

**Joint Legislative Audit Committee**  
September 14, 2016—10:00 a.m.  
House Hearing Room 1



Debra K. Davenport  
Auditor General



# ARIZONA STATE LEGISLATURE

## INTERIM MEETING NOTICE OPEN TO THE PUBLIC

### JOINT LEGISLATIVE AUDIT COMMITTEE

**Date:** September 14, 2016

**Time:** 10:00 a.m.

**Place:** HHR1

### AGENDA

The agenda for the meeting is as follows:

- Call to order–opening remarks
- Approval of minutes of November 5, 2015, meeting
- 1. Overview of Auditor General's Office
- 2. 2016 legislation impacting Auditor General's Office workload
- 3. Consideration and approval of changes to 2016-2017 performance audit and sunset review schedule
- 4. Consideration and approval of additions to 2017 Committees of Reference assignments
- 5. Consideration and approval of 2018-2019 proposed performance audit and sunset review schedule
- 6. Consideration and approval of 2018-2019 Committees of Reference assignments
- 7. Fiscal year 2017 financial and compliance audit schedule and list of entities to bill for federally mandated audit work
- 8. Overview of Special Investigative Unit in Auditor General's Office
- 9. 2018-2019 school district performance audit schedule and status update of 2016-2017 schedule
- 10. Assignment of legislative proposal establishing a presumption of compensability for cardiovascular disease for fire fighters and peace officers
- 11. Assignment of legislative proposal expanding the cancer presumption of compensability for fire fighters and peace officers
- 12. Public testimony
- 13. Adjourn

### Members:

Representative John Allen, Chair  
Representative Regina Cobb  
Representative Debbie McCune Davis  
Representative Rebecca Rios  
Representative Kelly Townsend  
Representative David Gowan, Ex Officio

Senator Judy Burges, Vice Chair  
Senator Nancy Barto  
Senator Lupe Contreras  
Senator David Farnsworth  
Senator Lynne Pancrazi  
Senator Andy Biggs, Ex Officio

**People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.**



DEBRA K. DAVENPORT, CPA  
AUDITOR GENERAL

STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

MELANIE M. CHESNEY  
DEPUTY AUDITOR GENERAL

DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

FROM: Debbie Davenport, Auditor General

SUBJECT: Overview of Auditor General's Office

We were asked to present an overview of our Office at the JLAC meeting. The attachment provides an overview of the Office, including a description of its five operating functions and their primary products and services as well as charts showing Office staff levels and the Office's State General Fund appropriations.

**Action required**

None. Presented for JLAC's information.

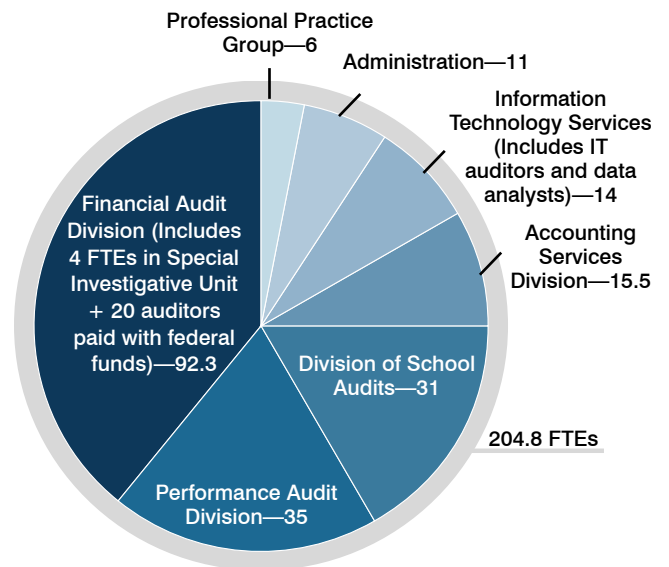
**Services**

As a legislative agency, the Auditor General’s Office mission is to provide policy decision makers with factual information and recommendations to improve state and local government operations. To accomplish this, four operating and three support divisions carry out the Office’s responsibilities and activities. The five operating functions are discussed below:

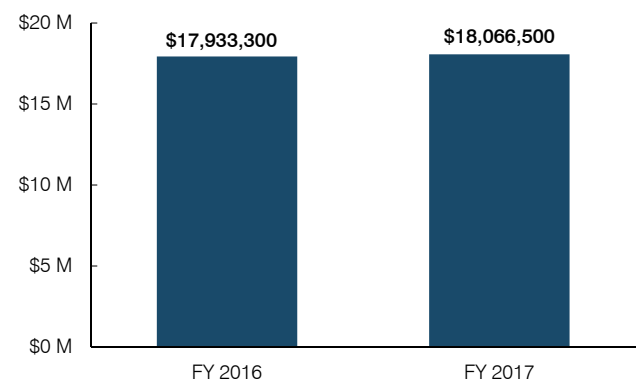
- **Financial Audit Division**—Conducts annual financial audits of the State, universities, community colleges, and counties to ensure that they are fairly presented. As part of the financial audits, the division also determines compliance with laws and regulations. In essence, we are the “State’s CPA firm.” It also has a small special investigative unit that works in conjunction with the Attorney General’s or county attorneys’ offices, and investigates possible instances of financially related fraud, waste, and abuse.
- **Performance Audit Division**—Conducts performance audits to determine if state agencies are functioning effectively and efficiently and makes recommendations to improve agency operations. The division conducts audits as part of the sunset review process to help the Legislature determine if agencies should be continued, modified, or terminated. Sunset reviews are prescribed by law and are completed at least every 10 years.
- **Division of School Audits**—Monitors the spending of Arizona school districts. This division was created after the passage of Proposition 301 in the 2000 election, which increased the state-wide sales tax to fund education programs. Each year we issue a report that details district spending. Further, the division conducts performance audits of school districts and identifies potential cost savings and “best practices.”
- **Accounting Services Division**—Helps school districts, charter schools, counties, and community colleges to report financial information as prescribed by Generally Accepted Accounting Principles, and state and federal laws, rules, and regulations. The division reviews school district audit reports to ensure compliance and reviews the accounting procedures of small districts not subject to audit.
- **IT Audit and Analysis**—Part of our IT Services support division, IT auditors and analysts provide technical assistance and direct audit support to our audit divisions. IT auditors help to review controls over electronic systems and applications, including IT security controls. IT analysts help our audit staff collect, process, prepare, and analyze data used in our audits to help support our findings and conclusions, including analyzing data to identify potential fraud or misuse of resources.

**Staff levels**

**184.8 authorized FTEs + 20 federally funded audit positions**



**State General Fund appropriation**  
**Fiscal years 2016 and 2017**







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DEPUTY AUDITOR GENERAL

DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

FROM: Debbie Davenport, Auditor General

SUBJECT: 2016 Legislation Impacting Auditor General's Office Workload

During the 2016 legislative session, several pieces of legislation were passed that require the Auditor General's Office to conduct one-time and ongoing audits or reviews of specific entities or programs, all of which have an impact on the Office's workload. The attachment provides a brief description of each of these legislative requirements, when the audit or review is due, and the Office's plan to achieve the new mandate.

**Action required**

None. Presented for JLAC's information.

## 2016 Legislation Impacting Auditor General's Office Workload

Legislation Summary	Statutory Due Date	Office's Action Plan
Requires the Office to conduct performance audits of joint technical education districts (JTEDs) and to consider the differences and applicable laws for a JTED when conducting a performance audit. [SB1525; A.R.S. 15-393.01(B)]	Annually as part of School District Performance Audit Schedule	Reducing number of school district performance audits by two audits per schedule to allow for two JTED performance audits per schedule.
Requires the Office to conduct a special audit of JTEDs that includes (1) comparison of career and technical education (CTE) delivery by schools not within a JTED to a JTED; (2) comparison of CTE delivery at a centralized campus to a satellite campus; (3) comparison of growth in satellite programs compared to centralized campus programs; (4) spending habits of JTEDs; (5) efficiency of JTED practices and administrative spending; (6) relationship between JTEDs and member districts and services provided to member districts; (7) variety, scope, and duplication of JTED program and course offerings; and (8) any follow-up issues arising since previous audit or any other issues. (SB1525; Laws 2016, Ch. 4, Sec. 7)	As scheduled by JLAC	Moving four school district performance audits from 2016-2017 audit schedule to the 2018-2019 audit schedule.
Requires the Office to annually review per diem compensation and reimbursement of expenses for state employees and members of a state board, commission, council, or advisory committee by judgmentally selecting samples and evaluating the propriety of per diem compensation and expense reimbursements. [SB1421; A.R.S. 41-1279.03(A)(10)]	Annually	Assimilating this work into our current workload.







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DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Dale Chapman, Director, Performance Audit Division

SUBJECT: Consideration and Approval of Changes to 2016-2017 Performance  
Audit and Sunset Review Schedule

## Background

Laws 1978, Ch. 210, established the sunset review process, which requires most state agencies to receive a systematic evaluation at least once every 10 years to determine whether they should be continued or terminated. A.R.S. §41-2953(B) directs the Auditor General to provide the Joint Legislative Audit Committee (JLAC) a list of agencies scheduled for termination in the next sunset schedule. The Auditor General's Office (Office) does not have sufficient resources to conduct all sunset reviews; therefore, JLAC determines which agencies the Office will review and which agencies the Committees of Reference (CORs) will review.<sup>1</sup>

JLAC previously approved the 2016-2017 performance audit and sunset review schedule and assigned the sunset reviews on that schedule to either the Office or to a COR.<sup>2</sup> However, additional adjustments to the schedule are needed, as detailed below.

## Addition of special audit to 2016 performance audit schedule

In the 2016 legislative session, the Legislature passed Laws 2016, Ch. 107, §4, requiring the Office to conduct a performance audit of the Arizona Power

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<sup>1</sup> The essential difference between sunset reviews the Office and the CORs perform is the depth and scope of the work performed. When our Office performs an agency's sunset review, it conducts a performance audit of the agency to identify ways the agency can operate more efficiently and effectively.

<sup>2</sup> JLAC approved the 2016-2017 audit schedule at its October 22, 2014, meeting. JLAC subsequently approved a revised 2016-2017 audit schedule at its November 5, 2015, meeting to reflect incorporating a special audit request and legislative changes made to sunset review dates.

Authority (Authority) by December 31, 2016. The Office is currently conducting this performance audit.

To accommodate the Authority's performance audit into its 2016 schedule, the Office proposes that the following two agencies JLAC previously assigned to the Office be reassigned to CORs:

- Arizona Board of Occupational Therapy Examiners
- Arizona State Veterinary Medical Examining Board

With the addition of the Arizona Power Authority performance audit to our workload, the Office does not have the resources to conduct these two audits.

### **Additions to 2017 Sunset Review Schedule**

Legislation passed in the 2016 session placed four additional sunset reviews on the 2017 schedule, giving these agencies only a 2-year extension. The Office proposes these agencies be assigned to a COR because we are conducting followups in three of the four agencies and we do not have the resources to absorb these audits into our 2017 workload. Our follow-up work indicates the agencies are making progress in implementing the report recommendations. Specifically, the Office recently reviewed three of the four agencies, as detailed below:

- The Office reviewed the Arizona Commerce Authority in 2015. In addition, in June 2016 our Office issued a followup on the Arizona Commerce Authority and will conduct another followup in 2017.
- The Office reviewed the Radiation Regulatory Agency and Radiation Regulatory Hearing Board in 2015. Our Office issued a followup on these agencies in June 2016 and will initiate another followup in 2017.
- The Office reviewed the Medical Radiologic Technology Board of Examiners in 2015. Our Office issued a followup on the Board in June 2016 and will initiate another followup in 2017.
- A COR reviewed the Arizona State Boxing and Mixed Martial Arts Commission in 2015.

### **Summary**

Attached is the 2016-2017 performance audit and sunset review schedule with the proposed revisions outlined above. This schedule shows which agencies we propose the Office to audit and which agencies we propose the CORs to review.

The schedule also identifies audits that the Office is mandated by statute to conduct.

**Action Required**

Per statute, JLAC is required to determine whether the Office or a COR will review these agencies.

# 2016-2017 PROPOSED PERFORMANCE AUDIT AND SUNSET REVIEW SCHEDULE

(Revised September 2016)

## Statutorily Mandated Audits

1. Arizona Department of Education (A.R.S. §41-2958)
2. Judiciary Programs (A.R.S. §41-2958)
3. Foster Care Tuition Waiver Pilot Program ((A.R.S. §15-1809(c))
4. Maricopa County Regional Transportation Plan (A.R.S. §28-6313)
5. Pima County Transportation Excise Tax (A.R.S. §41-1279.03)
6. Pinal County Transportation Excise Tax (A.R.S. §41-1279.03)
7. Arizona Department of Child Safety - ongoing audits (A.R.S. §41-1966)
  - a. Differential Response and Case Screening (issued March 2016)
  - b. Permanency Practices for Children in Out-of-Home Care (due September 30, 2016)
  - c. Administrative Staffing Level (due February 1, 2017)
  - d. Recruiting, Training, Retention, and Use of Staff (due September 30, 2017)
8. Arizona Power Authority (Laws 2016, Ch. 107, §4)

## JLAC Requested Audit

1. Arizona Early Childhood Development and Health Board (First Things First)

## Sunset Reviews To Be Conducted by Auditor General's Office

1. Arizona Department of Economic Security
2. Arizona School Facilities Board
3. State of Arizona Acupuncture Board of Examiners
4. Arizona Board of Osteopathic Examiners
5. Arizona State Board of Respiratory Care Examiners
6. Arizona Criminal Justice Commission
7. Followups at 6 and 18 months

## Recommend JLAC Reassign These Sunset Reviews from Auditor General to COR

1. Arizona Board of Occupational Therapy Examiners
2. Arizona State Veterinary Medical Examining Board

## Sunset Reviews To Be Conducted by CORs

1. Arizona Department of Housing
2. Arizona State Land Department
3. Arizona Beef Council
4. Arizona Exposition and State Fair Board
5. Arizona Civil Rights Advisory Board
6. Board of Medical Student Loans
7. Arizona Regulatory Board of Physician Assistants
8. Governor's Archaeology Advisory Commission
9. Arizona Outdoor Recreation Coordinating Commission
10. Property Tax Oversight Commission
11. Arizona State Board of Behavioral Health Examiners
12. Governor's Regulatory Review Council
13. Board of Executive Clemency
14. School Safety Program Oversight Committee
15. Western Interstate Commission for Higher Education
16. Arizona Commerce Authority (a)
17. State Boxing and Mixed Martial Arts Commission (a)
18. Arizona Radiation Regulatory Agency and Hearing Board (a)
19. Medical Radiologic Technology Board of Examiners (a)
  - (a) Sunset reviews added by 2016 legislation



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DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Dale Chapman, Director, Performance Audit Division

SUBJECT: Consideration and Approval of Additions to 2017 Committees of Reference Assignments

## Background

The Joint Legislative Audit Committee (JLAC) is statutorily required to assign agencies subject to a sunset review to Committees of Reference (CORs), regardless of whether the Auditor General's Office or the CORs will conduct the sunset review. JLAC is also responsible for assigning all other performance audits to CORs or other pertinent committees to ensure that each audit receives a public hearing by a legislative committee. Agencies are generally assigned to the CORs whose standing committees would most likely be responsible for hearing any legislation affecting that particular agency and that has knowledge or expertise in that particular subject area.

JLAC previously approved the 2017 CORs at their October 22, 2014, meeting. However, the following four agencies were added to the 2017 sunset review schedule in the 2016 legislative session and need to be assigned to CORs:

- Arizona State Boxing and Mixed Martial Arts Commission
- Arizona Commerce Authority
- Radiation Regulatory Agency and Radiation Regulatory Hearing Board
- Medical Radiologic Technology Board of Examiners

In addition, Laws 2016, Ch. 107, requires our Office to conduct a performance audit of the Arizona Power Authority (Authority) by December 31, 2016. Thus, JLAC needs to assign the performance audit of the Authority to a COR.

Attached are the President's and Speaker's recommendations for these four 2017 sunset reviews and the performance audit. The CORs are responsible for holding at least one public hearing to discuss the audit and receive testimony from agency officials and the public. For sunset reviews, these hearings should be held by December 1 of the year the sunset review is due.

### **Action Required**

JLAC may either approve the CORs as recommended by the President of the Senate and the Speaker of the House or assign new CORs.

**2017 PERFORMANCE AUDITS<sup>1</sup>**  
**PRESIDENT AND SPEAKER RECOMMENDATIONS**  
**FOR COMMITTEE OF REFERENCE (COR) ASSIGNMENTS**

<b>Statutory Reference</b>	<b>Agency and Programs Selected for Review</b>	<b>COR Recommendations</b>
A.R.S. §41-3018.01	Arizona Commerce Authority	House: Commerce Senate: COM
A.R.S. §41-3018.22	Arizona State Boxing and Mixed Martial Arts Commission	House: Commerce Senate: COM
A.R.S. §41-3018.22	Radiation Regulatory Agency and Radiation Regulatory Hearing Board	House: Health Senate: HHS
A.R.S. §41-3018.23	Medical Radiologic Technology Board of Examiners	House: Health Senate: HHS
Laws 2016, Ch. 107, §4	Arizona Power Authority <sup>2</sup>	House: AWL Senate: COM

<sup>1</sup> This listing is for audits conducted under authority of the sunset law, specific legislation, or JLAC direction and due in 2017. JLAC procedures require all audits to have a hearing. JLAC approves which CORs (or successor committees) will receive the assignment in order to conduct the hearing or may assign audits to JLAC for a hearing.

<sup>2</sup> The statutory due date for this audit is December 31, 2016. Thus, it will be placed on the 2017 schedule for the purposes of the COR holding a hearing.



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DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Dale Chapman, Director, Performance Audit Division

SUBJECT: Consideration and Approval of 2018-2019 Proposed Performance Audit  
and Sunset Review Schedule

## Background

Laws 1978, Ch. 210, established the sunset review process which requires most state agencies to receive a systematic evaluation at least once every 10 years to determine whether they should be continued or terminated. A.R.S. §41-2953(B) directs the Auditor General to provide the Joint Legislative Audit Committee (JLAC) a list of agencies scheduled for termination in the next sunset schedule. The Auditor General's Office (Office) does not have sufficient resources to conduct all sunset reviews; therefore, JLAC determines which agencies the Office will review and which agencies the Committees of Reference (CORs) will review.

Before giving JLAC a proposed audit schedule, the Office obtains background information on the agencies, as well as information from legislators and other interested parties, to identify and recommend which agencies the Office should review. The Office uses the information obtained from legislators and other stakeholders, and also considers prior audits and reviews of these agencies, to prioritize the agencies our Office should review and recommends that the CORs review the remaining agencies. However, JLAC ultimately determines whether the Office or CORs will perform the sunset reviews.<sup>1</sup>

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<sup>1</sup> The essential difference between sunset reviews the Office and the CORs perform is the depth and scope of the work performed. When our Office performs an agency's sunset review, it conducts a performance audit of the agency to identify ways the agency can operate more efficiently and effectively.



The proposed audit schedule for 2018-2019 is attached. This schedule shows which agencies we propose the Office to audit and which agencies we propose the CORs to review. The schedule also identifies three agencies or programs that statute mandates the Office to audit.

**Action required**

Per statute, JLAC is required to determine whether the Office or a COR will review these agencies.

**2018-2019 PROPOSED PERFORMANCE AUDIT  
AND SUNSET REVIEW SCHEDULE**  
(September 2016)

**Statutorily Mandated Audits**

1. Universities (A.R.S. §41-2958)
2. Gila County Transportation Excise Tax (A.R.S. §41-1279.03)
3. Arizona Department of Child Safety--ongoing audits (A.R.S. §41-1966)
  - a. Substance Abuse Treatment Program, AZ Families F.I.R.S.T. (due March 31, 2018)

**Sunset Reviews To Be Conducted by Auditor General's Office**

1. Commission for Postsecondary Education
2. Arizona Medical Board
3. Board of Athletic Training
4. Psychologist Examiners Board
5. Department of Insurance
6. Department of Water Resources
7. Department of Gaming
8. Department of Revenue
9. Department of Health Services
10. Psychiatric Security Review Board
11. Department of Agriculture
12. Department of Juvenile Corrections
13. Followups at 6 and 18 months

**Sunset Reviews To Be Conducted by CORs**

1. Advisory Council on Aging
2. Biomedical Research Commission
3. Board of Investment
4. Board of Library Examiners
5. Commission for the Deaf and the Hard of Hearing
6. Geographic and Historic Names Board
7. Board of Homeopathic and Integrated Medicine Examiners
8. Joint Legislative Budget Committee
9. Legislative Council
10. Library, Archives, and Public Records
11. Mining Advisory Council
12. Office of Administrative Hearings
13. Office of Ombudsman-Citizens Aide
14. Residential Utility Consumer Office
15. State Auditor General



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AUDITOR GENERAL

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MELANIE M. CHESNEY  
DEPUTY AUDITOR GENERAL

DATE: September 14 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Dale Chapman, Director, Performance Audit Division

SUBJECT: Consideration and Approval of 2018-2019 Committees of Reference  
Assignments

## Background

The Joint Legislative Audit Committee (JLAC) is statutorily required to assign agencies subject to a sunset review to Committees of Reference (CORs), regardless of whether the Auditor General's Office or the CORs will conduct the sunset review. JLAC is also responsible for assigning all other performance audits to CORs or other pertinent committees to ensure that each audit receives a public hearing by a legislative committee. Agencies are generally assigned to the CORs whose standing committees would most likely be responsible for hearing any legislation affecting that particular agency and that has knowledge or expertise in that particular subject area.

Attached are the President's and Speaker's recommendations for the 2018 and 2019 sunset reviews and performance audits. The CORs are responsible for holding at least one public hearing to discuss the audit and receive testimony from agency officials and the public. For sunset reviews, these hearings should be held by December 1 of the year the sunset review is due.

**Attachment A** details the 2018 COR recommendations. **Attachment B** details the 2019 COR recommendations.

## Action required

JLAC may either approve the CORs as recommended by the President of the Senate and the Speaker of the House or assign new CORs.

Attachment A

**2018 PERFORMANCE AUDITS<sup>1</sup>  
PRESIDENT AND SPEAKER RECOMMENDATIONS  
FOR COMMITTEE OF REFERENCE (COR) ASSIGNMENTS**

<b>Statutory Reference</b>	<b>Agency and Programs Selected for Review</b>	<b>COR Recommendations</b>
A.R.S. §41-3019.01	Commission for Postsecondary Education	House: GHE Senate: ED
A.R.S. §41-3019.02	Biomedical Research Commission	House: Health Senate: HHS
A.R.S. §41-3019.04	Arizona Medical Board	House: Health Senate: HHS
A.R.S. §41-3019.05	Office of Administrative Hearings	House: Judiciary Senate: GOV
A.R.S. §41-1279.03	School Districts	House: ED Senate: ED
A.R.S. §41-2958	Universities	House: GHE Senate: ED
A.R.S. §41-1966	Arizona Department of Child Safety	House: CFA Senate: HHS

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<sup>1</sup> This listing is for audits conducted under authority of the sunset law, specific legislation, or JLAC direction and due in 2018. JLAC procedures require all audits to have a hearing. JLAC approves which CORs (or successor committees) will receive the assignment in order to conduct the hearing or may assign audits to JLAC for a hearing.

## Attachment B

### 2019 PERFORMANCE AUDITS<sup>1</sup> PRESIDENT AND SPEAKER RECOMMENDATIONS FOR COMMITTEE OF REFERENCE (COR) ASSIGNMENTS

<b>Statutory Reference</b>	<b>Agency and Programs Selected for Review</b>	<b>COR Recommendations</b>
A.R.S. §41-3020.01	Department of Revenue	House: WM Senate: FIN
A.R.S. §41-3020.02	State Board of Psychologist Examiners	House: Health Senate: HHS
A.R.S. §41-3020.03	Advisory Council on Aging	House: CFA Senate: HHS
A.R.S. §41-3020.04	Arizona State Library, Archives and Public Records	House: GHE Senate: GOV
A.R.S. §41-3020.05	State Board On Geographic and Historic Names	House: GHE Senate: GOV
A.R.S. §41-3020.06	Commission for The Deaf and The Hard of Hearing	House: GHE Senate: HHS
A.R.S. §41-3020.07	Board of Athletic Training	House: Commerce Senate: HHS
A.R.S. §41-3020.08	Board of Library Examiners	House: CMA Senate: GOV
A.R.S. §41-3020.09	Mining Advisory Council	House: EENR Senate: NR

<sup>1</sup> This listing is for audits conducted under authority of the sunset law, specific legislation, or JLAC direction and due in 2019. JLAC procedures require all audits to have a hearing. JLAC approves which CORs (or successor committees) will receive the assignment in order to conduct the hearing or may assign audits to JLAC for a hearing.

## Attachment B

<b>Statutory Reference</b>	<b>Agency and Programs Selected for Review</b>	<b>COR Recommendations</b>
A.R.S. §41-3020.10	Department of Water Resources	House: AWL Senate: NR
A.R.S. §41-3020.11	Psychiatric Security Review Board	House: MAPS Senate: HHS
A.R.S. §41-3020.13	State Board of Investment	House: BFS Senate: FIN
A.R.S. §41-3020.14	Joint Legislative Budget Committee	House: APPROP Senate: APPROP
A.R.S. §41-3020.15	Legislative Council	House: Rules Senate: GOV
A.R.S. §41-3020.16	Department of Gaming	House: Commerce Senate: COM
A.R.S. §41-3020.17	Department of Insurance	House: Insurance Senate: Financial Institutions
A.R.S. §41-3020.19	Department of Health Services	House: Health Senate: HHS
A.R.S. §41-3020.20	Residential Utility Consumer Office	House: EENR Senate: COM
A.R.S. §41-3020.21	State Auditor General	House: Rules Senate: GOV
A.R.S. §41-3020.22	Office of Ombudsman-Citizens Aide	House: Rules Senate: GOV

## Attachment B

<b>Statutory Reference</b>	<b>Agency and Programs Selected for Review</b>	<b>COR Recommendations</b>
A.R.S. §41-3020.24	Board of Homeopathic and Integrated Medicine Examiners	House: Health Senate: HHS
A.R.S. §41-1279.03	School Districts	House: ED Senate: ED
A.R.S. §41-1279.03	Gila County Transportation Excise Tax	House: WM Senate: GOV
A.R.S. §41-1966	Arizona Department of Child Safety	House: CFA Senate: HHS



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MELANIE M. CHESNEY  
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DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Jay Zsorey, Financial Audit Division Director

SUBJECT: Fiscal Year 2017 Financial and Compliance Audit Schedule and List of  
Entities to Bill for Federally Mandated Audit Work

### Background

Under A.R.S. §§41-1279.03 and 41-1279.21, the Office conducts annual financial and compliance audits of all state agencies, counties, community college districts, and universities. These audits are conducted under the federally mandated single audit requirements established by the U.S. Office of Management and Budget. In addition, the Office conducts special financial audits, reviews, and investigations at the Legislature's request and other financial audits and special reviews mandated in statute.

**Attachment A** titled "Fiscal Year 2017 Financial and Compliance Audit Schedule" provides a complete list of the Office's scheduled financial and compliance audits. This schedule has been included as a courtesy and does not require any action.

Under A.R.S. §41-1279.03(C)'s provisions, with JLAC's approval, the Office can charge a fee to the auditee for performing federally mandated work. The auditee will ultimately recover the costs of the federal audit work performed from the federal grantor(s). The fiscal year 2017 compliance audits that include federally mandated work are listed on **Attachment B** titled "List of Entities to Bill for Federally Mandated Work." See action required below.

### Action Required

JLAC needs to consider and approve the Office to bill entities for the federally mandated audit work we perform.



# Attachment A

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## OFFICE OF THE AUDITOR GENERAL Fiscal Year 2017 Financial and Compliance Audit Schedule

The Office's fiscal year 2017 financial and compliance audit schedule is presented below.

### State of Arizona Financial and Compliance Audits

State of Arizona  
Department of Economic Security—Arizona  
Long-Term Care System  
Office of the State Treasurer  
Arizona State University  
Northern Arizona University  
University of Arizona

### County Financial and Compliance Audits

Apache County  
Cochise County  
Coconino County  
Gila County  
Graham County  
Greenlee County  
La Paz County  
Maricopa County  
Mohave County  
Navajo County  
Pima County  
Pinal County  
Santa Cruz County  
Yavapai County  
Yuma County

### College Financial and Compliance Audits

Cochise County Community College District  
Coconino County Community College District  
Gila County Community College District  
Graham County Community College District  
Maricopa County Community College District  
Mohave County Community College District  
Navajo County Community College District  
Pima County Community College District  
Pinal County Community College District  
Santa Cruz County Community College District  
Yavapai County Community College District  
Yuma/La Paz Counties Community College District

### Other Financial Audits/Special Reviews

Arizona County Community College Districts and Colleges of Qualifying Indian Tribes—Full-Time Equivalent Student Enrollment Report  
Arizona University System—Full-Time Equivalent Student Enrollment Report  
State Procurement Office—Compliance Review  
Federal Land Payments  
Attorney General—Colorado River Revolving Fund  
Diné College Funding Compact  
Navajo Technical University Funding Compact

## Attachment B

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### **OFFICE OF THE AUDITOR GENERAL List of Entities to Bill for Federally Mandated Work Fiscal Year 2017**

The Office conducts compliance audits of federal grant award monies under the federally mandated single audit requirements established by the U.S. Office of Management and Budget. Federal grantors allow federal award recipients to charge audit costs to federal grant awards. JLAC needs to authorize the Office to bill the following entities for federally mandated audit work:

State of Arizona

Apache County  
Cochise County  
Coconino County  
Gila County  
Graham County  
Greenlee County  
La Paz County  
Maricopa County  
Mohave County  
Navajo County  
Pima County  
Pinal County  
Santa Cruz County  
Yavapai County  
Yuma County

Cochise County Community College District  
Coconino County Community College District  
Gila County Community College District  
Graham County Community College District  
Maricopa County Community College District  
Mohave County Community College District  
Navajo County Community College District  
Pima County Community College District  
Pinal County Community College District  
Santa Cruz County Community College District  
Yavapai County Community College District  
Yuma/La Paz Counties Community College District



DEBRA K. DAVENPORT, CPA  
AUDITOR GENERAL

STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

MELANIE M. CHESNEY  
DEPUTY AUDITOR GENERAL

DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Lindsey Perry, Manager, Special Investigative Unit

SUBJECT: Overview of Special Investigative Unit in Auditor General's Office

## Background

The Office has a specialized unit that conducts investigations from allegations relating to the misuse of public monies and other illegal acts affecting these monies. These special investigations are conducted of the State of Arizona and its political subdivisions including counties, school districts, universities, community colleges, and special taxing districts. Allegations are received from a variety of sources including the Office's audit teams, concerned citizens, public employees, prosecuting agencies, and law enforcement officials. The Special Investigative Unit is composed of four staff members who are credentialed as Certified Public Accountants and Certified Fraud Examiners, and receive fraud training throughout the year. These staff members have varying backgrounds in law enforcement and financial accounting.

The attachment details the Office's investigation process. If the investigation uncovers potential criminal violations, including evidence to support violations of theft, misuse of public monies, forgery, fraudulent schemes, money laundering, computer tampering, and conflict of interest, the Office submits its findings to a prosecuting agency for an independent review. The Office issues its public findings after the prosecuting agency files a criminal indictment or complaint against the alleged wrongdoers.

In addition to conducting investigations, this specialized unit works collaboratively with Office auditors when conducting their financial and performance audits.

## **The Office's completed investigations**

From January 1, 2015 through July 31, 2016, the Office completed and submitted the following investigations for prosecution:

1. Special taxing district investigations:
  - a. [Show Low Fire District](#)
  - b. [Pine-Strawberry Water Improvement District](#)
2. School district investigations:
  - a. [Tolleson Union High School District](#)
  - b. [Glendale Union High School District](#)
  - c. [Roosevelt Elementary School District](#)
  - d. [Yucca Elementary School District](#)

## **The Office's current investigations**

The Office is currently investigating criminal allegations related to 12 entities including school districts, joint technical education districts, special taxing districts, a university, a city, a state agency, and a county. The Office is also providing assistance to the Attorney General's Office on other potential criminal matters.

## **The Office's fraud educational efforts**

The Office provides fraud education in a number of ways, including issuing fraud prevention alerts and other helpful correspondence and providing training to external organizations upon request. The Office issues periodic fraud prevention alerts to various public officials and employees to cultivate a better understanding of the typical frauds impacting governmental entities and ways to improve controls at those entities. Prior alert topics have included detecting fraud schemes; recognizing skimming, billing, and phishing scam email schemes; protecting public monies; and preventing conflict of interest.

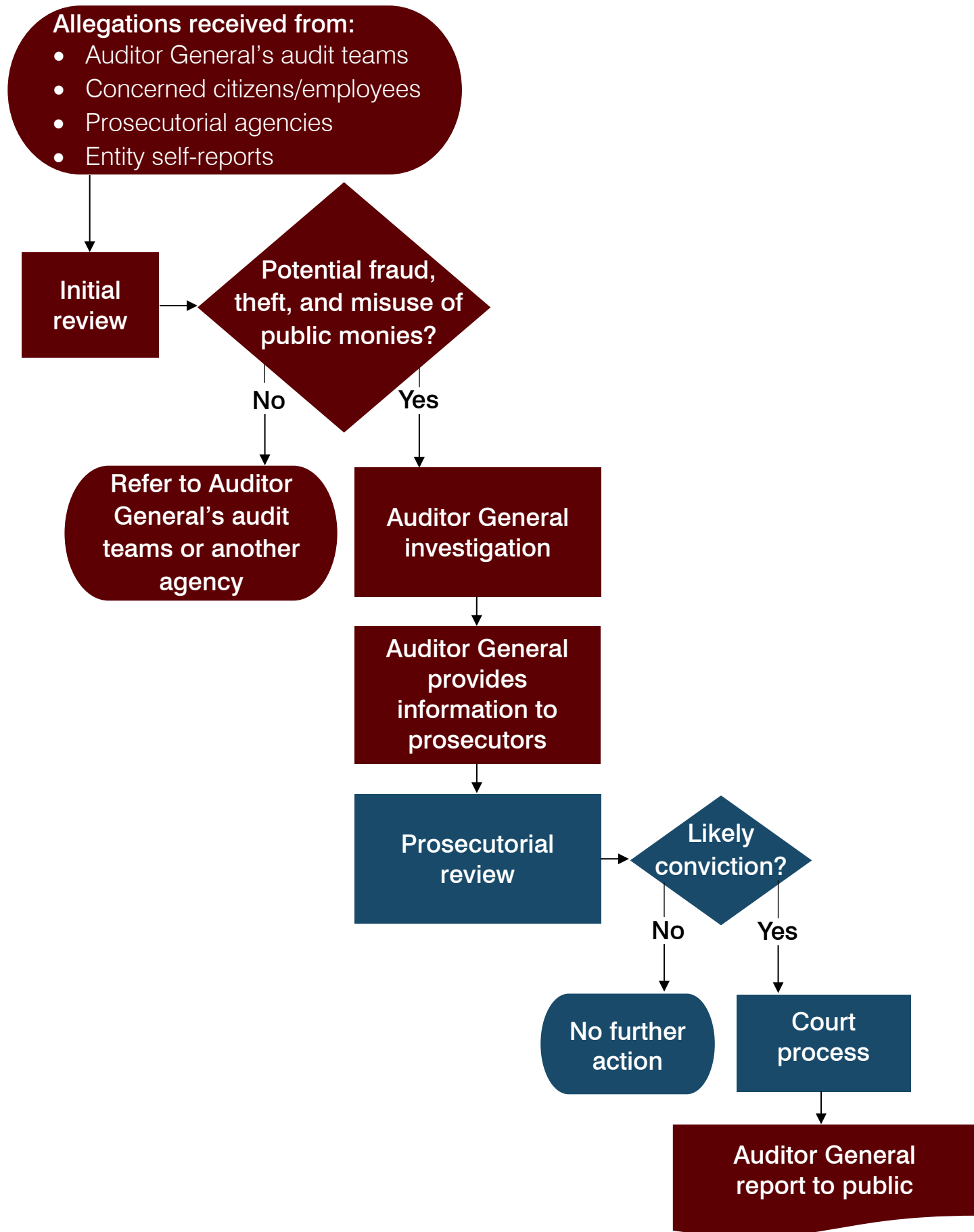
The Office also issues a letter to all school superintendents, business managers, county superintendents, and school district audit firms, notifying them that the Office has a specialized unit that conducts investigations and requests that these entities notify the Office should they encounter fraud-related activity. As a result, the Office has received several allegations, some of which have led to special investigations.

The Office provides training on fraud prevention, detection, and deterrence to external organizations upon request. For example, the Office provided fraud training to professional associations, including the Arizona Association of School Business Officials, and to other governmental entities, including the Arizona Department of Administration's Risk Management Division.

## **Action required**

None. Presented for JLAC's information.

# Office of the Auditor General—Investigation Process





DEBRA K. DAVENPORT, CPA  
AUDITOR GENERAL

STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

MELANIE M. CHESNEY  
DEPUTY AUDITOR GENERAL

DATE: September 14, 2016

TO: Representative John Allen, Chair  
Members, Joint Legislative Audit Committee

THROUGH: Debbie Davenport, Auditor General

FROM: Vicki Hanson, Division of School Audits Director

SUBJECT: Status Update of 2016-2017 School District Performance Audit Schedule  
and New 2018-2019 Schedule

## Background

A.R.S. §41-1279.03 requires the Office of the Auditor General to conduct performance audits of randomly selected school districts and to monitor school districts to determine the percentage of every dollar spent in the classroom. The statute requires the Auditor General to determine, through random selection, the districts to be audited each year, subject to review by the Joint Legislative Audit Committee.

## School district performance audits

**Attachment A** lists the current status of the 2016-2017 audit schedule. **Attachment B** lists the school districts randomly selected for the 2018-2019 performance audit schedule. To comply with Laws 2016, Ch. 4, §4, this schedule also includes joint technical education districts for the first time.

These school district performance audits review the efficiency and effectiveness of district noninstructional operations, such as administration, student transportation, food service, and plant operations, and make recommendations for improvement and/or identify best practices. These audits also review compliance with certain requirements, such as the proper coding of accounting transactions and expenditures of sales taxes received under Proposition 301. If applicable, these audits may also provide information on the district's desegregation program. To gain evidence to support information and conclusions in the reports, auditors interview district personnel; review district policies, procedures, and internal controls; examine district accounting records and other district documents; compare district costs to similar districts'; and determine compliance with certain statutory

requirements. The audits result in publicly released audit reports and report highlights documents.

### **Other school district audits and reports**

Laws 2016, Ch. 4, §7, requires the Office of the Auditor General to conduct a special audit of joint technical education districts (JTEDs) as scheduled by JLAC. This special audit is to include the delivery of career and technical education for schools that are part of a JTED compared to those that are not; the delivery of career and technical education at a centralized campus compared to the education at a satellite campus; the growth in satellite campus programs compared to centralized campus programs; the spending habits of JTEDs; the efficiency of JTED practices and administrative spending; the relationship between JTEDs and their member districts; and the variety, scope, and duplication of JTED program and course offerings. We propose that JLAC add this special audit to the 2016-2017 audit schedule.

The Office of the Auditor General is also required to monitor the percentage of every dollar spent in the classroom.<sup>1</sup> Our next annual *Arizona School District Spending* report will be issued in March 2017. This study determines the percentage spent in the classroom and other functional areas for the State and for each school district. It also reports on each district's operational efficiency, student achievement, and other measures. Additionally, for the first time, last year's report included revenues and nonoperational expenditures for each school district, and we anticipate continuing to provide this information in the upcoming report.

### **Action Required**

As required by Laws 2016, Ch. 4, §7, JLAC is to schedule the special audit of the JTEDs. We propose that JLAC add it to the 2016-2017 audit schedule.

Per statute, JLAC is to review the school districts randomly selected for performance audit, but is not required to approve them. The audit schedules and the additional information on the *Arizona School District Spending* report are presented for JLAC's information.

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<sup>1</sup>A.R.S. §41-1279.03(9)

## Attachment A

### 2016-2017 School District Performance Audit Schedule (updated)

<b>School District</b>	<b>Size<sup>1</sup></b>	<b>Release Date</b>
Peoria Unified	Very Large	May 2016
Page Unified	Medium-Large	August 2016
Littlefield Unified	Small	August 2016
Snowflake Unified	Medium-Large	August 2016
Fredonia-Moccasin Unified	Small	August 2016
Skull Valley Elementary	Very Small	September 2016
Nogales Unified	Medium-Large	October 2016
Congress Elementary	Very Small	October 2016
Canon Elementary	Very Small	October 2016
Colorado City Unified	Small	November 2016
Show Low Unified	Medium-Large	November 2016
Eloy Elementary	Medium	November 2016
Tuba City Unified	Medium	November 2016
Holbrook Unified	Medium-Large	December 2016
Palominas Elementary	Medium	December 2016
Yuma Union High	Large	January 2017
Pinon Unified	Medium	January 2017
Blue Ridge Unified	Medium-Large	January 2017
Altar Valley Elementary	Medium	February 2017
Red Mesa Unified	Medium	February 2017
Paloma Elementary	Very Small	June 2017
Tucson Unified	Very Large	August 2017
Sentinel Elementary	Very Small	September 2017
Mobile Elementary	Very Small	December 2017
Roosevelt Elementary	Large	December 2017

<sup>1</sup> Size is based on ADM using the following categories:

**Very Large**—20,000 or more students

**Large**—8,000 to 19,999

**Medium-Large**—2,000 to 7,999

**Medium**—600 to 1,999

**Small**—200 to 599

**Very Small**—fewer than 200



## Attachment B

### 2018-2019 School District Performance Audit Schedule

<b>School District</b>	<b>Size<sup>1</sup></b>
Mesa Unified	Very Large
Sunnyside Unified	Large
Bullhead City Elementary	Medium-Large
Douglas Unified	Medium-Large
Gadsden Elementary	Medium-Large
Camp Verde Unified	Medium
Mingus Union High	Medium
Parker Unified	Medium
Arlington Elementary	Small
Continental Elementary	Small
Naco Elementary	Small
Peach Springs Unified	Small
Quartzsite Elementary	Small
Wellton Elementary	Small
Bonita Elementary	Very Small
Bowie Unified	Very Small
Cochise Elementary	Very Small
Hackberry Elementary	Very Small
San Fernando Elementary	Very Small
Santa Cruz Elementary	Very Small
Solomon Elementary	Very Small
Topock Elementary	Very Small
Valentine Elementary	Very Small
Gila Institute for Technology	JTED <sup>2</sup>
Western Arizona Vocational Education District	JTED <sup>2</sup>

<sup>1</sup> Size is based on ADM using the following categories:

**Very Large**—20,000 or more students

**Large**—8,000 to 19,999

**Medium-Large**—2,000 to 7,999

**Medium**—600 to 1,999

**Small**—200 to 599

**Very Small**—less than 200

<sup>2</sup> **JTED**—Joint Technical Education Districts



# Arizona House of Representatives House Majority Research MEMORANDUM

**Sharon Carpenter**  
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Committee on Government and Higher Education  
Committee on Elections

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Phone 602-926-3147

**To:** Members of the *Joint Legislative Audit Committee*  
**Re:** Legislative Proposal - Establishing cardiovascular disease as a presumption of compensability for fire fighters and peace officers  
**Date:** September 7, 2016

A person advocating for a legislative proposal mandating an insurer or self-insured employer deem that a disease or condition has arisen out of employment, including establishing a presumption of compensability, is required to submit a report to Joint Legislative Audit Committee (JLAC). JLAC is required to assign the written report to the appropriate Committee of Reference (COR).

The report must address the specific language of the legislative proposal and include all of the following information:

1. Scientific evidence that shows the extent to which:
  - a. Peer reviewed scientific studies exist that document a causal relationship that a specific disease or condition has been demonstrated to have arisen out of employment.
  - b. The centers for disease control and prevention have determined that a disease or condition is acquired or transmitted.
  - c. Alternative exposure patterns exist for acquiring or transmitting a disease or condition other than occupational.
2. Financial information to indicate the extent to which:
  - a. The mandate may cause an employer or insurance carrier to pay a workers' compensation claim for a nonwork related disease or condition.
  - b. The mandate may increase costs to self-insured employers or premiums charged by insurance carriers.
3. An explanation of why existing compensability methods are inadequate to accurately determine if a disease or condition is acquired or transmitted in the course of employment.

The COR is required to hold at least one hearing, take public testimony and submit a report of its recommendations to JLAC, the Speaker of the House of Representatives, the President of the Senate, the Governor and the Industrial Commission of Arizona (A.R.S. § 23-1102 et al).

**Action Required: Assign the legislative proposal to a COR.**

**Legislative Report Prepared for The Joint Legislative Audit Committee in Compliance  
with ARS 23-1102 through 23-1104 Regarding the Addition of Cardiac Presumption  
Legislation**

Legislative Report Prepared for The Joint Legislative Committee in Compliance with ARS 23-1102 through 23-1104 Regarding the Addition of Cardiac Presumption Legislation

Cardiac presumption legislation to protect firefighters and peace officers is currently non-existent in Arizona. Heart or cardiovascular disease is the most frequent cause of duty related mortality of firefighters (Heart Disease In The Fire Service, 2013). In addition, for every fatal on duty heart disease event there are an estimated 17 non-fatal line of duty heart related events in the United States (Karter and Molis, 2005). There are known links between the profession and higher rates of cardiac issues as demonstrated by the research findings in this report. In fact, 37 of the 50, states have cardiac presumption legislation (IAFF, 2016). The purpose of this report is to add cardiac presumption legislation in Arizona based on research that links firefighting with increased rates of cardiovascular disease.

ARS 23-1102. Workers' compensation presumptions of compensability; report

A person that advocates a legislative proposal shall submit a report to the joint legislative audit committee as prescribed in this article, if the legislative proposal if enacted would do either of the following:

1. Mandate that an insurer or self-insured employer deem that a disease or condition has arisen out of employment, including establishing a presumption of compensability.
2. Substantially modify a statute that establishes a presumption of compensability for a disease or condition.

**23-1103 A. The report shall include all of the following:**

**1. Scientific evidence that shows the extent to which:**

**(a) Peer reviewed scientific studies exist that document a causal relationship that a specific disease or condition has been demonstrated to have arisen out of employment.**

Guidotti and Brandt-Rauf (1995) conducted an extensive literature review to study disease risk among firefighters to infer magnitude of risk. Based on the criteria for presumption of occupational risk accepted in most worker's compensation claims, the standard mortality rate (SMR) of 200 is equal to an attributable 100% of expected claims, they concluded that fatal arrhythmia, or myocardial infarction, occurring on or soon after near-maximal stress on the job are likely to be work-related.

Kale et al. (2003) study entitled: *Firefighters and on duty deaths from coronary heart disease: a case control study*, confirmed Guidott's findings. Moreover, the researchers conclude that other symptoms that generate cardiovascular arousal are caused by work events and are work related.

Kale et al. (2007) followed up their previous research with additional research entitled *Emergency duties and deaths from heart disease among firefighters in the United States*. This research focused on several typical duties in the occupation of firefighting: fire suppression, training, alarm response, and strenuous physical activity. In each research question, statistically significant relationships were identified, which linked the occupation with fatal heart attacks. Compared with the odds of death from coronary heart disease during nonemergency duties, the odds were **12.1 to 136 times as high** during fire suppression, **2.8 to 14.1 times as high** during alarm response, **2.2 to 10.5 times as high** during alarm return, and **2.9 to 6.6 times as high** during physical training. The research concluded that "taken together these findings suggest that fatal heart attacks suffered by fire fighters while on duty are work related".

**(b) The centers for disease control and prevention have determined that a disease or condition is acquired or transmitted.**

Numerous studies have determined that strenuous physical activity, emotional stress, and environmental pollutants exacerbate underlying cardiac problems in the general population. Moreover, firefighters demonstrate a sympathetic 'fight or flight' type of stress in reaction to emergency alarms (Kuorinka, 1981), have an increase link to cardiac disease due to their shift work and long hours (Steenland, 2000), and are exposed to further occupational threats to their cardiac health from use of personal protective wear and heat stress (Smith et al, 2015).

The NIOSH Alert (2007) explains that over 75% of heart events take place at an incident, during training, or traveling to or from an incident. Furthermore, "These activities are known to produce high heart rates and elevated blood pressures, which can be attributed to alarm response or performing physically demanding tasks" (NIOSH Alert, 2007, p. 14).

Additionally, research findings reported by Kale et. al. (2007) in relation to the circadian patterns of heart disease show a link that differentiates firefighters from the general population. In stark contrast to the general population, where heart events peak in the morning, over two thirds of line of duty heart deaths occur between the hours of noon and midnight. This timing mirrors the pattern of emergency alarms and dispatches and provides strong support of the link between firefighting and cardiac events.

**(c) Alternative exposure patterns exist for acquiring or transmitting a disease or condition other than occupational.**

The standardized mortality ratio (SMR) is often used to compare rates of death between populations. For firefighters studies have been conducted that compare the ratio of the number of deaths for firefighters to the deaths in the reference or comparison group. Roenstock and Olsen (2007) in *Firefighting and death from cardiovascular causes* report two main findings: first, that CVD or heart disease accounts for 35% of firefighter deaths which is similar to the general population. Second, coronary heart disease is .9 to 10% less in firefighters. Haas et al. (2003) conducted a review of the mortality studies that reported SMRs for firefighters and concluded that the healthy work effect may be masking actual differences in CVD mortality among firefighters. Choi's (2000) research entitled *A technique to re-assess epidemiologic evidence in light of the healthy worker effect: The case of firefighting and heart disease* estimates that the healthy worker effect may reduce the overall death rates to 80% of the rate in a reference population.

**2. Financial information to indicate the extent to which:**

**The mandate may cause an employer or insurance carrier to pay a workers' compensation claim for a nonwork related disease or condition.**

Alternative exposure patterns for cardiovascular disease exist for acquiring the disease and conditions associated with it. For example, there is a casual link between smoking tobacco and the risk of heart disease (Roger et al., 2011). Protection measures will be built in that limit the presumption to those firefighters and peace officers who have not used tobacco products for the previous year. Several aspects of this proposed cardiac presumption legislation will be aligned with and mirror the current cancer presumption legislation, which states that all the following requirements must be met: the firefighter or peace officer must have a physical exam was done prior to employment, have worked at least five years, and be sixty-five years of age or younger. The presumption is nullified if the individual used tobacco products within the previous year and the presumption only applies to full time employees (under subsection B, paragraphs 1-3, subdivisions c, d, e, and definitions 1 and 2). These requirements guard against the employer paying a worker's compensation claim for a nonwork related disease or condition.

Furthermore, law requires that anyone who uses a self contained breathing apparatus (SCBA) follow the National Fire Protection Administration (NFPA) guidelines on medical fitness. NFPA 1582 mandates an initial pre-hire medical, physical fitness, and emotional fitness

examination and annual examinations thereafter to be in compliance (Angel, 2008). There are specific requirements for cardiovascular fitness and the first responders receive a 'tier' rating. When health issues are detected the individual is placed on alternative duty to improve their tier ranking to the acceptable level of fitness and will not be released until they are considered 'fit for duty'. The medical examination includes: a health risk appraisal, a hands-on physical exam including vital signs, pulmonary function test, hearing test, blood chemistry lab tests, and specific cardiopulmonary and cardiovascular assessments. All of these measures help guard against firefighter injury and death, ensure the highest level of service to citizens, as well as protect insurance carriers from paying a worker' compensation claim for nonwork related health issues.

**(b) The mandate may increase costs to self-insured employers or premiums charged by insurance carriers.**

Quantifying the cost of adding the cardiac presumption is difficult. However, the National Council on Compensation Insurance Incorporated (NCCI) (2014) states "due to the physical exertion and stress associated with the firefighting profession, heart-related injuries may already have been compensated through general WC compensability standards, and an impact to workers compensation costs may therefore be less prominent in this disease category than in other disease categories" (p. 8). There is no hard evidence that there would be significant cost increases for implementing presumptive legislation.

**3. An explanation of why existing compensability methods are inadequate to accurately determine if a disease or condition is acquired or transmitted in the course of employment.**

Existing compensability methods are inadequate to accurately determine if cardiovascular disease is acquired over the course of employment due to the nature and variables that develop into the disease. Although a heart attack may be tied to a single point in time often the latent nature of disease process differ. The frequency and level of exposure to aggravating factors impact the manifestation of cardiovascular disease over the course of a career. Disease has a slower process and it is more challenging to pinpoint the exact exposure that caused the ultimate life threatening incident. It is more likely that the combination of multiple factors over the course of a career lead to cardiovascular disease.

**B. The report shall address the specific language of the legislative proposal.**

The proposed cardiac presumption should be aligned with and mirror the current presumption cancer legislation.

23-901.01. Occupational disease; proximate causation; exceptions; definitions

A. The occupational diseases as defined by section 23-901, paragraph 13, subdivision (c) shall be deemed to arise out of the employment only if all of the following six requirements exist:

1. There is a direct causal connection between the conditions under which the work is performed and the occupational disease.
2. The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.
3. The disease can be fairly traced to the employment as the proximate cause.
4. The disease does not come from a hazard to which workers would have been equally exposed outside of the employment.
5. The disease is incidental to the character of the business and not independent of the relation of employer and employee.

6. The disease after its contraction appears to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence, although it need not have been foreseen or expected.

B. Notwithstanding subsection A of this section and section 23-1043.01, any disease, infirmity or impairment of a firefighter's or peace officer's health that is caused by brain, bladder, rectal or colon cancer, lymphoma, leukemia or aden carcinoma or mesothelioma of the respiratory tract and that results in disability or death is presumed to be an occupational disease as defined in section 23-901, paragraph 13, subdivision (c) and is deemed to arise out of employment. The presumption is granted if all of the following apply:

1. The firefighter or peace officer passed a physical examination before employment and the examination did not indicate evidence of cancer.

2. The firefighter or peace officer was assigned to hazardous duty for at least five years.

3. The firefighter or peace officer was exposed to a known carcinogen as defined by the international agency for research on cancer and informed the department of this exposure, and the carcinogen is reasonably related to the cancer.

C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION AND SECTION 23-1043.XX, ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S OR PEACE OFFICER'S HEALTH THAT IS CAUSED BY HEART DISEASE OR INJURY, ACUTE MYOCARDIAL INFARCTION OR STROKE, HYPERTENSION OR CARDIOVASCULAR OR PULMONARY DISEASE AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE AN OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13, SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT. THE PRESUMPTION IS GRANTED IF ALL OF THE FOLLOWING APPLY:

1. THE FIREFIGHTER OR PEACE OFFICER PASSED A PHYSICAL EXAMINATION BEFORE EMPLOYMENT AND THE EXAMINATION DID NOT INDICATE EVIDENCE OF HEART DISEASE OR INJURY, ACUTE MYOCARDIAL INFARCTION OR STROKE, HYPERTENSION OR CARDIOVASCULAR OR PULMONARY DISEASE.

2. THE FIREFIGHTER OR PEACE OFFICER WAS ASSIGNED TO HAZARDOUS DUTY FOR AT LEAST FIVE YEARS.

3. THE FIREFIGHTER OR PEACE OFFICER WAS EXPOSED TO A KNOWN EVENT WITHIN TWENTY-FOUR HOURS OF THE EVENT, AND THE EVENT IS REASONABLY RELATED TO THE HEART DISEASE OR INJURY, ACUTE MYOCARDIAL INFARCTION OR STROKE, HYPERTENSION OR CARDIOVASCULAR OR PULMONARY DISEASE.

D. SUBSECTIONS B AND C of this section APPLY to former firefighters and peace officers who are sixty-five years of age or younger.

E. Subsection B of this section does not apply to cancers of the respiratory tract if the firefighter or peace officer has smoked tobacco products.

F. SUBSECTION C OF THIS SECTION DOES NOT APPLY TO HEART DISEASE OR INJURY, ACUTE MYOCARDIAL INFARCTION OR STROKE, HYPERTENSION, CARDIOVASCULAR OR PULMONARY DISEASE IF THE FIREFIGHTER OR PEACE OFFICER HAS SMOKED TOBACCO PRODUCTS DURING THE YEAR BEFORE THE HEART DISEASE OR INJURY, ACUTE MYOCARDIAL INFARCTION OR STROKE, HYPERTENSION, CARDIOVASCULAR OR PULMONARY DISEASE.

G. For the purposes of this section:

1. "Firefighter" means a full-time firefighter who was regularly assigned to hazardous duty.

2. "Peace officer" means a full-time peace officer who was regularly assigned to hazardous duty as a part of a special operations, special weapons and tactics, explosive ordinance disposal or hazardous materials response unit.

C. A person that does not submit a report as prescribed in this article is not subject to any civil sanction or criminal penalty.

#### 23-1104. Report procedures and deadlines

A report must be submitted to the joint legislative audit committee on or before September 1 before the start of the legislative session for which the legislation is proposed. The joint legislative audit committee shall assign the written report to the appropriate legislative committee of reference established pursuant to section 41-2954. The legislative committee of reference shall hold at least one hearing and take public testimony after receiving the report. The legislative committee of reference shall study the written report and deliver a report of its recommendations to the joint legislative audit committee, the speaker of the house of representatives, the president of the senate, the governor and the commission on or before December 1 of the year in which the report is submitted.



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# Arizona House of Representatives House Majority Research MEMORANDUM

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**To:** Members of the *Joint Legislative Audit Committee*  
**Re:** Legislative Proposal - Expanding cancer presumptions of compensability for fire fighters and peace officers  
**Date:** September 7, 2016

A person advocating for a legislative proposal that would substantially modify a statute that establishes a presumption of compensability for a disease or condition is required to submit a report to Joint Legislative Audit Committee (JLAC). JLAC is required to assign the written report to the appropriate Committee of Reference (COR).

The report must address the specific language of the legislative proposal and all of the following information:

1. Scientific evidence that shows the extent to which:
  - a. Peer reviewed scientific studies exist that document a causal relationship that a specific disease or condition has been demonstrated to have arisen out of employment.
  - b. The centers for disease control and prevention have determined that a disease or condition is acquired or transmitted.
  - c. Alternative exposure patterns exist for acquiring or transmitting a disease or condition other than occupational.
2. Financial information to indicate the extent to which:
  - a. The mandate may cause an employer or insurance carrier to pay a workers' compensation claim for a nonwork related disease or condition.
  - b. The mandate may increase costs to self-insured employers or premiums charged by insurance carriers.
3. An explanation of why existing compensability methods are inadequate to accurately determine if a disease or condition is acquired or transmitted in the course of employment.

The COR is required to hold at least one hearing, take public testimony and submit a report of its recommendations to JLAC, the Speaker of the House of Representatives, the President of the Senate, the Governor and the Industrial Commission of Arizona (A.R.S. § 23-1102 et al).

**Action Required: Assign the legislative proposal to a COR.**

**Legislative Report Prepared for The Joint Legislative Audit Committee in Compliance  
with ARS 23-1102 through 23-1104 Regarding the Amendment of Current Legislation and  
Expansion of Arizona Cancer Presumption Legislation 23-901.01.**

Prepared for The Joint Legislative Audit Committee in Compliance with ARS 23-1102 through 23-1104 Regarding the Amendment of Current Legislation and Expansion of Arizona Cancer Presumption Legislation 23-901.01.

The current cancer presumption statute is in place to protect Arizona Firefighters and Peace Officers from certain cancers. The cancers that are covered in the current limited statute are the following: brain, bladder, rectal or colon cancer, lymphoma, leukemia or adenocarcinoma or mesothelioma of the respiratory tract (Arizona State Legislature, 2016). The purpose of this report is to expand the number of cancers that firefighters and peace officers are at risk of developing based on new research findings.

ARS 23-1102. Workers' compensation presumptions of compensability; report

A person that advocates a legislative proposal shall submit a report to the joint legislative audit committee as prescribed in this article, if the legislative proposal if enacted would do either of the following:

1. Mandate that an insurer or self-insured employer deem that a disease or condition has arisen out of employment, including establishing a presumption of compensability.
2. Substantially modify a statute that establishes a presumption of compensability for a disease or condition.

**23-1103 A. The report shall include all of the following:**

**1. Scientific evidence that shows the extent to which:**

**(a) Peer reviewed scientific studies exist that document a causal relationship that a specific disease or condition has been demonstrated to have arisen out of employment.**

—————Three key studies provide the scientific basis regarding increased cancer risk from the occupation of fire fighting. The LeMasters meta-analysis, a study by the National Institute for Occupational Safety and Health (NIOSH) and a study by Pukkala and colleagues of fire fighters in Nordic countries provide significant information about cancer risks in firefighters.

—————1) **The LeMasters meta-analysis** was a widely reviewed report developed by environmental health researchers at the University of Cincinnati. This study, published in 2006, was a comprehensive investigation of cancer risks associated with firefighters using a research technique known as "meta-analysis." Meta-analysis is a quantitative statistical analysis method that pools data from separate but similar experiments or studies. Using meta-analysis, researchers are able to test the pooled data for statistical significance which is better able to detect increased risk.

—————LeMasters and her colleagues combined data from 32 smaller studies of firefighters for 20 different cancer types. They classified the cancers into three categories: probable, possible, or unlikely. The study identified 10 cancers that have significant increases in firefighters.

Firefighters' Increased Risk of Developing Cancer Compared to the General Population:

- i) **Testicular cancer (102% greater risk)** \*proposed
- ii) **Multiple myeloma (53% greater risk)** \*proposed
- iii) **Non-Hodgkin lymphoma (51% greater risk)** \*proposed
- iv) **Skin cancer (39% greater risk)** \*proposed
- v) **Prostate cancer (28% greater risk)** \*proposed
- vi) **Malignant melanoma (32% greater risk)** \*proposed
- vii) **Brain cancer (32% greater risk)** covered

- viii) Rectum (29% greater risk) covered
- ix) **Stomach** (22% greater risk) \*proposed
- x) Colon cancer (21% greater risk) covered

———2) **The NIOSH study** examined cancer risks in 29,993 career firefighters from three large U.S. cities: San Francisco, Chicago, and Philadelphia (Daniels et al., 2013).

The study found that firefighters have a 14% increased risk of dying from cancer compared to the general population. The NIOSH study has several strengths:

- i) It includes a large study population. This was a pooled analysis of 30,000 career firefighters from three different geographically diverse cities.
- ii) It covered a long study period. Data was collected from 1950 through 2009. The study also found that fire fighters have a statistically significant increased risk of dying from seven different types of cancer compared to the general population:
  - i) **Mesothelioma** (100% increase) covered
  - ii) Rectum (45% increase) covered
  - iii) **Buccal/pharynx** (40% increase) \*proposed
  - iv) **Esophagus** (39% increase) \*proposed
  - v) **Large intestine** (31% increase) \*proposed
  - vi) **Kidney** (29% increase) \*proposed
  - vii) **Lung** (10% increase) \*proposed

This study also found excess bladder (covered) and **prostate** cancer (proposed) incidence among firefighters less than 65 years of age. The prostate cancer excess is limited to fire fighters 45 – 59 years of age. These findings are consistent with the the Nordic study and the early onset of these cancers suggests an association with firefighting.

———3) **The Nordic study** studied the likelihood of cancer risk in a cohort of 16,422 firefighters from five Nordic countries (Pukkala, et al., 2014). Cancer incidence was assessed by linking national cancer registries to census data on occupations from 1961 – 2005. It found statistically significant increased risk for developing the following cancers:

- i) **Prostate** cancer (13% increase) \*proposed  
The highest risk was found among firefighters 30 – 49 years old: (159% increased risk).
- ii) **Malignant melanoma** (25% increase) \*proposed
- iii) **Non-melanoma skin** cancer (33% increase) \*proposed
- iv) Mesothelioma in firefighters over 70 years of age (159% increase) covered until 65
- v) Lung adenocarcinoma (29% increased risk) covered

**(b) The centers for disease control and prevention have determined that a disease or condition is acquired or transmitted.**

The Center for Disease Control and Prevention (CDC) have direct links to NIOSH and highlight, explain, and provide additional blogs (NIOSH Science Blog, 2016) that provides the information about Firefighter Cancer and the links between firefighters acquiring higher rates of cancers.

**(c) Alternative exposure patterns exist for acquiring or transmitting a disease or condition other than occupational.**

Alternative exposure patterns for cancer exist for acquiring the disease and conditions associated with it. For example, there is a casual link between smoking tobacco and cancers of the lung. In the case of Arizona Cancer Presumption Statutes; however, there are built in

measures that would disqualify tobacco users from qualifying for workers' compensation presumption if they smoked tobacco. Arizona State Legislature -(2016) 23-901.01 states the presumption "does not apply to cancers of the respiratory tract if the firefighter or peace officer has smoked tobacco products" (Subsection D). Another factor is age and higher rates of cancers are associated with age. Again, this factor is addressed in the current presumption statute because the presumption only "applies to former firefighters and peace officers who are sixty-five years of age or younger" (Subsection C). A final example is a pre-existing condition and once again the current presumption statute requires a pre-employment physical to detect a pre-existing condition. The first requirement of subsection B(1) reads "The firefighter or peace officer passed a physical examination before employment and the examination did not indicate evidence of cancer".

## **2. Financial information to indicate the extent to which:**

### **(a) The mandate may cause an employer or insurance carrier to pay a workers' compensation claim for a nonwork related disease or condition.**

Arizona statute builds in a number of requirements that limit the number of workers' compensation claims; thereby, reducing the insurance carrier to pay workers' compensation for non-work related disease. The current statute (under subsection B, C, D, and the definitions) state that all the following requirements must be met: the firefighter or peace officer had a physical exam prior to employment, worked at least five years of hazardous duty, was exposed to known carcinogens, and is -of sixty-five years of age or younger. The presumption is nullified if the individual used tobacco products and the presumption applies to full-time employees only.

### **(b) The mandate may increase costs to self-insured employers or premiums charged by insurance carriers.**

Quantifying the cost of this presumption legislation has proven difficult. The National Council on Compensation Insurance Inc (NCCI) explains the main reason is a lack of data on workers' compensation reported for firefighters because most are employed by state municipalities. Another roadblock is the inability to determine between presumption claims and the claims that would go through under general compensability standards. The long latency period of cancer also presents an issue with estimations. There is no hard evidence of a substantial cost increase with the addition of the associated cancers to Arizona's Cancer Presumption Statutes. Moreover, due to Arizona's built in controls and requirements, the state is protected, especially compared to states that have a full range of cancer presumption laws without the corresponding requirements.

## **3. An explanation of why existing compensability methods are inadequate to accurately determine if a disease or condition is acquired or transmitted in the course of employment.**

Existing compensability methods are inadequate to accurately determine if cancer is acquired over the course of employment due to the nature and variables that develop into the disease. The latent nature of disease process differ from worker's compensability injuries such as a specific back or knee injury which can be pinpointed to an exact moment in time. The frequency and level of exposure to cancer causing carcinogens impact the development of cancer over the course of a career. Disease has a slower process and it is more challenging to pinpoint the exact exposure that caused the cancer. It is more likely the combination of multiple exposures over the course of a career lead to cancer.

### **B. The report shall address the specific language of the legislative proposal.**

A number of additional cancers should be added to Arizona's Cancer Presumption Statutes to provide comprehensive coverage of all cancers associated with the profession based on the current research. We propose the additional cancers are added to the existing Statute 23-901.01, under subsection B:

#### **Multiple Myeloma**

**Non-Hodgkins Lymphoma**  
**Prostate**  
**Testicular**  
**Skin Cancer**  
**Malignant Melanoma**  
**Stomache**  
**Buccal/Pharynx**  
**Esophagus**  
**Large Intestine**  
**Kidney**  
**Lung.**

23-901.01. Occupational disease; proximate causation; definitions

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B. Notwithstanding subsection A of this section and section 23-1043.01, any disease, infirmity or impairment of a firefighter's or peace officer's health that is caused by brain, bladder, BUCCAL CAVITY AND PHARYNX, ESOPHAGUS, LARGE INTESTINE, LUNG, KIDNEY, PROSTATE, SKIN, STOMACH, TESTICULAR, rectal or colon cancer, lymphoma, NON-HODGKIN'S LYMPHOMA, leukemia, MULTIPLE MYELOMA, MALIGNANT MELANOMA or aden carcinoma or mesothelioma of the respiratory tract and that results in disability or death is presumed to be an occupational disease as defined in section 23-901, paragraph 13, subdivision (c) and is deemed to arise out of employment. The presumption is granted if all of the following apply:

1. The firefighter or peace officer passed a physical examination before employment and the examination did not indicate evidence of cancer.
2. The firefighter or peace officer was assigned to hazardous duty for at least five years.
3. The firefighter or peace officer was exposed to a known carcinogen as defined by the international agency for research on cancer and informed the department of this exposure, and the carcinogen is reasonably related to the cancer.

...

C. A person that does not submit a report as prescribed in this article is not subject to any civil sanction or criminal penalty.

23-1104. Report procedures and deadlines

A report must be submitted to the joint legislative audit committee on or before September 1 before the start of the legislative session for which the legislation is proposed. The joint legislative audit committee shall assign the written report to the appropriate legislative committee of reference established pursuant to section 41-2954. The legislative committee of reference shall hold at least one hearing and take public testimony after receiving the report. The legislative committee of reference shall study the written report and deliver a report of its recommendations to the joint legislative audit committee, the speaker of the house of representatives, the president of the senate, the governor and the commission on or before December 1 of the year in which the report is submitted.



## References

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Centers For Disease Control and Prevention (2016). . Is There a Link Between Firefighting and Cancer? – Epidemiology in Action. *NIOSH Science Blog* Retrieved from

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