessary
in the event that
in the preceding section
inc.
in its discretion may
includes, but is not limited to,
is applicable
is defined and shall be construed
to mean with reference to

*a person who violates
if it appears
if it is necessary
if
in section (insert number)
incorporated
may
includes
applies
means*

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

*may
shall*

is ordered and directed to
is required to
it is the person's duty to
it shall be lawful
it shall be unlawful

*shall
shall
The person shall
(actor) may
it is unlawful*

lay member

public member

make a statement setting forth
make application
make inquiry
man-made

*state
apply
inquire
artificial*

not-for-profit
not to exceed
nothing in this section shall
be construed to/this section
shall not be construed to

*nonprofit
not more than
this section does not*

Do not use:

Use instead:

notwithstanding any other provision of law to the contrary

notwithstanding any other statute [or] notwithstanding any other law [or] notwithstanding any law to the contrary
void

null and void

on and after June 30, 2023

on June 30, 2023 (if noon is intended); from and after June 30 (if midnight is intended) (See § 4.10.)

on the part of order, adjudge and decree over the age of sixteen

by (or) from order at least seventeen years of age

part and portion

part

per annum

a year

practical

practicable

prior to

before

provide assistance to

assist

provided, however [or] provided that

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

registered mail

certified mail (See § 6.40.)

regular mail

first class mail

Republic of Mexico

Mexico

rule and regulation

rule (except Title 23)

set forth

state

shall be

is [or] are

shall be in full force and effect

is effective

shall have the right (or authority)

may

so long as

if

sole and exclusive

sole

State of Arizona (except for memorials and resolutions)

this state

subsequent to

after

take into consideration

consider

through

until

the same is hereby

is

Do not use:

under the provisions of
upon
up to
U. S.
utilize

verified statement

with reference to
wherein

Use instead:

under
on
not more than
United States
use

notarized statement

about
in which

6.14 USING THE PRESENT TENSE

Use the present tense in drafting since a statute speaks as of the time that it is being read, not merely as of the time it was enacted. For example, say "A person who drives recklessly" and not "A person who shall drive recklessly" or "A person who drove."

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

Do not use "shall" to convey future meaning. Statutes are generally prospective in application, but it is incorrect to use the future tense in writing statutory text. In addition, present tense is more readily understood and presents more forceful admonitions.

Do not use:

It shall be unlawful

If a member shall resign

"Person" shall mean

The equipment shall remain the
property of the lessor

No person shall be entitled

This section shall not be
construed to

Who shall serve

Use instead:

It is unlawful

If a member resigns

"Person" means

*The equipment remains the
property of the lessor*

A person is not entitled

This section does not

Who serves

Note: See § 6.35 for the proper use of "shall."

6.15 USING THE ACTIVE VOICE

Use the active voice in drafting. The active voice is more direct and less subject to misinterpretation than the passive voice. When the passive voice is used, it may not be clear on whom a duty is imposed or a power or privilege conferred. The verb form is passive if it consists of a form of the verb "to be" and the past participle of another. As an example consider "The notices shall be mailed by the secretary" (passive) compared with "The secretary shall mail the notices" (active).

6.16 GENDER-NEUTRAL DRAFTING

Draft new legislation in gender-neutral terms, if possible, and avoid using the masculine pronoun. The drafter should also amend existing statutory text to use gender-neutral terms. However, in some cases this might result in confusion, awkward sentence structure or improper grammar, and in those cases it may be preferable to use a gender-specific pronoun. In any case, be aware of § 1-214, A.R.S., subsections C and D, which provide:

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

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

This provides all the legal authority necessary for the statutes to apply to males and females alike (unless, of course, there is some biological basis for exclusivity such as with statutes relating to pregnancy or paternity litigation).

Gender-neutral drafting should not call attention to itself through contrived terms or awkward sentence structure. Select replacement terminology with care. "Police officer" might be a satisfactory replacement for "policeman," but "military officer" is not the equivalent of "serviceman."

The following example illustrates the proper way to avoid personal pronouns:

A PERSON MAY NOT PROVIDE HEARING SERVICES IF THAT PERSON IS NOT CERTIFIED BY THE BOARD. IF THE DIRECTOR DENIES AN APPLICATION FOR CERTIFICATION, THE DIRECTOR MAY REQUIRE THE APPLICANT OR THE APPLICANT'S DESIGNEE TO PERSONALLY APPEAR BEFORE THE BOARD.

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

6.17 SPLITTING VERB PHRASES

Verb phrases, or even infinitives, may be "split" by an adverb, as placing the modifier after the verb often sounds contrived or awkward. For example, it is correct to say "shall annually submit," "may carefully consider" and "to immediately reject."

Try not to separate the parts of a verb phrase too far apart, however, as in "THE COMMISSION SHALL, WITHOUT REFERENCE TO ANY OTHER PROVISION IN THIS TITLE, AUTHORIZE...." Instead, this example should read: "THE COMMISSION, WITHOUT REFERENCE TO ANY OTHER PROVISION IN THIS TITLE, SHALL AUTHORIZE...."

6.18 BURIED VERBS

Do not bury the main action verb in a string of superfluous text. For example, do not say "shall make an application for," "shall give consideration to," "may provide assistance to" or "may conduct an examination of" if "shall apply for," "shall consider," "may assist" or "may examine" succinctly states what is intended.

6.19 POSSESSIVES

If referring to a joint possessive—an item that belongs to more than one person—say, for example, "THE PRESIDENT AND SPEAKER'S REPORT" (i.e., the report of the president and speaker). If each entity has its own item, say "THE PRESIDENT'S AND SPEAKER'S REPORTS" (i.e., the president's report and the speaker's report) or, if the context requires, say "THE PRESIDENT'S OR SPEAKER'S REPORT" (i.e., the president's report or the speaker's report).

6.20 LISTS; FORMAT

Use lists to set out related elements such as definitions, powers, duties, restrictions, examples and conditions.

To properly use a list, the drafter shall:

1. Introduce the listed items by lead-in language that ends in a colon.
2. List each distinct detail or thought in a separately numbered paragraph if the lead-in phrase is in a section or subsection. If necessary, a listed paragraph may contain additional sentences that apply only to that paragraph.
3. Capitalize the first word of each sentence.
4. End each sentence with a period.
5. Use sentences that, when read with the lead-in language, form a complete thought and grammatical sentence.

6. If necessary, further break down the list:
 - (a) Into two or more subdivisions.
 - (b) Into two or more items. Items:
 - (i) Are designated by lower-case Roman numerals in parentheses.
 - (ii) May not be broken down into smaller units.

(See also § 6.7.)

Note:

- If necessary, the lead-in phrase should indicate whether the enumerated elements are cumulative ("... ALL OF THE FOLLOWING APPLY") or alternative ("... ANY OF THE FOLLOWING APPLIES").
- All items in the list should belong to the same class or have a common theme, as indicated in the lead-in language.

6.21 MODIFIERS

To avoid ambiguity, be careful to modify only the actual words intended to be modified. For example, "an unmarried student, parent or pregnant woman" is ambiguous since it is not clear what "unmarried" modifies. In this example, the drafter should write either "A PARENT, A PREGNANT WOMAN OR AN UNMARRIED STUDENT" or "AN UNMARRIED PERSON WHO IS A STUDENT, A PARENT OR A PREGNANT WOMAN", depending on the legislation's intent.

Similarly, "a licensee may hunt moose, deer or ducks that are not on the endangered species list" is ambiguous. Often, it is helpful to use a list. If the modifier applies to all of these animals, use the following format:

A LICENSEE MAY HUNT ANY OF THE FOLLOWING IF THE ANIMAL
IS NOT ON THE ENDANGERED SPECIES LIST:
1. MOOSE.
2. DEER.
3. DUCKS.

However, if the drafter intends to modify only one of these terms, the drafter should state, for example, "A LICENSEE MAY HUNT DUCKS THAT ARE NOT ON THE ENDANGERED SPECIES LIST, MOOSE OR DEER."

6.22 USING "AMOUNT" AND "NUMBER"

"Amount" is used to refer to something that is uncountable and considered as a mass (e.g., an amount of water). "Number" is used to refer to individual countable items (e.g., a number of plants).

6.23 USING "FEWER" AND "LESS"

Generally, use "fewer" for countable, individual things and use "less" for an uncountable quantity or mass of things. An easy way to help distinguish the correct word is to use the "singular versus plural" rule: use "less" for singular nouns and "fewer" for plural nouns. For example, say "fewer applicants," "fewer than fifty vehicles," "less gasoline" or "less stress".

It can be trickier to know which to use when talking about things such as percentages, population, time, money, distance, weight, temperature and speed. For these, use the singular versus plural rule to see that you mean, for example, "the population is one million persons," "twelve hours is required," "eighty miles per hour is speeding," "the truck's weight is ten thousand pounds" and "the fee is "\$100". Here, these words are understood to be a singular sum or quantity, so use "less" as in the following:

- Percentages: "...less than one-fourth of the shareholders"
- Population: "...a population of one million persons or less"
- Time: "...may operate for ninety days or less"
- Money: "...may impose a fee of less than \$100 to apply"
- Distance: "...vehicles that travel less than fifty thousand miles each year"
- Weight: "...trucks that weigh ten thousand pounds or less"
- Temperature: "...less than ninety degrees"
- Speed: "...roadway speeds of less than eighty miles per hour"

6.24 USING "BIENNIALLY" AND "BIANNUALLY"

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

Use "once every two years" instead of "biennially" and "semiannually" or "twice a year" instead of "biannually."

6.25 USING "BIMONTHLY" AND "SEMIMONTHLY"

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

6.26 USING "CONSECUTIVE" AND "SUCCESSIVE"

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

6.27 USING "CONTINUAL" AND "CONTINUOUS"

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

6.28 USING "ASSURE," "ENSURE" AND "INSURE"

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

6.29 USING "EXCEPT" AND "PROVIDED"

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

"THIS ARTICLE DOES NOT APPLY TO. . . ." (to state an exception).

"THE ELIGIBILITY OF A MEMBER OF THE BOARD TERMINATES IF THAT MEMBER FAILS TO MAINTAIN A CURRENT LICENSE TO PRACTICE. . . ." (to state a condition subsequent that is often stated as a proviso).

6.30 USING "FARTHER" AND "FURTHER"

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

6.31 USING "FUNDS" AND "MONIES"

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

6.32 USING "IF," "WHERE" AND "WHEN"

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

6.33 USING "IF" AND "WHETHER"

Although "if" and "whether" may sometimes be used interchangeably, particularly in casual use, they are not synonymous. Generally, the rule is to use "if" when the situation is hypothetical or when you have a conditional sentence—that is, one that depends on a certain circumstance. (See section 6.32.) Use "whether" to show that there are two alternatives or a choice.

In a conditional sentence, a condition must be satisfied before something occurs. In this instance, always use "if":

IF THE APPLICANT SUBMITS THE FORM WITHIN TEN DAYS, THE COMMISSION SHALL APPROVE THE REQUEST.

IT IS A DEFENSE TO AN ACTION UNDER THIS SECTION IF THE LICENSEE REQUESTED ASSISTANCE FROM A PEACE OFFICER TO REMOVE THE PERSON.

In all other circumstances use "whether":

THE BOARD SHALL DETERMINE WHETHER (not "if") THE RESTAURANT MAY CONTINUE TO OPERATE BASED ON CRITERIA PRESCRIBED IN THIS SECTION.

IF THE JURY FINDS THAT AN ALLEGED AGGRAVATING CIRCUMSTANCE HAS BEEN PROVEN, THE JURY SHALL DETERMINE WHETHER (not "if") THE DEATH PENALTY SHOULD BE IMPOSED.

The phrase "whether or not" is usually redundant. However, use "whether or not" when the intended meaning is "regardless of whether" or "in any case" as in the following examples:

THE BUYER SHALL ACKNOWLEDGE RECEIPT OF THE AFFIDAVIT WHETHER OR NOT THE AFFIDAVIT IS SENT WITHIN THE REQUIRED TIME PERIOD.

THE PERMITTEE MAY OFFER WAGERING ON THE SIMULCAST RACING WHETHER OR NOT THE POSTED RACES HAVE BEEN CONDUCTED ON THE DAY THE SIMULCAST IS RECEIVED.

6.34 USING "INCLUDES"

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

Therefore, the words "include," "includes" and "including," when used by themselves to introduce a list of examples, are words of "inclusion," not of limitation or exclusion. It is therefore unnecessary, and occasionally confusing and erroneous, to use

the phrase "includes, *but is not limited to.*" Since "includes" is not exhaustive, the words "*but is not limited to*" are redundant, add nothing and invite misinterpretation.

Be aware of the following circumstances that may affect the use of "include":

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

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

Neither of these instances justifies redundancy by using the phrase "*but is not limited to.*" Instead, draft the last entry in the list that follows with a phrase such as "provide other similar services to clients" or "perform other tasks of a similar nature" that clearly states an open-ended administrative authorization.

6.35 USING "SHALL," "MAY," "MAY NOT" AND "SHALL NOT"

Shall

"Shall" is properly used to indicate that something is mandatory. Use "shall" to prescribe a duty to act, rather than to declare a legal result. Do not say "THE EQUIPMENT SHALL REMAIN THE PROPERTY OF THE UNITED STATES." Instead say: "THE EQUIPMENT REMAINS. . . ." Avoid using "shall" to confer a right, as with "the director shall receive compensation." Instead use "THE DIRECTOR'S COMPENSATION IS" or "THE DIRECTOR IS ELIGIBLE TO RECEIVE COMPENSATION."

If "shall be" can be replaced with "is" or "are," do so. See §§ 6.14 and 6.15 for examples of the improper use of "shall."

May

"May" is permissive and confers a privilege or power. Generally, "may" implies discretion or permission. Use "may" when giving a person or entity the option to act or not act.

May not and shall not

"May not" prohibits an action. "Shall not" literally imposes a duty not to act. These phrases are often viewed as equivalent expressions of prohibition, but to prohibit an action use "may not."

Incorrect use with a negative subject

Avoid the negative subject with affirmative "shall" as in "no person shall...." Literally, this means that no one is required to act. It negates the obligation but not the permission to act. In contrast, "NO PERSON MAY" negates the permission also and is in reality the stronger proscription. However, strict rules of drafting suggest that the legal subject should be stated affirmatively, as "A PERSON MAY NOT...."

Consequences of inconsistent or inaccurate use

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

6.36 USING "SUCH"

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

"Such" may be used with "as" to list examples ("items such as office supplies, furniture and personnel files").

"Such" may be used with an indefinite article to clarify the character, quality or extent of something that has been previously indicated or implied, as in the following example:

An accountant making an audit to be submitted instead of an examination shall obtain prior approval from the superintendent before conducting such an audit. In approving such an audit, the superintendent may prescribe minimum requirements.

In this example, "such" clarifies the later uses of "audit" as meaning one that is "submitted instead of an examination."

6.37 USING "THAT" AND "WHICH"

If possible, use "that" (signaling a *restrictive clause*) rather than "which" (introducing a *nonrestrictive clause*) in bill drafting. Because nonrestrictive clauses give supplemental or descriptive—but not essential—information about the word or phrase

being modified, they are generally not suitable for statutory language. Additionally, readers often do not understand the distinction between restrictive and nonrestrictive clauses, leading to ambiguity and widespread uncertainty. In bill drafting, it is better to use short, easily understood sentences that contain only essential information.

- *"That" clauses* are *essential* to the complete meaning of a sentence and are not set off by commas. For example:

THE BOARD SHALL IMMEDIATELY INVESTIGATE COMPLAINTS THAT RELATE TO CHILD ABUSE OR NEGLECT.

Here, the restrictive clause "that relate to child abuse or neglect" is essential to the meaning of the sentence. Without it, the sentence, though grammatically correct, would not have the intended meaning of relating only to specific types of complaints.

- *"Which" clauses* provide information that is *nonessential* to the sentence's meaning. Without a nonrestrictive clause, the sentence retains its complete meaning. A nonrestrictive clause is preceded by a comma or, if it occurs in the middle of the sentence, is set off by commas. For example:

THE BOARD SHALL IMMEDIATELY INVESTIGATE COMPLAINTS THAT RELATE TO CHILD ABUSE OR NEGLECT, WHICH MAY BE SUBMITTED ONLINE.

Here, the nonrestrictive clause "which may be submitted online" merely provides additional information regarding the complaints. Instead of including this clause, the meaning could be more clearly stated in an additional separate sentence, such as, "A person may submit a complaint to the board online."

6.38 USING "THEREFORE" AND "THEREFOR"

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

6.39 USING "THROUGH"

The word "through" means "to and including" when used in reference to a series of three or more statutory units. The drafter should separately list all titles, chapters, articles and statutes being referenced for ease in locating those references using Westlaw, Perceptive and other electronic search engines. For this reason, use "through" only with smaller statutory units, including subsections, paragraphs, subdivisions and items (e.g., "section 5-111, subsections D through H"). Never use "through" in a bill title.

Note: See § 7.15 for appropriate use of "through" in amendments.

6.40 USING "CERTIFIED MAIL" AND "REGISTERED MAIL"

"Certified" and "registered" mail are frequently confused. Both provide the sender with a receipt to document the mailing. However, with registered mail a postal worker must write a receipt each time the item is passed from one worker to another. As a result, registered mail is more expensive than certified mail. Since the risk of nondelivery with certified and registered mail is slight, use the term "certified mail" to require the documentation of a mailing.

Certified mail, return receipt requested

Adding the words "return receipt requested" requires the postal service (for an extra fee) to also notify the sender by mail or email of the item's delivery. The postal service always records that certified mail was delivered and, if asked, will document delivery, although for a higher fee than if a return receipt was originally requested.

If it appears that there will probably be infrequent need for proving delivery, it might be less expensive over time for an agency to rely on backup proof of delivery, rather than to require a return receipt at every mailing.

6.41 USING "PERSON" AND "INDIVIDUAL"

Use "person" if you want to apply a law to human *and* nonhuman entities. Use "person" if you want a law to apply only to humans and it is clear from the context that the law cannot apply to nonhuman entities. For example, use "person" if the law relates to marriage. Use "individual" only if you want to limit the law to humans and this application is otherwise not apparent from the context.

6.42 USING "PERSON" WHEN DEFINING A CRIME

In defining a crime, use "person" instead of "victim" or "defendant" because the "person" on the receiving end of the crime is not yet a "victim" and the "person" committing the crime is not yet a "defendant."

6.43 USING "PRESCHOOL AND KINDERGARTEN PROGRAM"

Because preschool and kindergarten are programs, not grades, use, for example, the term "preschool and kindergarten programs and grades one through three."

6.44 USING "JUSTICE COURT"

The officeholder is a "justice of the peace," but the drafter should refer to the court as "justice court" under article VI, § 32, Constitution of Arizona.

6.45 USING "COMPRISE" AND "COMPOSE"

"Compose" means to form or to constitute. "Comprise" means to consist of, to be made up of or to contain. The parts compose the whole; the whole comprises, or is composed of, the parts. It is always incorrect to say "is comprised of."

THE PROPERTY MUST COMPRISE AT LEAST TEN ACRES OWNED BY THE SAME FAMILY.

THE BOARD IS COMPOSED OF THE CLERK, THE TREASURER AND THREE PUBLIC MEMBERS.

6.46 USING "THIS ACT"

Do not use the words "THIS ACT" in statutory language. Use instead "THIS TITLE", "THIS CHAPTER", "THIS ARTICLE" or "THIS SECTION", as appropriate.

6.47 USING "TAX YEAR" AND "TAXABLE YEAR"

"Tax year" is a defined term for property tax purposes. (See § 42-11001, A.R.S.) "Taxable year" is a defined term for income tax purposes. (See § 43-104, A.R.S.) "Tax year" and "taxable year" are defined terms, used interchangeably, for transaction privilege tax purposes. (See § 42-5001, A.R.S.) The drafter is cautioned to use each term accordingly.

6.48 USING "PERSONS WITH DISABILITIES"

Most instances of the terms "handicapped" and "disabled" were removed from the Arizona Revised Statutes by Laws 2014, chapter 215. Avoid these terms unless the bill's language must conform to federal law. Section 41-5201, A.R.S., requires the state to *"use the term 'persons with disabilities' in all laws, rules, publications, orders, actions, programs, policies and signage."*

CHAPTER 7
AMENDMENTS

- 7.1 Amendments in General
- 7.2 Blank Amendments
- 7.3 Blank Amounts
- 7.4 Capitalization
- 7.5 Conforming Title
- 7.6 Hyphenated Words
- 7.7 Identical Changes on a Single Page or Line
- 7.8 Inserting New Language
- 7.9 Page Designation
- 7.10 Punctuation
- 7.11 Restoring Stricken Language
- 7.12 Section Headings
- 7.13 Strike Everything Amendments
- 7.14 Striking Language
- 7.15 Striking and Inserting Language
- 7.16 Amendments to Amendments

CHAPTER 7

AMENDMENTS

7.1 AMENDMENTS IN GENERAL

Amendments vary as to form and style depending on whether they are proposed amendments, committee amendments, floor amendments, conference committee amendments or amendments to amendments. Appendix A contains a sample format for each kind of amendment. Generally, though, all amendments must:

- Be line numbered on the left margin.
- Reference a printed bill, a House engrossed bill, a Senate engrossed bill, a printed resolution, a House engrossed resolution, a Senate engrossed resolution, a committee amendment or a proposed amendment.

- Enclose all references to text changes in quotation marks.
- End with the words:

Amend title to conform [from the left margin]

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

3/03/23

10:53 a.m.

drafter's initials in caps or lowercase

7.2 BLANK AMENDMENTS

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

After line __, insert:

7.3 BLANK AMOUNTS

If a blank space is used in a bill to designate an as yet to be determined amount (for example, "The sum of \$_____ is appropriated...."), use the following instruction to fill in the blank:

Page 2, line 3, strike "\$_____" insert "\$2,000"

7.4 CAPITALIZATION

If adding a word or words to the beginning of a sentence, it is unnecessary to include an instruction to make the previous first word lowercase. If an amendment removes words, it is likewise unnecessary to include an instruction to capitalize the new first word in the sentence.

7.5 CONFORMING TITLE

End all amendments with "Amend title to conform".

If amending a referendum, the inclusion of "Amend title to conform" directs the engrosser to update both of the legal titles (the legal title on the first page of the measure and the legal title beginning with the phrase "AN ACT") to conform with the changes made by the amendment.

7.6 HYPHENATED WORDS

If an amendment changes part of a hyphenated word, strike the entire word. For example, to replace the word "twenty-five" with "twenty-eight" the amendment must direct that the entire word "twenty-five" be stricken and "twenty-eight" be inserted. See § 6.11.

7.7 IDENTICAL CHANGES ON A SINGLE BILL PAGE OR LINE

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

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

To make identical changes on a single line, state:

Page 1, line 37, strike the first and second "and" insert "OR"

7.8 INSERTING NEW LANGUAGE

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

If an amendment is inserting material, use a colon after the word "insert" only if the amendment is adding a complete section, subsection, paragraph, subdivision or item.

To show new language as inserted at a point between two lines, state:

Page 1, between lines 3 and 4, insert:

"C. THE DIRECTOR SHALL..."

Otherwise, state:

Page 10, line 3, strike "such" insert "THE"

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

Page 4, after line 40, insert:

"Sec. 3. Repeal
Section 36-5928, Arizona Revised Statutes, is repealed."

To insert nonconsecutive words to a line, use a semicolon to separate the instructions as follows:

Page 3, line 17, after "the" insert "FIRST"; after "automobile" insert "RIGHT"; after "to" insert "ONCOMING"

If adding a new statutory unit will change the numbering or lettering of subsequent statutory units, state "Renumber to conform" or "Reletter to conform" on the next line at the left margin. However, if adding or striking a new statutory section will change the numbering of subsequent statutory sections, it is necessary to strike the incorrect statutory section number and insert the new statutory section number. For example:

Page 10, between lines 3 and 4, insert:

"14-14108. Scope of article
THE RULES OF CONSTRUCTION IN THIS ARTICLE CONTROL..."

Line 4, strike "14-14108." insert "14-14109."

In general, when adding new language, the amendment should include an instruction to insert the language "after" a certain word, letter, number or punctuation. Use "before" only if it is impossible to use "after". For example:

Page 3, line 16, before "The" insert "ON OR BEFORE JULY 1 OF EACH YEAR,"

("The" is the first word of a section that has no subsection or paragraph designation.)

Page 1, before line 1, insert:

"Page 3, line 18, after "two" insert "AND FIVE""

(The instruction is to be added at the beginning of the amendment.)

7.9 PAGE DESIGNATION

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

Page 1, line 6, strike "both"
Line 12, strike "and"
Line 14, strike "director"

However, if the amendment to a particular page carries over to the next page of the amendment, repeat the page designation on the next page once before the first new line instruction. For example:

Page 14, line 40, after "LIEN" insert "FOR THE PURPOSES OF GIVING
NOTICE TO THE PRIOR REAL OR PERSONAL PROPERTY OWNER PURSUANT
.....PageBreak.....
TO SECTION 33-525, SUBSECTION B AND PERFECTING A LIEN GRANTED
BY SECTION 33-524, SUBSECTION E"

Page 14, line 45, after "PROPERTY" insert "THAT IS SUBJECT TO THE
LIEN"

7.10 PUNCTUATION

Amendments must include necessary changes to punctuation. For example:

Page 3, line 18, strike "make,"
Line 20, after "RECEIVE" strike the comma
Line 34, after "section" insert a period strike remainder of
line
Line 40, after "3" insert a comma
Line 42, after "months" insert ", AND NOT MORE THAN ONE YEAR"
Page 4, line 28, after "~~department.~~" insert "THE DIRECTOR AND"

7.11 RESTORING STRICKEN LANGUAGE

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

Page 2, line 5, strike "~~department~~" insert "department"

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

Page 3, strike lines 12 through 15, insert:
"B. On the director's written request, the attorney
general shall conduct an investigation into alleged cases
of fraud. The attorney general shall complete this
investigation not later than thirty days after receiving
this request."

In this example, subsection B is the text that was previously stricken in the bill and that is shown in downstyle in the amendment since it is existing language.

7.12 SECTION HEADINGS

To amend a section heading, include the underline when striking or adding language. Do not show new section heading material in upstyle, unless the section heading is in the Uniform Commercial Code (title 47). For example:

Page 2, line 5, strike "fine" insert "penalty"

Page 8, line 11, strike "commercial contracts" insert "SECURED
TRANSACTIONS" (section heading in title 47)

7.13 STRIKE EVERYTHING AMENDMENTS

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

Strike everything after the enacting clause and insert:

To strike a resolution, state:

Strike everything after the resolving clause and insert:

Note: If there is language preceding the resolving clause, include instructions to strike the language before and after the resolving clause using the appropriate page and line numbers.

To strike a memorial, state:

Strike everything after the representing clause and insert:

7.14 STRIKING LANGUAGE

Use the following guidelines when striking language from a bill:

- To strike an entire bill section (e.g., "Sec. 2. Section 36-2995, Arizona Revised Statutes, is amended to read...") or another complete unit (i.e., a subsection, paragraph, subdivision or item), state:

Page 3, strike lines 7 through 21

- To strike an entire page or pages:

Strike pages 2 through 8

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

Renumber to conform

- If striking the language changes the lettering of subsections or subdivisions, on the following line at the left margin state:

Reletter to conform

Note: The instruction to reletter or renumber to conform will not correct internal references within subsections, paragraphs, subdivisions or items or within other bill sections in the text. The drafter must specifically make conforming changes to the internal references. (See § 7.8.)

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

Page 2, line 4, strike "department"

If a word appears more than once on the same line, specify which instance of the word is to be stricken by stating, for example, either:

Page 2, line 6, after "any" strike "department"

Page 2, line 6, strike the second "department"

- To strike three or more lines, state:

Page 9, strike lines 4 through 6

- To strike nonconsecutive words from a line, use a semicolon to separate the instructions as follows:

Line 14, strike "one"; strike "monies"

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

Lines 8 and 9, strike "of the monies"

In this example, note that if there are additional changes to the second line, the instruction must state:

Line 8, strike "of the"

Line 9, strike "monies"; after "property" insert "fund"

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

- Page 13, line 44, after the period strike remainder of line
Strike lines 45 through 48
Page 14, strike lines 1 through 3

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

Page 2, line 1, strike "violation of this section"
(The engrossed bill will then show the existing law with a line through it.)

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

Page 2, line 1, strike "VIOLATION OF THIS SECTION"
(The engrossed bill will not include these words.)

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

7.15 STRIKING AND INSERTING LANGUAGE

Strike old material before inserting new material:

Page 4, line 19, strike "AND" insert "OR"

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

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

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

To strike and insert nonconsecutive language in a single line of text, use a semicolon to separate the instructions as follows:

Line 14, strike "one" insert "two"; strike "agents" insert
"employees"

Line 34, after "The" insert "first"; strike "agents" insert
"employees"

Line 39, strike "QUALIFIED" insert "CERTIFIED"; strike "INCLUDE"

7.16 AMENDMENTS TO AMENDMENTS

To show changes to the bill in an amendment to an amendment (e.g., committee or floor amendment), indent the page and line instruction for the bill and enclose the text in quotation marks. For example:

Page 1, before line 1, insert:

"Page 2, line 14, strike "one" insert "TWO""

APPENDICES

Appendix A

Samples

Bills, Memorials and Resolutions:

- No. 1 Appropriation
- No. 2 Supplemental Appropriation
- No. 3 Adding a Section to the Statutes
- No. 4 Adding an Article
- No. 5 Repealing an Existing Chapter and Replacing It With an Identically Numbered Chapter
- No. 6 Repealing an Existing Section and Replacing It With an Identically Numbered Section
- No. 7 Amending a Section and Repealing Some of those Amendments to that Section in the Same Bill
- No. 8 Adding a New Section and Providing for a Delayed Repeal of the Same Section
- No. 9 Sunset Legislation
- No. 10 Establishing a Temporary Committee
- No. 11 Amending Session Law
- No. 12 Amending a Section of Law Transmitted to the Governor but Not Yet Signed
- No. 13 Amending the Chaptered Version of a Section that is not an Emergency Measure
- No. 14 Amending Multiple Versions in which the Second Version has a Delayed Effective Date
- No. 15 Concurrent Resolution Amending State Constitution by Adding a New Section
- No. 16 Concurrent Resolution Amending State Constitution by Adding a New Article
- No. 17 Concurrent Resolution Amending State Constitution by Amending an Existing Section
- No. 18 Concurrent Resolution Amending State Constitution by Repealing an Article (See also Sample No. 19)
- No. 19 Conditional Enactment (Companion Bill to Concurrent Resolution, Sample No. 18)
- No. 20 Concurrent Resolution Referendum
- No. 21 Concurrent Memorial Urging Congress to Propose an Amendment to the United States Constitution
- No. 22 Concurrent Resolution Applying to Congress to Call a Convention for Proposing an Amendment to the United States Constitution
- No. 23 Concurrent Resolution Ratifying a Proposed Amendment to the United States Constitution
- No. 24 Joint Resolution
- No. 25 Concurrent Resolution
- No. 26 Simple Death Resolution
- No. 27 Simple Memorial
- No. 28 Concurrent Memorial

Amendments

- No. 29 Proposed Amendment
- No. 30 Amendment to Proposed Amendment
- No. 31 Floor Amendment (Reference to printed bill)
- No. 32 Floor Amendment (Reference to printed bill)
- No. 33 Floor Amendment [with style notations] (Reference to committee amendment)
- No. 34 House Substitute House Floor Amendment
- No. 35 Additional COW Amendment
- No. 36 Strike Everything Amendment to a Resolution
- No. 37 Conference Committee Amendment
- No. 38 Conference Committee Report Cover Page

Appendix B

Drafting Rules and Deadlines

Appendix C

Bill Draft Checklist

APPENDIX A
SAMPLES

SAMPLE NO. 1
Appropriation

REFERENCE TITLE: appropriation; hydrologic study

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

. B. _____

Introduced by _____

AN ACT

APPROPRIATING MONIES TO THE DEPARTMENT OF WATER RESOURCES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Appropriation; hydrologic data collection study;
3 exemption
4 A. The sum of \$100,000 and two FTE positions are appropriated from
5 the state general fund in fiscal year 2023-2024 to the department of water
6 resources to conduct a hydrologic data collection study in the Sierra
7 Vista subbasin of the Upper San Pedro River groundwater basin.
8 B. The appropriation made in subsection A of this section is exempt
9 from the provisions of section 35-190, Arizona Revised Statutes, relating
10 to lapsing of appropriations.

Note: Add the exemption from lapsing language only if the sponsor does not want the appropriation to lapse at the end of the fiscal year.

SAMPLE NO. 2
Supplemental Appropriation

REFERENCE TITLE: supplemental appropriation; Clifton flood control

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

_ . B. ____

Introduced by _____

AN ACT

APPROPRIATING MONIES TO THE DIVISION OF EMERGENCY MANAGEMENT WITHIN THE
DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Supplemental appropriation; Clifton flood control
3 project; exemption
4 A. In addition to the appropriation made by Laws 2023, chapter 67,
5 section 1, the sum of \$2,000,000 is appropriated from the state general
6 fund in fiscal year 2023-2024 to the division of emergency management
7 within the department of emergency and military affairs for the division
8 to use in completing the Clifton flood control project.
9 B. The appropriation made in subsection A of this section is exempt
10 from the provisions of section 35-190, Arizona Revised Statutes, relating
11 to lapsing of appropriations, except that all monies remaining unexpended
12 or unencumbered after the project is completed revert to the state general
13 fund.

SAMPLE NO. 3
Adding a Section

REFERENCE TITLE: annual license transfer fee

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

__ B. ____

Introduced by _____

AN ACT

AMENDING TITLE 50, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING SECTION 50-111; RELATING TO LICENSED PROFESSIONALS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 50, chapter 1, article 2, Arizona Revised
3 Statutes, is amended by adding section 50-111, to read:
4 50-111. Transfer fee
5 BEGINNING JULY 1, 2024, A PERSON WHO IS LICENSED PURSUANT TO THIS
6 ARTICLE SHALL PAY AN ANNUAL LICENSE TRANSFER FEE OF \$15 TO THE
7 DEPARTMENT. THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND
8 35-147, THE FEES IN THE LICENSED PROFESSIONALS FUND ESTABLISHED BY SECTION
9 50-105.
10 Sec. 2. Requirements for enactment: two-thirds vote
11 Pursuant to article IX, section 22, Constitution of Arizona, this
12 act is effective only on the affirmative vote of at least two-thirds of
13 the members of each house of the legislature and is effective immediately
14 on the signature of the governor or, if the governor vetoes this act, on
15 the subsequent affirmative vote of at least three-fourths of the members
16 of each house of the legislature.

Note: This sample also demonstrates how to make legislation passed with a Proposition 108 section go into practical effect on a date other than its official effective date—the date it is signed by the Governor—by introducing the appropriate language with "Beginning July 1, 2024".

SAMPLE NO. 4
Adding an Article

REFERENCE TITLE: public employees; disclosure of information

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

.. B. _____

Introduced by _____

AN ACT

AMENDING TITLE 38, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9; RELATING TO PUBLIC EMPLOYEES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 38, chapter 3, Arizona Revised Statutes, is
3 amended by adding article 9, to read:
4 ARTICLE 9. DISCLOSURE OF INFORMATION BY PUBLIC EMPLOYEES
5 38-531. Definitions
6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
7 1. "EMPLOYEE" INCLUDES ANY PERSON WHO IS AN OFFICER OR EMPLOYEE,
8 WHETHER PAID ON A FULL-TIME, PART-TIME OR CONTRACT BASIS BY A GOVERNMENTAL
9 UNIT.
10 * * *
11 38-532. Prohibited personnel practice; violation;
12 classification
13 A. IT IS A PROHIBITED PERSONNEL PRACTICE FOR AN EMPLOYEE WHO HAS
14 CONTROL OVER PERSONNEL ACTIONS TO TAKE REPRISAL AGAINST AN EMPLOYEE FOR A
15 DISCLOSURE OF INFORMATION BY THE EMPLOYEE, UNLESS THE DISCLOSURE IS
16 PROHIBITED BY LAW, THAT THE EMPLOYEE REASONABLY BELIEVES EVIDENCES:
17 1. A VIOLATION OF ANY LAW OR RULE.
18 2. MISMANAGEMENT, A GROSS WASTE OF MONIES, AN ABUSE OF AUTHORITY OR
19 A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY.
20 B. AN EMPLOYEE WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
21 MISDEMEANOR.

SAMPLE NO. 5
Repealing an Existing Chapter and Replacing It With
an Identically Numbered Chapter

REFERENCE TITLE: professional corporations

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

.. B. _____

Introduced by _____

AN ACT

REPEALING TITLE 10, CHAPTER 20, ARIZONA REVISED STATUTES; AMENDING TITLE 10, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 20; RELATING TO CORPORATIONS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Title 10, chapter 20, Arizona Revised Statutes, is repealed.
4 Sec. 2. Title 10, Arizona Revised Statutes, is amended by adding a
5 new chapter 20, to read:
6 CHAPTER 20
7 PROFESSIONAL CORPORATIONS
8 ARTICLE 1. GENERAL PROVISIONS
9 10-2201. Definitions
10 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
11 1. "DISQUALIFIED PERSON" MEANS AN INDIVIDUAL OR ENTITY THAT IS NOT
12 OR THAT CEASES TO BE A QUALIFIED PERSON.
13 2. "FOREIGN PROFESSIONAL CORPORATION" MEANS A CORPORATION OR
14 ASSOCIATION FOR PROFIT THAT IS INCORPORATED FOR THE PURPOSE OF RENDERING
15 PROFESSIONAL SERVICES UNDER A LAW OTHER THAN THE LAW OF THIS STATE.
16 3. "LICENSE" OR "LICENSED" MEANS ANY LICENSE, AUTHORIZATION,
17 CERTIFICATE, REGISTRATION, CERTIFICATE OF REGISTRATION, MEMBERSHIP OR
18 OTHER EVIDENCE OF SATISFYING THE REQUIREMENTS OF THIS STATE FOR THE
19 PRACTICE OF A PROFESSIONAL SERVICE.
20 4. "LICENSING AUTHORITY" MEANS THE OFFICER, BOARD, AGENCY, COURT OR
21 OTHER AUTHORITY IN THIS STATE EMPOWERED BY LAW TO LICENSE OR OTHERWISE
22 AUTHORIZE THE RENDITION OF A PROFESSIONAL SERVICE.

* * *

Note: The word "new" is used in the bill title and in the introduction to the replacement chapter.

SAMPLE NO. 6
Repealing an Existing Section and Replacing It
With an Identically Numbered Section

REFERENCE TITLE: mortgage; default; resale

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

_ . B. ____

Introduced by _____

AN ACT

REPEALING SECTION 12-1624, ARIZONA REVISED STATUTES; AMENDING TITLE 12, CHAPTER 9, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 12-1624; RELATING TO SALES UNDER EXECUTION.

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

Note: The word "new" is used in the bill title and in the introduction to the replacement section.

SAMPLE NO. 7

Amending a Section and Repealing Some of those Amendments to that Section in the Same Bill

REFERENCE TITLE: county offices; business periods

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

.. B. _____

Introduced by _____

AN ACT

AMENDING SECTION 11-413, ARIZONA REVISED STATUTES; AMENDING SECTION 11-413, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO COUNTY OFFICERS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-413, Arizona Revised Statutes, is amended to
3 read:

4 11-413. County offices; business periods
5 A. Every county officer, except the sheriff, shall keep the
6 officer's office open for ~~not less than~~ AT LEAST forty hours each week or
7 ~~not less than~~ AT LEAST thirty-two hours each week if the week contains a
8 day that is a legal holiday. Notwithstanding section 1-301, for the
9 purposes of opening county offices for the transaction of business, the
10 board of supervisors of any county by resolution may designate the ~~fourth~~
11 Friday AFTER THE FOURTH THURSDAY in November as a legal holiday in place
12 of the second Monday in October. If the board of supervisors makes such a
13 designation, every county officer, except the sheriff, shall keep the
14 officer's office open for ~~not less than~~ AT LEAST twenty-four hours for
15 that November week.

16 * * *

17 Sec. 2. Section 11-413, Arizona Revised Statutes, as amended by
18 section 1 of this act, is amended to read:

19 11-413. County offices; business periods
20 A. Every county officer, except the sheriff, shall keep the
21 officer's office open for at least forty hours each week or at least
22 thirty-two hours each week if the week contains a day that is a legal
23 holiday. Notwithstanding section 1-301, for the purposes of opening
24 county offices for the transaction of business, the board of supervisors
25 of any county by resolution may designate the ~~FOURTH Friday after the~~
26 ~~fourth Thursday~~ in November as a legal holiday in place of the second
27 Monday in October. If the board of supervisors makes such a designation,
28 every county officer, except the sheriff, shall keep the officer's office
29 open for at least twenty-four hours for that November week.

30 * * *

31 Sec. 3. Effective date

32 Section 11-413, Arizona Revised Statutes, as amended by section 2 of
33 this act, is effective from and after December 31, 2024.

SAMPLE NO. 8
Adding a New Section and Providing for a Delayed Repeal of the Same Section

REFERENCE TITLE: kindergarten; survey; report

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

_ . B. _____

Introduced by _____

AN ACT

AMENDING TITLE 15, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-249.14; REPEALING SECTION 15-249.14, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF EDUCATION.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 15, chapter 2, article 2, Arizona Revised Statutes,
3 is amended by adding section 15-249.14, to read:
4 15-249.14. Department of education; kindergarten survey;
5 reading proficiency
6 ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT OF EDUCATION
7 SHALL:
8 1. CONDUCT AN ANNUAL STATEWIDE SURVEY, BASED ON INFORMATION
9 SUBMITTED PURSUANT TO SECTION 15-211, SUBSECTION B BY SCHOOL DISTRICTS AND
10 CHARTER SCHOOLS AS PART OF THE PLAN TO IMPROVE THE READING PROFICIENCY OF
11 STUDENTS IN KINDERGARTEN PROGRAMS AND GRADES ONE, TWO AND THREE, TO ASSESS
12 EACH OF THE FOLLOWING:
13 (a) THE NUMBER OF HOURS PER DAY OF KINDERGARTEN INSTRUCTION THAT IS
14 CURRENTLY PROVIDED AT EACH SCHOOL.
15 (b) HOW FULL-DAY KINDERGARTEN INSTRUCTION IS CURRENTLY FUNDED AT
16 EACH SCHOOL.
17 (c) THE READING PROFICIENCY OF STUDENTS IN KINDERGARTEN PROGRAMS
18 AND GRADES ONE, TWO AND THREE AT EACH SCHOOL.
19 (d) THE READING PROGRAM USED AT EACH SCHOOL.
20 2. INCLUDE INFORMATION IN THE EARLY LITERACY PROGRAM REPORT
21 PRESCRIBED BY SECTION 15-249.09 THAT SUMMARIZES THE RESULTS OF THE SURVEY
22 AND DATA COLLECTION PRESCRIBED IN THIS SECTION.
23 Sec. 2. Delayed repeal
24 Section 15-249.14, Arizona Revised Statutes, as added by this act,
25 is repealed from and after December 31, 2027.

SAMPLE NO. 9
Sunset Legislation (8-year extension)

REFERENCE TITLE: state board of equalization; continuation

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

. B. _____

Introduced by _____

AN ACT

REPEALING SECTION 41-3023.13, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3031.13; RELATING TO THE STATE BOARD OF EQUALIZATION.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Repeal
3 Section 41-3023.13, Arizona Revised Statutes, is repealed.
4 Sec. 2. Title 41, chapter 27, article 2, Arizona Revised Statutes,
5 is amended by adding section 41-3031.13, to read:
6 41-3031.13. State board of equalization; termination July
7 1, 2031
8 A. THE STATE BOARD OF EQUALIZATION TERMINATES ON JULY 1, 2031.
9 B. TITLE 42, CHAPTER 16, ARTICLE 4 AND THIS SECTION ARE REPEALED ON
10 JANUARY 1, 2032.
11 Sec. 3. Purpose
12 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
13 the legislature continues the state board of equalization to hear
14 administrative appeals of property tax assessed by the county assessors in
15 large counties in this state.
16 Sec. 4. Retroactivity
17 Sections 1 and 2 of this act apply retroactively to from and after
18 July 1, 2023.

Note: The phrase "AND THIS SECTION" as shown in subsection B of this example should always be included in a sunset repeal so that the repealed statutory reference does not remain on the books.

SAMPLE NO. 10
Establishing a Temporary Committee

REFERENCE TITLE: Alzheimer's disease demonstration project

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

_ . B. ____

Introduced by _____

AN ACT

ESTABLISHING THE ALZHEIMER'S DISEASE TREATMENT DEMONSTRATION PROJECT
OVERSIGHT COMMITTEE.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Alzheimer's disease treatment demonstration
3 project oversight committee; membership;
4 duties; report; delayed repeal
5 A. The Alzheimer's disease treatment demonstration project
6 oversight committee is established consisting of the following members:
7 1. Three members of the senate who are appointed by the president
8 of the senate, not more than two of whom are members of the same political
9 party. The president of the senate shall designate one of these members
10 to serve as cochairperson of the committee.
11 2. Three members of the house of representatives who are appointed
12 by the speaker of the house of representatives, not more than two of whom
13 are members of the same political party. The speaker of the house of
14 representatives shall designate one of these members to serve as
15 cochairperson of the committee.
16 3. The director of the department of health services or the
17 director's designee.
18 4. The director the department of economic security or the
19 director's designee.

SAMPLE NO. 11
Amending Session Law

REFERENCE TITLE: department receivership revolving fund

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

_. B. ____

Introduced by _____

AN ACT

AMENDING LAWS 2019, FIRST SPECIAL SESSION, CHAPTER 9, SECTION 16, AS AMENDED BY LAWS 2020, CHAPTER 9, SECTION 2, LAWS 2021, CHAPTER 10, SECTION 11 AND LAWS 2022, CHAPTER 125, SECTION 6; RELATING TO THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

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

2 Section 1. Laws 2019, first special session, chapter 9, section 16,
3 as amended by Laws 2020, chapter 9, section 2, Laws 2021, chapter 10,
4 section 11 and Laws 2022, chapter 125, section 6, is amended to read:

5 Sec. 16. Department receivership revolving fund; use; intent

6 A. Notwithstanding section 6-135.01, Arizona Revised Statutes, in
7 fiscal years 2019-2020, 2020-2021, ~~and~~ 2021-2022, 2022-2023 AND 2023-2024
8 the deputy director of the financial institutions division within the
9 department of insurance and financial institutions may use monies in the
10 department receivership revolving fund established by section 6-135.01,
11 Arizona Revised Statutes, for expenditures on an electronic licensing
12 system.

13 B. It is the intent of the legislature that expenditures in fiscal
14 years 2019-2020, 2020-2021, ~~and~~ 2021-2022, 2022-2023 AND 2023-2024 on an
15 electronic licensing system as prescribed in subsection A of this section
16 not exceed a total of \$850,000.

Note: The drafter must check the current *Affected Session Laws* publication to determine whether the originally enacted session law was subsequently amended or repealed.

SAMPLE NO. 12
Amending a Section of Law Transmitted
to the Governor but Not Yet Signed

REFERENCE TITLE: grand juries; terms

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

. B. _____

Introduced by _____

AN ACT

AMENDING SECTION 21-403, ARIZONA REVISED STATUTES, AS AMENDED BY SENATE BILL 1294, SECTION 1, FIFTY-SIXTH FIFTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO GRAND JURIES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 21-403, Arizona Revised Statutes, as amended by
3 Senate Bill 1294, section 1, fifty-sixth legislature, first regular
4 session, as transmitted to the governor, is amended to read:
5 21-403. Term of grand jury
6 A. Grand juries called pursuant to section 21-402 shall serve for a
7 term that is designated by the presiding judge of the superior court and
8 that may not exceed either:
9 1. One hundred twenty days if the grand jury is called pursuant to
10 section 21-402, subsection A.
11 2. One hundred ~~eighty~~ FIFTY days if the grand jury is called
12 pursuant to section 21-402, subsection B.
13 * * *
14 Sec. 2. Conditional enactment
15 This act does not become effective unless Senate Bill 1294,
16 fifty-sixth legislature, first regular session, relating to grand juries,
17 becomes law.
18 * * *

Senate Bill 1294 (Transmitted to the Governor but not yet signed):

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 21-403, Arizona Revised Statutes, is amended to
3 read:
4 21-403. Term of grand jury
5 A. Grand juries called pursuant to section 21-402 shall serve for a
6 term that is designated by the presiding judge of the superior court and
7 that may not exceed EITHER:
8 1. One hundred twenty days, ~~unless~~ IF THE GRAND JURY IS CALLED
9 PURSUANT TO SECTION 21-402, SUBSECTION A.
10 2. ONE HUNDRED EIGHTY DAYS IF THE GRAND JURY IS CALLED PURSUANT TO
11 SECTION 21-402, SUBSECTION B.

SAMPLE NO. 13
Amending the Chaptered Version of a Section
that is not an Emergency Measure

REFERENCE TITLE: deed; title transfer; compensation

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

_ . B. _____

Introduced by _____

AN ACT

AMENDING SECTION 11-1133, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS
2023, CHAPTER 50, SECTION 1; RELATING TO REAL ESTATE TRANSFER AFFIDAVITS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-1133, Arizona Revised Statutes, as amended by
3 Laws 2023, chapter 50, section 1, is amended to read:
4 11-1133. Affidavit of legal value
5 A. Each deed evidencing a transfer of title shall indicate:
6 * * *
7 5. The recording number of the trustee's deed upon ON sale.
8 6. The amount of any additional compensation received by the
9 beneficiary within ~~six~~ THREE months after the date of the trustee's sale.
10 * * *

Laws 2023, chapter 50, section 1 (a nonemergency measure):

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 11-1133, Arizona Revised Statutes, is amended to
3 read:
4 11-1133. Affidavit of legal value
5 A. Each deed evidencing a transfer of title shall indicate:
6 * * *
7 5. THE RECORDING NUMBER OF THE TRUSTEE'S DEED UPON SALE.
8 6. THE AMOUNT OF ANY ADDITIONAL COMPENSATION RECEIVED BY THE
9 BENEFICIARY WITHIN SIX MONTHS AFTER THE DATE OF THE TRUSTEE'S SALE.

**Note: If the chaptered version is an emergency measure, the designation "AS AMENDED BY LAWS
2023, CHAPTER 50, SECTION 1" is unnecessary and should be omitted because the emergency
measure, which is the current law, should be engrossed and used in the subsequent bill.**

SAMPLE NO. 14
Amending Multiple Versions in which the
Second Version has a Delayed Effective Date

REFERENCE TITLE: tax credits; research activities

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

. B. _____

Introduced by _____

AN ACT

AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 3, SECTION 53 AND CHAPTER 170, SECTION 73; AMENDING SECTION 43-1168, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 3, SECTION 54; RELATING TO TAX CREDITS.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 43-1168, Arizona Revised Statutes, as amended by
3 Laws 2022, chapter 3, section 53 and chapter 170, section 73, is amended
4 to read:
5 43-1168. Credit for increased research activities
6 A. FOR TAXABLE YEARS ENDING BEFORE JANUARY 1, 2033, a credit is
7 allowed against the taxes imposed by this title in an amount determined
8 pursuant to section 41 of the internal revenue code, except that:
9 1. The amount of the credit is computed as follows:
10 (a) Add:
11 * * *
12 Sec. 2. Section 43-1168, Arizona Revised Statutes, as amended by
13 Laws 2022, chapter 3, section 54, is amended to read:
14 43-1168. Credit for increased research activity
15 A. FOR TAXABLE YEARS ENDING BEFORE JANUARY 1, 2033, a credit is
16 allowed against the taxes imposed by this title in an amount equal to ten
17 percent of the amount spent on research activity during the taxable year,
18 except that:
19 1. The amount of the credit is computed as follows:
20 (a) Add:
21 * * *
22 Sec. 3. Effective date
23 Section 43-1168, Arizona Revised Statutes, as amended by Laws 2022,
24 chapter 3, section 54 and this act, is effective from and after December
25 31, 2025.

Note: If amending a previously enacted section with a delayed effective date as in Sec. 2 of this example, the drafter must ensure that the new changes do not become effective before the underlying section by including a corresponding delayed effective date section.

SAMPLE NO. 15
Concurrent Resolution
Amending State Constitution
by Adding a New Section

REFERENCE TITLE: property price controls; prohibition

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

_ . C . R . _

Introduced by _____

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II, CONSTITUTION OF ARIZONA, BY ADDING SECTION 38; RELATING TO REAL PROPERTY PRICES.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. Article II, Constitution of Arizona, is proposed to be amended
4 by adding section 38 as follows if approved by the voters and on
5 proclamation of the Governor:
6 38. Prohibition on control of real property prices
7 SECTION 38. A. AN OWNER OF REAL PROPERTY HAS THE
8 SOLE....
9 * * *
10 2. The Secretary of State shall submit this proposition to the
11 voters at the next general election as provided by article XXI,
12 Constitution of Arizona.

Note: In the last paragraph of this sample, the reference is to "the Secretary of State." In memorials and resolutions that are transmitted to federal entities, the reference is to "the Secretary of State of the State of Arizona." (See Sample No. 22.) Note also that in memorials and resolutions titles of officers are capitalized.

SAMPLE NO. 16
Concurrent Resolution
Amending State Constitution
by Adding a New Article

REFERENCE TITLE: bill drafting

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

__ C. R. ____

Introduced by _____

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING THE
CONSTITUTION OF ARIZONA BY ADDING ARTICLE XXXI; RELATING TO BILL DRAFTING.

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

Note: Use the singular — "PROPOSING AN AMENDMENT" — even if the concurrent resolution contains multiple changes.

SAMPLE NO. 17
Concurrent Resolution
Amending State Constitution
by Amending an Existing Section

REFERENCE TITLE: legislature; terms of members

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

__ C. R. ____

Introduced by _____

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 21, CONSTITUTION OF ARIZONA; RELATING TO LEGISLATIVE MEMBERS' TERMS.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:

3 1. Article IV, part 2, section 21, Constitution of Arizona, is
4 proposed to be amended as follows if approved by the voters and on
5 proclamation of the Governor:

6 21. Terms of members of legislature

7 Section 21. A. ~~The members of the first Legislature~~
8 ~~shall hold office until the first Monday in January, 1913.~~

9 BEGINNING WITH THE FIFTY-SEVENTH LEGISLATURE IN 2025, the
10 terms of office of the members of ~~succeeding Legislatures~~ THE
11 SENATE AND OF THE MEMBERS OF THE HOUSE OF REPRESENTATIVES
12 shall be ~~two~~ FOUR years.

13 B. MEMBERS OF THE SENATE AND THE HOUSE OF
14 REPRESENTATIVES....

15 * * *

16 2. The Secretary of State shall submit this proposition to the
17 voters at the next general election as provided by article XXI,
18 Constitution of Arizona.

SAMPLE NO. 18
Concurrent Resolution
Amending State Constitution
by Repealing an Article
(See also Sample No. 19)

REFERENCE TITLE: office of state inspector; repeal

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

__ C. R. ____

Introduced by _____

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; REPEALING ARTICLE XL, CONSTITUTION OF ARIZONA; RELATING TO THE STATE INSPECTOR.

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

Note: The sample companion bill to this resolution is found on the next page.

SAMPLE NO. 19
Conditional Enactment
(Companion Bill to Concurrent Resolution, Sample No. 18)

REFERENCE TITLE: state inspector; qualifications; appointment

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

_ . B. ____

Introduced by _____

AN ACT

AMENDING SECTION 51-103, ARIZONA REVISED STATUTES; RELATING TO THE STATE INSPECTOR.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 51-103, Arizona Revised Statutes, is amended to
3 read:
4 51-103. State inspector; appointment; qualifications
5 A. THE OFFICE OF STATE INSPECTOR IS ESTABLISHED. THE GOVERNOR
6 SHALL APPOINT THE STATE INSPECTOR PURSUANT TO SECTION 38-211, AND THE
7 STATE INSPECTOR SERVES AT THE PLEASURE OF THE GOVERNOR.
8 ~~A.~~ B. The state inspector shall be a resident of this state FOR at
9 least two years ~~prior to his election~~ BEFORE APPOINTMENT ~~not under~~ AND
10 SHALL BE AT LEAST thirty years of age.
11 Sec. 2. Conditional enactment
12 This act does not become effective unless the Constitution of
13 Arizona is amended by vote of the people at the next general election by
14 passage of ____ Concurrent Resolution ____, _____ legislature,
15 _____ regular session.

SAMPLE NO. 20
Concurrent Resolution
Referendum

REFERENCE TITLE: public works contracts; wages; repeal

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

_ . C . R . ____

Introduced by _____

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING TO PUBLIC WORKS CONTRACTS.

1 Be it resolved by the (introducing body) of the State of Arizona, the
2 (concurring body) concurring:
3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to public works contracts, is enacted to
5 become valid as a law if approved by the voters and on proclamation of the
6 Governor:

AN ACT

7
8 AMENDING SECTION 34-244, ARIZONA REVISED STATUTES; REPEALING
9 SECTIONS 34-321, 34-322, 34-324, 34-325 AND 34-326, ARIZONA
10 REVISED STATUTES; AMENDING TITLE 34, CHAPTER 3, ARTICLE 2,
11 ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 34-321;
12 RELATING TO PUBLIC WORKS CONTRACTS.

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

14 Section 1. Section 34-244, Arizona Revised Statutes, is
15 amended to read:

* * *

16
17 Sec. 4. Conforming legislation

18 The legislative council staff shall prepare proposed
19 legislation conforming the Arizona Revised Statutes to the
20 provisions of this act for consideration in the _____
21 legislature, _____ regular session.

22
23 2. The Secretary of State shall submit this proposition to the
24 voters at the next general election as provided by article IV, part 1,
25 section 1, Constitution of Arizona.

Note: Include Sec. 4 (Conforming legislation) only if it is necessary, but do not include conforming legislation language for constitutional amendments.

SAMPLE NO. 21
Concurrent Memorial
Urging Congress to Propose an
Amendment to the United States Constitution

REFERENCE TITLE: federal government; engagement in business

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

__ . C. M. __

Introduced by _____

A CONCURRENT MEMORIAL

URGING THE CONGRESS OF THE UNITED STATES TO PROPOSE AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROHIBIT THE GOVERNMENT OF THE UNITED STATES FROM ENGAGING IN ANY COMMERCIAL ENTERPRISE EXCEPT AS SPECIFIED IN THE CONSTITUTION OF THE UNITED STATES.

- 1 To the Congress of the United States of America:
2 Your memorialist respectfully represents:
3 Whereas, the people of the State of Arizona view with growing
4 concern the interference of the government of the United States in the
5 individual rights and liberties of all persons.
6 Wherefore your memorialist, the (introducing body) of the State of
7 Arizona, the (concurring body) concurring, prays:
8 1. That, pursuant to article V of the Constitution of the United
9 States, the Congress of the United States propose an amendment to the
10 Constitution of the United States, to be ratified by the legislatures or
11 by conventions in three-fourths of the several states, as follows:
12 AMENDMENT XXVIII
13 The government of the United States shall not... .
14 * * *
15 2. That the Secretary of State of the State of Arizona transmit a
16 copy of this Memorial to the President of the United States Senate, the
17 Speaker of the United States House of Representatives and each Member of
18 Congress from the State of Arizona.

Note: A proposed amendment to the United States Constitution may be initiated only by Congress or by application of two-thirds of the state legislatures to call a constitutional convention. A state legislature may participate in the first method as shown in this sample. There is also case law to suggest that the application may be in the form of a resolution. A state legislature may initiate a constitutional amendment by calling for a constitutional convention via a concurrent resolution as shown in Sample No. 22. Ratification of an amendment is shown in Sample No. 23.

SAMPLE NO. 23
Concurrent Resolution
Ratifying a Proposed Amendment
to the United States Constitution

REFERENCE TITLE: ratification; eighteen-year-old vote

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

__ C. R. ____

Introduced by _____

A CONCURRENT RESOLUTION

RATIFYING THE PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES;
PROVIDING THAT THE RIGHT TO VOTE OF CITIZENS OF THE UNITED STATES WHO ARE
AT LEAST EIGHTEEN YEARS OF AGE MAY NOT BE DENIED OR ABRIDGED BY THE UNITED
STATES OR BY ANY STATE ON ACCOUNT OF AGE.

1 Whereas, the ninety-second Congress of the United States at its
2 first session, in both houses, by a constitutional majority of two-thirds
3 in both houses, adopted the following proposition to amend the
4 Constitution of the United States in the following words, to wit:

JOINT RESOLUTION

5 Resolved by the Senate and the House of Representatives
6 of the United States... .

* * *

7
8
9 Therefore

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

11 1. That this proposed amendment to the Constitution of the United
12 States is ratified.

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

SAMPLE NO. 25
Concurrent Resolution

REFERENCE TITLE: Parkinson's disease awareness month

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

__ C. R. ____

Introduced by _____

A CONCURRENT RESOLUTION

DECLARING APRIL 2023 AS PARKINSON'S DISEASE AWARENESS MONTH.

1 Whereas, more individuals suffer from Parkinson's disease than
2 multiple sclerosis, muscular dystrophy and Lou Gehrig's disease combined;
3 and

4 Whereas, according to the National Parkinson Foundation, the
5 American Parkinson Disease Association and the National Institutes of
6 Health, there are approximately 1.5 million people in the United States
7 diagnosed with Parkinson's disease; and

8 Whereas, the symptoms of Parkinson's disease – stillness, tremor,
9 rigidity, slowness, poor movement and difficulty with balance and
10 speaking – are often mistaken for other conditions especially in the
11 younger adult or in the older adult as a normal part of the aging process;
12 and

13 Whereas, certain drugs can control some of the symptoms of
14 Parkinson's disease for only a short period of time and can cause in many
15 cases disabling side effects; and

16 Whereas, surgical procedures likewise offer only temporary lessening
17 of certain symptoms and are not a substitute for drugs; and

18 Whereas, April 2023 has been proclaimed as worldwide Parkinson's
19 awareness month for all to recognize the need for more research and help
20 in dealing with the devastating effects of Parkinson's disease; and

21 Whereas, increased education and research are needed to help find
22 more effective treatments and ultimately a cure for Parkinson's disease.

23 Therefore

24 Be it resolved by the (introducing body) of the State of Arizona, the
25 (concurring body) concurring:

26 That the Members of the Legislature proclaim the month of April 2023
27 as Parkinson's Disease Awareness Month.

Note: Proper nouns are capitalized in resolutions and memorials. Also, the declaration applies only to the current year; any attempt to make the declaration apply to subsequent years has no practical continuing effect.

SAMPLE NO. 27
Simple Memorial

REFERENCE TITLE: outsourcing postal workers; opposition

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

_. M. ____

Introduced by _____

A MEMORIAL

URGING THE UNITED STATES CONGRESS TO ENACT LEGISLATION TO DISCONTINUE THE PRACTICE OF CONTRACTING FOR PRIVATE MAIL DELIVERY SERVICES.

1 To the Congress of the United States of America:

2 Your memorialist respectfully represents:

3 Whereas, letter carriers of the United States Postal Service provide
4 mail delivery service to 160,000,000 homes and businesses across the
5 nation; and

6 Whereas, contracting for private mail delivery services is being
7 increasingly promoted by the Postal Service as a key business strategy for
8 its core function; and

9 * * *

10 Wherefore your memorialist, the (introducing body) of the State of
11 Arizona, prays:

12 1. That the United States Congress enact House Resolution 282 or
13 similar legislation to encourage the United States Postal Service to
14 discontinue the practice of contracting for private mail delivery
15 services.

16 2. That the Secretary of State of the State of Arizona transmit
17 copies of this Memorial to the President of the United States Senate, the
18 Speaker of the United States House of Representatives and each Member of
19 Congress from the State of Arizona.

SAMPLE NO. 28
Concurrent Memorial

REFERENCE TITLE: light rail system; support

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

__ . C. M. ____

Introduced by _____

A CONCURRENT MEMORIAL

URGING THE PRESIDENT OF THE UNITED STATES TO INSTRUCT CERTAIN FEDERAL AGENCIES TO PROVIDE MONIES TO THE ARIZONA DEPARTMENT OF TRANSPORTATION TO STUDY THE FEASIBILITY OF A MUNICIPAL LIGHT RAIL SYSTEM.

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

SAMPLE NO. 29
Proposed Amendment

(Legislature)
(Session)

Appropriations
__B. ____

PROPOSED

_____ AMENDMENTS TO __B. ____

(Reference to printed bill)

- 1 Page 3, line 31, after "ESTABLISHED" strike remainder of line
- 2 Strike lines 32 and 33, insert "WITH THE INTENT TO PROVIDE A"
- 3 Page 5, strike lines 1 through 3
- 4 Renumber to conform
- 5 Line 8, strike "STATE AND LOCAL FUNDING" insert "AVERAGE DAILY
- 6 MEMBERSHIP"
- 7 Page 8, line 31, strike "TEN MILLION" insert "SEVENTEEN MILLION FIVE
- 8 HUNDRED THOUSAND"
- 9 Between lines 40 and 41, insert:
- 10 "E. FOR FISCAL YEAR 2023-2024 AND FOR EACH SUBSEQUENT FISCAL
- 11 YEAR, MONIES MAY NOT BE APPROPRIATED FROM THE ARIZONA HIGHWAY USER
- 12 REVENUE FUND FOR USE BY THE DEPARTMENT OF PUBLIC SAFETY."
- 13 Reletter to conform
- 14 Page 15, line 40, strike "~~monies~~" insert "monies"
- 15 Page 16, between lines 5 and 6, insert:
- 16 "H. FOR FISCAL YEAR 2023-2024 AND FOR EACH SUBSEQUENT FISCAL
- 17 YEAR, MONIES MAY NOT BE APPROPRIATED FROM THE STATE HIGHWAY FUND FOR
- 18 USE BY THE DEPARTMENT OF PUBLIC SAFETY."
- 19 Strike pages 18 through 20
- 20 Page 21, lines 15, 19, 21 and 25, strike "SUCH" insert "THAT"
- 21 Line 26, after "department" insert a period strike remainder of line
- 22 Amend title to conform

SUSAN BUCKLOW

(document name)
(date)
(time)
__:(drafter's initials)

SAMPLE NO. 30
Amendment to Proposed Amendment

(Legislature)
(Session)

Finance
___.B. ____

PROPOSED

_____ AMENDMENTS TO __.B. ____

(Reference to the proposed Bucklow s/e amendment dated 3/19/23; 8:30 a.m.)

- 1 Page 5, line 19, after "COMMITTEE" insert "UNTIL DECEMBER 31, 2024"
2 Page 6, strike lines 25 through 27, insert:
3 "Line 43, strike "~~seven and one-half~~ FIVE" insert "seven and
4 one-half"
5 Page 7, line 3, strike "~~five and one-half~~ THREE AND ONE-HALF" insert "five
6 and one-half"
7 Lines 5 and 6, strike "~~seven and one-half~~ FIVE" insert "seven and
8 one-half"
9 Line 28, strike "strike "four" and" insert "after counties"
10 Line 29, strike "FIVE"
11 Page 10, between lines 24 and 25, insert:
12 "Page 7, between lines 41 and 42, insert:
13 "J. A PERMITTEE MAY REDUCE THE PERCENTAGE PAID TO THIS STATE
14 AS PROVIDED IN SUBSECTIONS B AND D OF THIS SECTION."
15 Amend title to conform

SUSAN BUCKLOW

(document name)
(date)
(time)
__:(drafter's initials)

SAMPLE NO. 31
Floor Amendment

(Legislature)
(Session)

Bucklow
H.B. _____

BUCKLOW FLOOR AMENDMENT

_____ AMENDMENTS TO ____B. _____

(Reference to printed bill)

- 1 Page 9, lines 12 and 13, strike "OR A CONDITIONAL"
- 2 Page 17, lines 21 and 22, strike ", CONDITIONAL"
- 3 Page 18, lines 1, 3 and 5, strike ", CONDITIONAL"
- 4 Page 22, strike line 23
- 5 Page 23, strike lines 1 through 16, insert:
 - 6 "36-1940.04. Licensure; exemption
 - 7 ANY PERSON WHO IS EMPLOYED BY A SCHOOL AS DEFINED IN SECTION
 - 8 15-101 ON OR BEFORE MAY 1, 2025 IS EXEMPT FROM THE LICENSING
 - 9 REQUIREMENTS OF THIS ARTICLE."
- 10 Line 17, strike "36-1940.06." insert "36-1940.05."
- 11 Amend title to conform

SUSAN BUCKLOW

(document name)
(date)
(time)
__:(drafter's initials)

SAMPLE NO. 32
Floor Amendment

Martin
___.B. ____

(Legislature)
(Session)

MARTIN FLOOR AMENDMENT
_____ AMENDMENTS TO __.B. ____
(Reference to printed bill)

1 Page 1, strike lines 2 through 22, insert:

2 "Section 1. Repeal

3 Title 13, chapter 16, Arizona Revised Statutes, is repealed."

4 Page 3, strike lines 18 through 21, insert:

5 "Sec. 4. Transfer of records, monies and personnel

6 All records, obligations, personnel and appropriated monies
7 remaining unspent and unencumbered of the Arizona drug control
8 district are transferred on November 1, 2023 to the division of
9 narcotics enforcement and criminal intelligence in the department of
10 public safety and may be used for the purposes of this act."

11 After line 37, insert:

12 "Sec. 6. Effective date

13 This act is effective from and after October 31, 2023."

14 Amend title to conform

CHARLES MARTIN

(document name)
(date)
(time)
__:(drafter's initials)

SAMPLE NO. 33
Floor Amendment [with style notations]

(Legislature)
(Session)

Martin
_.B. _

MARTIN FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. _____
(Reference to APPROPRIATIONS Committee amendment) ← Full committee name

1 Page 1, before line 1, insert:

2 "Page 1, between lines 7 and 8, insert:
3 "2. "INFORMATION SERVICES PROVIDER" MEANS AN ENTITY THAT
4 PREPARES TELEMARKETING LISTS ON BEHALF OF SELLERS OR SOLICITORS."
5 Renumber to conform"

Enclose
new
language
in
quotation
marks

6 Page 3, strike lines 1 through 3 ← Strike three or more lines

7 Renumber to conform ← At the margin

8 Page 6, between lines 4 and 5, insert:

9 "Page 4, line 33, strike "OBJECT TO RECEIVING" insert "DO NOT WISH TO
10 RECEIVE"

Making identical changes on a single line

11 Page 5, line 2, after "THE" insert "MOST EFFICIENT AND INEXPENSIVE"

12 Line 16, strike the first and second "and" insert "OR" ←

13 Line 23, after "SECTION" insert a period strike remainder of line ← Omit "and" after "period"

14 Line 26, after "ESTABLISHED" strike remainder of line

15 Strike lines 27 and 28, insert "WITH THE INTENT TO PROVIDE A" ← Consecutive line instruction

16 Line 29, after the comma insert "OR THE FIRST BUSINESS DAY FOLLOWING EACH OF
17 THESE DATES."

18 Page 7, between lines 4 and 5, insert: ← Disregard quotation mark at the end of the Committee amendment

19 "Sec. 6. Emergency

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

23 Amend title to conform

CHARLES MARTIN

____Floor MARTIN

04/28/23
02:03 PM

S: cat ← Drafter's initials

SAMPLE NO. 34
House Substitute House Floor Amendment

(Legislature)
(Session)

Bucklow
H.B. _____

BUCKLOW SUBSTITUTE FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. _____

I move the following SUBSTITUTE amendment to the ENVIRONMENT Committee
Amendment to

HOUSE BILL 0000 (Reference to printed bill)

- 1 Page 1, line 9, strike the colon
2 Strike lines 10 through 19, insert "BE CONSISTENT WITH THE GUIDELINES
3 ESTABLISHED BY THE STATE BOARD OF EDUCATION PURSUANT TO SUBSECTION
4 D OF THIS SECTION."
5 Line 20, after "C." insert "IF A SCHOOL DISTRICT CHOOSES TO PROVIDE
6 INSTRUCTION IN ENVIRONMENTAL EDUCATION,"
7 Page 2, strike lines 28 and 29, insert:
8 "2. INCLUDES A DISCUSSION OF ECONOMIC AND SOCIAL
9 IMPLICATIONS."
10 Line 31, strike "INFORMATION" insert "COURSES OR PROGRAMS"; strike "OR
11 INFORMAL"
12 Line 34, strike "AND TECHNOLOGY" insert ", TECHNOLOGY AND RESOURCE
13 PRODUCTION"
14 Amend title to conform

SUSAN BUCKLOW

(document name)
(date)
(time)
__:(drafter's initials)

Note: The Senate generally does not allow substitute floor amendments.

SAMPLE NO. 35
Additional COW Amendment

Martin
S.B. _____

(Legislature)
(Session)

ADDITIONAL COW
MARTIN FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. _____
(Reference to House engrossed Senate bill)

- 1 Page 1, lines 28, 31, 35 and 39, after "OR" insert "REGULATORY"
- 2 Page 2, lines 2, 10, 21, 28, 35 and 39, after "OR" insert "REGULATORY"
- 3 Amend title to conform

CHARLES MARTIN

(document name)
(date)
(time)
____:(drafter's initials)

SAMPLE NO. 36
Strike Everything Amendment to a Resolution

Military Affairs
___.C.R. ____

(Legislature)
(Session)

PROPOSED

_____ AMENDMENTS TO ___.C.R. _____

(Reference to printed resolution)

1 Strike page 1

2 Page 2, strike lines 1 through 8, insert:

3 "Whereas, Arizona offers numerous military installations that
4 provide the United States Department of Defense with unparalleled access
5 to high quality, weather-friendly and cost-effective training for
6 American armed forces; and

* * *

7 Whereas, Arizona cities, towns and counties in partnership with
8 the Governor and the Legislature have a long, committed history and
9 reputation for ensuring that Arizona is a military-friendly state."

10 Page 12, strike everything after the resolving clause and insert:

11 "1. That the Members of the Legislature recognize the unique
12 assets that the State of Arizona provides to test and train our nation's
13 military and the importance of these assets to our national defense.

14 2. That the Members of the Legislature recognize the beneficial
15 economic impact that the State of Arizona enjoys due to the federal
16 military installations and missions located in Arizona."

17 Amend title to conform

CHARLES MARTIN

(document name)

(date)

(time)

__:(drafter's initials)

SAMPLE NO. 37
Conference Committee Amendment

(Legislature)
(Session)

[FREE] or [SIMPLE] CONFERENCE COMMITTEE AMENDMENTS TO __.B. ____
(Reference to House engrossed Senate bill or Senate engrossed House bill)

- 1 Page 1, lines 6 and 10, strike "five" insert "SEVEN"
- 2 Line 15, strike the first "three" insert "FOUR"
- 3 Line 24, strike "TWO" insert "THREE"
- 4 Line 25, after "next" insert "TWO"
- 5 Page 2, line 45, before "Extension" insert "Election of seven-member
- 6 board:"
- 7 Line 47, after "act," insert "each community college district governing
- 8 board shall establish seven precincts on or before August 1, 2024
- 9 and shall call a special election to be held on or before the second
- 10 Tuesday in December"
- 11 Amend title to conform

(document name)
(date)
(time)
__:(drafter's initials)

Note: A conference committee amendment is almost always designated as "free." A "simple" conference committee amendment may not add new language and may only remove language from the version received by the House and the Senate. By contrast, a free conference committee amendment may make any change to the amendment it receives, but may not strike everything after the enacting clause.

SENATE
AND
HOUSE OF REPRESENTATIVES
STATE OF ARIZONA

REPORT OF FREE CONFERENCE COMMITTEE

April 7, 2023

MADAM PRESIDENT:

MR. SPEAKER:

Your FREE Conference Committee on S.B. 1334 – independent functional utility;
deduction (now: sentencing; repetitive offenders)

respectfully recommends: (Reference to House engrossed Senate bill)

That the Senate accept the House amendments with exceptions and the bill be further
amended.

(SEE ATTACHED)

SENATE CONFEREES:

HOUSE CONFEREES:

Note: The legislators' names are typed in capital letters below the signature lines, and the conference committee amendment is attached to the conference committee report cover page.

APPENDIX B

LEGISLATIVE COUNCIL

DRAFTING RULES AND DEADLINES

Rule 22

PROCEDURES FOR DRAFTING AND RESEARCH

The executive director shall prescribe rules relating to the form and style of bills and research memorandum and reports, the distribution thereof, the order of drafting bills or performing research, and such other matters relating to the procedure to be followed by the Council staff in rendering its services as may be deemed necessary or advisable by the Council. Any major changes shall be placed before the Legislative Council for approval.

Rule 24

FORM OF AMENDMENTS

All bills prepared for introduction which propose to amend existing statutes shall show the words to be added in capital letters, and the words to be deleted shall be shown in regular type lined through.

Rule 25

INTRODUCTION OF BILLS

All legislative measures prepared for introduction shall first be presented to the staff of the Legislative Council for preparation in accordance with legislative form and style and for processing.

Rule 26

DEADLINE FOR REQUESTING LEGISLATION

A. Every state agency, board and commission shall make its request for each bill, resolution or memorial which it proposes for a regular session of the legislature, from Legislative Council, on or before November 15 of the year next preceding the legislative

session. Every state agency, board and commission must have a legislator agree to sponsor the requested legislation before the legislation is drafted by the Legislative Council staff.

B. Any exception to this Rule must be approved in writing by both the President of the Senate and the Speaker of the House of Representatives.

Rule 28

A. A legislator shall request each bill, resolution or memorial which he proposes for introduction in a regular session of the legislature, from Legislative Council, by 5:00 p.m. of the fourteenth calendar day prior to the legislation introduction deadline established by the House and Senate Rules for such regular session, unless the request is for legislation for introduction by approval of the Rules Committee in the House or Senate.

B. Any exception to this Rule must be approved in writing by the Speaker of the House for House requests and the President of the Senate for Senate requests.

Rule 29

A. Legislative Council shall prepare and distribute all introduction sets requested for bills, resolutions and memorials for a regular session by the seventh calendar day prior to the legislation introduction deadline established by House and Senate Rules for such regular session.

B. No introduction sets for the regular session shall be prepared by Legislative Council after the seventh calendar day prior to the legislation introduction deadline without approval in writing by the Speaker of the House for House requests and the President of the Senate for Senate requests, except for introduction sets prepared for introduction by approval of the Rules Committee in the House or Senate.

APPENDIX C

BILL DRAFT CHECKLIST

TITLE CHECK

- _____ Reference Title
- _____ All Sections Listed
- _____ Appropriation
- _____ "Relating To" Clause

BILL CHECK

- _____ Enacting Clause
- _____ Latest Effective Version of Law
- _____ Correct Version of Section
- _____ Code Placement
- _____ Arrangement & Numbering of Sections, Subsections, etc.
- _____ New Material - "UP" Style
- _____ Stricken Material
- _____ Definitions (alphabetical and each used)
- _____ Special Constitutional and Statutory Provisions (including Prop. 126 – tax on a service or privilege to engage in a service)
- _____ Voter Protected (Prop. 105)
- _____ Penalty Provisions
- _____ Grandfather/Saving Clause
- _____ Effective Date/Emergency/Prop. 108
- _____ Retroactivity
- _____ Delayed Repeal (check *Statutory Delayed Repeals* publication)
- _____ Sunset
- _____ Internal Reference Manual - effect on other laws
- _____ Annual Report – Recommend Statutory Improvements
- _____ Revised Section, Article and Chapter Headings
- _____ Initial Terms
- _____ Temporary Law - Repeal
- _____ Proofread

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