1 The Arizona Constitution


[Page 5 and 212, n. 8] Add new sentence at the end of the note 8:
“The Grand Canyon State” became the state’s official nickname in 2011, see Arizona Revised Statutes, sec. 41-860.01. At the same time, the Colt Single Action Army Revolver was declared the “official state firearm” over protests from Native Americans and others, sec. 41-860.02.

Arizona's Constitution weighs in at more than 45,000 46,000 words—roughly six times the length of the U.S. Constitution—and it has been amended 144 times as of this writing.

[Page 9, Figure 1.3 State constitutional amendments by decade] Updates for 2010 and 2012

<table>
<thead>
<tr>
<th>Year</th>
<th>Passed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>2010</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

2 Origins of the Arizona Constitution

Page 23, line 10] Add the following new note where indicated:
i.e. making English proficiency a qualification for holding office,

new note:
The constitution’s English proficiency requirement was invoked in 2012 when the Arizona Supreme Court approved the removal of a city council candidate from the ballot on this basis. The court rejected arguments that nearly all of the border town’s residents spoke Spanish, not English. Escamilla v. Cuello, __ Ariz. __ 282 P.3d 403 (2012).

[Page 24, first full paragraph and note 47] Revise the first full paragraph as follows:

First, some argue that the federal restrictions—which effectively preserved the land for nearly a century—are too outdated for modern times. They contend that the restrictions are hindering the state’s ability to get the maximum benefit from the land. For example, the state wants the power to trade trust parcels for more desirable land that it can’t afford to purchase. The current language of the Arizona Constitution prohibits trades. Although the national government has agreed to relax this barrier, Arizona voters—who must also approve changes to the state constitution—have failed to go along. On six occasions from 1990 through 2004 the voters have refused to give the Arizona State Land Department swap powers, presumably doubting the state’s ability to make prudent trades.47 For example, the checkerboard pattern of state trust land
is not optimal for management purposes. Accordingly, state officials may want to trade some parcels for public or private land that the state couldn’t otherwise afford to purchase. Although the federal government amended the Enabling Act in 1936 to permit swaps, the Arizona Constitution was not similarly amended. It retained the original language that only permitted sales and leases of state trust lands—not trades. Proposals to change the state constitution were rejected by the voters on seven occasions from 1990 through 2010. In 2012, the voters finally authorized trades of public lands with various qualifications, such as voter approval of the proposed swap.\footnote{Page 24 and 217, n. 47}

Proposed constitutional amendments authorizing land exchanges in one form or another were rejected by the voters in 1990, 1992, 1994, 2000, 2002, and 2004. Finally, in 2012, the voters added Article X, section 12 to the state constitution. It authorizes exchanges of public lands to protect military facilities or improve the management of state land. The provision mandates two independent appraisals, public notice and hearings, and voter approval of the specific trade.

\[Page 29 and 218, n. 61\] Revise note 61 as indicated:
Ibid., art 20, seventh and eighth ordinances. This century-old mandate remains relevant: In 2012, a city council candidate was removed from the ballot for insufficient English proficiency even though nearly all of the border town’s residents spoke Spanish, not English. See new note for page 23, line 10. It should be noted however . . .

\[Page 30 and 220, n. 71\] Add to the end of note 71:
However, Brewer altered her position when she succeeded Napolitano to the top job. The governor declined to formally relinquish powers while attending a Paris air show, arguing that such a brief transfer would unduly burden the secretary of state, and was unnecessary with modern communications. Howard Fischer, “Brewer Changes Position on Duties, Powers When Governor Leaves State,” \textit{East Valley Tribune}, June 6, 2010.

\section{Legislative Branch}

\[Page 37 and 221, n.3\] Revise note 3 as indicated:
Since its enactment in 1998, Arizona’s Clean Elections Act has provided public funding for candidates who choose to participate. To be eligible, candidates must collect at least two hundred $5.00 contributions. See \textit{Arizona Revised Statutes} sec. 16-950 et seq. Interest groups help candidates reach this threshold and also independently campaign. Political contributions from lobbyists have actually risen over the past decade notwithstanding the Clean Elections Act, see note 44. Moreover, as of this writing, the long-term future of the act is uncertain. Although the Ninth Circuit rejected the latest challenge to the law’s constitutionality, see \textit{McComish v. Bennett}, __F3rd__, (Ninth Cir. 2010), 2010 U.S. App. LEXIS 10442, the litigation is still pending. Moreover, legislative attempts to repeal the law through the referendum process have been gaining support. See, for example, S.C.R. 143, 49th Leg., 2d Reg. Sess. (2010). In June 2011, the U.S. Supreme Court struck down the matching fund provision of Arizona’s Clean Election Act. That provision gave Clean Election
candidates a dollar-for-dollar match when their privately-financed opponents spent more. It was an important inducement for participating in the public funding program. (The 5-4 court ruling held that the matching fund provision violated the free speech rights of privately financed candidates by penalizing their additional expenditures. Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett, 564 U.S. ___, 131 S. Ct. 2806 (2011).) The Arizona legislature voted to repeal the remainder of the Clean Elections Act, see S.C.R. 1025, 50th Leg. 1st Reg. Sess. (2011), but the referendum was tossed off the 2012 ballot for violating the single subject rule. Nonetheless, without the matching funds incentive, participation dramatically declined. In 2012, only 64 legislative candidates (36 percent) chose public funding—the lowest participation rate since 2000. Not surprisingly, incumbents—who have greater fundraising power, were more likely to privately fund their campaigns. Jeremy Duda, “Legislative Candidates Find Success Switching from ‘Clean’ to Traditional, Arizona Capitol Times, December 21, 2012.

[Page 38, Figure 3.1] Completely revise figure 3.1 to include house/senate crossovers and mid-term replacements in the incumbent category; to add 2010 and 2012 data; and to make the caption clearer.

![Figure 3.1](image)

**Figure 3.1.** Percentage of legislators returning to either chamber of the Arizona Legislature. (Term limits operated against the first group of lawmakers in 2000).

[Page 42, Table 3.1] Add 2010 and 2012 data to table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Republican voters %</th>
<th>Democratic voters %</th>
<th>Other voters %</th>
<th>Republican seats %</th>
<th>Democratic seats %</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>36</td>
<td>32</td>
<td>32</td>
<td>68</td>
<td>32</td>
</tr>
<tr>
<td>2012</td>
<td>36</td>
<td>30.5</td>
<td>33.5</td>
<td>58</td>
<td>42</td>
</tr>
</tbody>
</table>
Figure 3.3 Unopposed Arizona Senate races: percentage of races with no general election opposition from the other party, 1990—2012. (Write-ins not included.)

As of this writing, gerrymandering remains alive and well in Arizona. The redistricting process for the current decade has been even more contentious than the last. Accusations of partisanship plagued the new redistricting commission from the very start. Shortly after the Commission released its draft maps for public comment, Governor Brewer (R) unsuccessfully attempted to fire the commission's independent chairperson and its two Democratic commissioners. Although the commission's new maps were used in the 2012 election, as of this writing, three Republican-backed lawsuits are currently challenging the redistricting.

The senate, hastily summoned into a special session, ratified the firing of the chairperson on a strict party-line vote, but refused to discharge the other two members. The Arizona Supreme Court reversed the action, holding that the governor's stated reasons for the firing did not rise to the constitutional level for removal. The Court ordered the immediate reinstatement of the chairperson. Independent Redistricting Commission v. Brewer, 275 P.3d 1275 (2012).


In 2013, women made up 35.6% of the Arizona legislature, the third highest ratio in the nation. Rutgers Center for American Women in Politics, "Women in State Legislatures 2013," http://www.cawp.rutgers.edu/fast_facts/levels_of_office/StateLeg-CurrentFacts.php

the November 2012 general election, Hispanics gained five seats in the House of Representatives, and retained five seats in the Senate, bringing the total to 20 percent of the state legislature. (In contrast, Hispanics make up 30 percent of the state’s general population.)

[Page 46, Figure 3.5] Add 2010 - 2012 data to the chart:

![Figure 3.5](chart.png)

**Figure 3.5.** Lengths of Arizona regular legislative sessions, 1912—2012 (excludes special sessions).

[Page 47, line 4] Add the following new note where indicated:
In recent years there have typically been two or three special sessions a year.  

*new note*

The 49th Legislature (2009-1010) had nine special sessions—largely due to the legislature’s efforts to cope with the severe fiscal crisis that befell the state and nation.

[Page 47, line 26] Add the following new note where indicated:
A politically savvy governor will rarely call a special session unless he or she has consulted with legislative leaders and is reasonably confident that sufficient votes are lined up to pass the desired legislation.  

*new note*

A conspicuous failed special session occurred in June 2011 when Governor Brewer (R) summoned the legislature to extend federal unemployment benefits. The legislative authorization should have been perfunctory, since Arizona was in the midst of a recession, and the extension entailed no additional cost to the state. Nonetheless, the lawmakers quickly adjourned without approving the extension. Some viewed the failure as a gubernatorial snub or “payback” for the governor’s recent vetoes of several high profile bills. See e.g., Jeremy Duda, Caitlin Coakley and Luige Del Puerto, “Relationship Strained? Special Session Fiasco May be Sign of Things to Come,” Arizona Capitol Times, June 17, 2011, and chapter 5, note xx [new note following n. 41]

[Page 49, line 5]: Revise text as indicated:
As table 3.2 indicates, the voters have followed the salary commission’s recommendation only twice in the thirty-six- forty years since the new system was adopted to facilitate more frequent raises. In recent years the salary commission declined to even recommend a raise.

[Page 49, Table 3.2] Add 2010 and 2012 data to table.*

**Table 3.2.** Voter response to legislative salary propositions

<table>
<thead>
<tr>
<th>Year</th>
<th>Current salary</th>
<th>Proposed salary</th>
<th>Voter response</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>$24,000</td>
<td>No proposal</td>
<td>Not on ballot</td>
</tr>
<tr>
<td>2012</td>
<td>$24,000</td>
<td>No proposal</td>
<td>Not on ballot</td>
</tr>
</tbody>
</table>

*Note: 2010 was the first general election in 26 years in which no legislative raise appeared on the ballot

[Page 50 and 226, n. 44] Revise note 44 as follows:
As previously noted, with the U.S. Supreme Court’s voiding of the matching funds provision in 2011, the future of the Arizona Clean Elections Act is in question (see n. 3 above). As previously mentioned (see n. 3) the Arizona Clean Elections Act recently survived another major legal challenge, although litigation is still pending. Since the public financing law was adopted was adopted by the voters in 1998, an increasing number of Arizona lawmakers have accepted public funding for their campaigns. [See the Citizens Clean Elections Commission, www.azcleanelections.gov/home.aspx; and Megan Moore, “Clean Elections, Arizona 2006,” National Institute on Money in State Politics report, December 11, 2008, http://followthemoney.org/press/Reports/Clean_Elections_Arizona_2006.pdf. However, even in 2008, when Clean Election participation was still fairly high, the average senator… [continue with balance of note]

[Page 56] Update figure 3.7 to include 2009-2012 data (and correct charting error in 2011 supplement):

![Figure 3.7](image-url)  

**Figure 3.7.** Bills introduced and passed, 1990—2012.
Revise text and add a new note where indicated:
tied up in costly, voter-mandated programs. Moreover, the voters seem unwilling to relinquish their power or modify past voter-approved spending. For example, during a severe budget shortfall in 2010, they decisively rejected two separate legislative efforts to redirect some of these protected funds. Accordingly, as the state confronts new fiscal challenges, there are calls for the repeal or modification of voter funding mandates. Whatever the future holds, however, it is doubtful…

new note:
See ch. 4, note xx [refers to new note between notes 21 and 22]

Add to the end of note 119:
However, specialty license plates continue to generate controversy. In 2011, the legislature authorized a dozen new specialty plates, including a controversial Tea Party plate. See Arizona Revised Statutes, sec. 28-2439 and Caitlin Coakley, “Specialty License Plates Run Amok,” Arizona Capitol Times, June 3, 2011.

4 Direct Democracy

Revise text:
This currently equates to roughly 230,000 260,000 signatures, although the precise figure changes every four years after the gubernatorial election.

Revise text:
Between 1912 and 2008-2012, sixty-seven constitutional initiatives appeared on the ballot; of these, only twenty-seven (40 percent) were approved by the voters.

Revise text:
Once the proposed initiative is filed with the secretary of state, supporters must collect signatures equal to 10 percent of the votes cast in the last gubernatorial election--currently about 150,000 172,000 signatures.

Revise text:
Between 1912 and 2008-2012, only forty-three forty-four statutory initiatives were approved by the voters and enacted into law.

Add 2010 and 2012 data to figure:
Figure 4.3. Statutory initiative success rate, 1980—2012

[Page 89, line 7] Revise text:
and to ban inhumane treatment of farm animals (2006); and to allow patients with debilitating medical conditions to obtain marijuana from state-regulated dispensaries (2010).

[Page 90, line 23 and page 235, n. 23] Revise text, add a new note as indicated, and revise note 23:
… For the most part these efforts have failed. For example, the voters twice rejected proposals to raise the voting requirements for passage of select types of initiatives. They also rejected a legislative plan to shorten the petition process, making it harder for citizens to respond to unpopular governmental actions. They also rejected a legislative plan to shorten the petition process, making it harder for citizens to respond to unpopular governmental actions. During a severe budgetary crisis in 2010, the voters decisively rejected two separate attempts by the legislature to redirect voter-protected funds. Before that, they rejected legislative proposals to raise the voting requirements for passage of select types of initiatives. And they also rejected two different legislative plans to shorten the petition process, thereby making it harder for citizens to reverse unpopular governmental actions.

new note:
Proposition 301 would have transferred earmarked money in the Land Conservation Fund, and Proposition 302 would have transferred earmarked early childhood development funds. Proposition 301 was rejected by 74% of the voters; Proposition 302 by 70%.

Add to the end of note 23:
Proposition 104 (2004) would have reduced the time frame for submitting petition signatures by three months; Proposition 112 (2010) would have reduced it by two months. (The latter failed by a scant 128 votes out of a total 1,585,522 votes.)

[Page 91, line 8] Add a new note where indicated:
On rare occasions the legislature calls a special election instead.
new note:
This happened in the midst of a severe budget shortfall in 2010. The legislature refused to raise taxes to forestall deep education cuts. However, it yielded to gubernatorial pressure and authorized an emergency May election to put the proposed tax increase before the voters. (A decisive 64% approved it.) Proposition 100 (May 18, 2010.)

[Page 91, line 28] Revise text:
and banning same-sex marriage (2008); and prohibiting race, gender, ethnicity and other preferential treatment programs in public hiring, contracting and education (2010).

[Page 91, line 30] Revise text:
Between 1912 and 2012, the legislature sent 192 constitutional amendments to the voters, but only 124 (66% percent) were approved.

[Page 92, line 9 and page 235, n. 27] Revise text and note 27:
From statehood through 2012, only twenty-six proposed statutes were sent to the voters through this device. More often than not, when a legislative referendum is on the ballot the people approve the proposed law.27

Revise note 27:
Between 1912 and 2012 the voters sided with the legislature 61 percent of the time.

[Page 92, line 16] Revise text:
In recent years, however, the number of statutory referenda has significantly increased, with eleven (39 percent) occurring since 1998.

[Page 92, line 31] Revise text:
In the end the legislature barely mustered the simple majority needed to send the tax proposal to the voters (who then decisively approved it).

[Page 93, line 20] Revise text:
(Currently this equates to roughly 75,000 86,000 signatures.)

[Page 94, line 21]: Revise text:
Between 1912 and 2012, only thirty-four popular referenda reached the ballot and the voters sided with the legislature half the time.

[Page 97, line 13]: Add new note where indicated:
His effort fell slightly short of the required signatures in Arizona but he vowed to try again.

New note:
This proved unnecessary because the legislature referred the measure to the voters in 2010. The voters approved a ban on affirmative action in public education, hiring and contracting. See Arizona Constitution, art. 2, sec 36.

[Page 97 and 236, note 37] Revise note to add an additional sentence at the end:
Similarly, Proposition 203, a more restrictive medical marijuana measure, passed in 2010.

[[Page 97, line 32, and 236, n.38] Revise text to add new sentence before the note, and revise note:
... and some of its key matching fund provisions have been judicially invalidated was invalidated by the U.S. Supreme Court in 2011. 38

Revise last 4 lines of note 38:

[Page 98, line 5]  Revise text:
Other propositions have targeted non-English speakers (1988, 2000, 2006), and homosexuals (2006, 2008), and beneficiaries of affirmative action programs (2010).

[Page 99, line 21]  Revise the text:
This was the workaround that governors Hull and Brewer pursued to protect education funding from legislative cost cutting, when the legislature repeatedly rejected her calls for increased education spending.

[Page 100, line 12]  Revise text:
In the end, Governor Hull successfully pressured the legislature to put an education sales tax referendum on the ballot; and Governor Brewer succeeded with the same strategy in 2010. The voters approved the education taxes in both instances. However, in 2012, the voters rejected an initiative that would have made the education tax permanent.

[Page 101, line 3]  Revise text:
(For example, more than 420,000 signatures currently would be needed to launch a recall effort against the governor.)

[Page 102, line 10]  Revise text and add a new note where indicated:
... (for erratic behavior). It is theoretically easier to recall legislators than other state officials. The process can be begun within five days of the election, and the 25% signature threshold is easier to obtain since legislators are elected from relatively small local districts. Nonetheless, for ninety-nine years no lawmaker had ever been recalled in Arizona. Powerful senate president Russell Pearce (R) became the first in November 2011. The recall was seen as a backlash against Pearce’s high profile advocacy of anti-immigration and other controversial legislation. Instead, Most recalls occur at the local level …

New note:
Arizona Constitution, art. VIII, pt. 1, sec. 5.

5  The Executive Branch

[Page 106, Table 5.1]  Add 2010 data to the existing table:

Table 5.1. Party affiliations of top Arizona executive branch officials

<table>
<thead>
<tr>
<th>Year</th>
<th>Governor</th>
<th>Secretary of State</th>
<th>Attorney General</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>R</td>
<td>R</td>
<td>R</td>
</tr>
</tbody>
</table>
In 2011, Secretary of State Ken Bennett (R) publicly clashed with Attorney General Tom Horne (R) over the latter’s failure to consult before filing a legal challenge to the federal Voting Rights Act. Both are viewed as likely rivals for the governorship in 2014. Jeremy Duda, “Bennett says Horne should’ve consulted on Voting Rights Act lawsuit,” Arizona Capitol Times, September 1, 2011. And in 2002,…

Figure 5.1. Voter turnout in Arizona general elections. (Presidential election years bolded.)

Table 5.3. Salaries of Arizona’s elected executives, 2012

<table>
<thead>
<tr>
<th>Office</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor</td>
<td>$95,000</td>
</tr>
<tr>
<td>Secretary of state</td>
<td>$70,000</td>
</tr>
<tr>
<td>Attorney general</td>
<td>$90,000</td>
</tr>
<tr>
<td>State treasurer</td>
<td>$70,000</td>
</tr>
<tr>
<td>Superintendent of public instruction</td>
<td>$85,000</td>
</tr>
<tr>
<td>State mine inspector</td>
<td>$50,000</td>
</tr>
<tr>
<td>Corporation commissioner</td>
<td>$79,500</td>
</tr>
</tbody>
</table>
Table 5.4. Arizona’s governors since statehood

<table>
<thead>
<tr>
<th>Term</th>
<th>Governor</th>
<th>Term</th>
<th>Governor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1912</td>
<td>George W. P. Hunt (D)</td>
<td>1956</td>
<td>Ernest W. McFarland (D)</td>
</tr>
<tr>
<td>1914</td>
<td>George W. P. Hunt (D)</td>
<td>1958</td>
<td>Paul J. Fannin (R)</td>
</tr>
<tr>
<td>1916</td>
<td>George W. P. Hunt (D)*</td>
<td>1960</td>
<td>Paul J. Fannin (R)</td>
</tr>
<tr>
<td>1918</td>
<td>Thomas E. Campbell (R)</td>
<td>1962</td>
<td>Paul J. Fannin (R)</td>
</tr>
<tr>
<td>1920</td>
<td>Thomas E. Campbell (R)</td>
<td>1964</td>
<td>Samuel P. Goddard (D)</td>
</tr>
<tr>
<td>1922</td>
<td>George W. P. Hunt (D)</td>
<td>1966</td>
<td>Jack Williams (R)</td>
</tr>
<tr>
<td>1924</td>
<td>George W. P. Hunt (D)</td>
<td>1968</td>
<td>Jack Williams (R)</td>
</tr>
<tr>
<td>1926</td>
<td>George W. P. Hunt (D)</td>
<td>1970</td>
<td>Jack Williams (R)*</td>
</tr>
<tr>
<td>1928</td>
<td>John C. Phillips (D)</td>
<td>1974</td>
<td>Raul H. Castro (D)</td>
</tr>
<tr>
<td>1930</td>
<td>George W. P. Hunt (D)</td>
<td>1977</td>
<td>Wesley Bolin (D) (1977)*</td>
</tr>
<tr>
<td>1932</td>
<td>Benjamin B. Moeur (D)</td>
<td>1978</td>
<td>Bruce Babbitt (D) (1978)*</td>
</tr>
<tr>
<td>1934</td>
<td>Benjamin B. Moeur (D)</td>
<td>1982</td>
<td>Bruce Babbitt (D)</td>
</tr>
<tr>
<td>1936</td>
<td>Rawglie C. Stanford (D)</td>
<td>1986</td>
<td>Evan Mecham (R)</td>
</tr>
<tr>
<td>1938</td>
<td>Robert T. Jones (D)</td>
<td>1988</td>
<td>Rose Mofford (D) (1988)*</td>
</tr>
<tr>
<td>1940</td>
<td>Sidney P. Osborn (D)</td>
<td>1990</td>
<td>Fife Symington (R)</td>
</tr>
<tr>
<td>1942</td>
<td>Sidney P. Osborn (D)</td>
<td>1994</td>
<td>Fife Symington (R)</td>
</tr>
<tr>
<td>1944</td>
<td>Sidney P. Osborn (D)</td>
<td>1997</td>
<td>Jane D. Hull (R) (1997)*</td>
</tr>
<tr>
<td>1946</td>
<td>Sidney P. Osborn (D)</td>
<td>1998</td>
<td>Jane D. Hull (R)</td>
</tr>
<tr>
<td></td>
<td>Daniel E. Garvey (D) (1948)*</td>
<td>2002</td>
<td>Janet Napolitano (D)</td>
</tr>
<tr>
<td>1948</td>
<td>Daniel E. Garvey (D)</td>
<td>2006</td>
<td>Janet Napolitano (D)</td>
</tr>
<tr>
<td>1950</td>
<td>J. Howard Pyle (R)</td>
<td>2009</td>
<td>Jan Brewer (R) (2009)*</td>
</tr>
<tr>
<td>1952</td>
<td>J. Howard Pyle (R)</td>
<td>2010</td>
<td>Jan Brewer (R)</td>
</tr>
<tr>
<td>1954</td>
<td>Ernest W. McFarland (D)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Thomas E. Campbell served one year before the court declared Hunt the election winner.
* Technically Garvey (secretary of state) only became “acting governor” upon the death of Osborn, and he was denied the governor’s compensation. The constitution was amended five months later to make it clear that the constitutional successor becomes governor in all respects, including salary.
Terms were lengthened to four years as a result of a 1968 constitutional amendment.

Bolin (secretary of state) became governor when Raul Castro resigned to become U.S. ambassador to Argentina.

Babbitt (attorney general) became governor upon the death of Bolin.

Mofford (secretary of state) became governor upon the impeachment and ouster of Mecham.

Hull (secretary of state) became governor when Symington resigned following a criminal conviction.

Brewer (secretary of state) became governor when Napolitano resigned to become U.S. Secretary of Homeland Security.

In any event, this too would require a constitutional amendment approved by the voters. Finally, in 2010, the voters decisively rejected a ballot measure that would have changed the name and required the governor and lieutenant governor to run on a single partisan ticket in the general election.

New note:
Proposition 111 (2010) was defeated by 59 percent of the voters. Opponents argued that the independence of the secretary of state as an election monitor would be compromised, and that independent candidates would be excluded under this arrangement.

One consequence of the negotiations was that a temporary sales tax to raise additional education funding was approved by the voters in a special election held on May 18, 2010. (In the 2012 general election the voters rejected a proposition that would have made the education tax permanent.)

Figure 5.4. Vetoes by modern Arizona governors, 1960—2012 (excludes special sessions and line item vetoes).
Babbitt’s successors, Governors Symington (R), and Hull (R), and later Brewer (R), were surprisingly aggressive with the veto pen as well.

In 2010, Governor Brewer even sued the legislature when, for tactical reasons, it delayed submitting the annual budget to her veto pen. The following year she attracted national attention by vetoing controversial bills sponsored by the leaders of her own party.

E.g., among the 29 bills the governor vetoed in 2011 were measures that would have authorized guns on campuses, required presidential candidates to establish that they were native born, expanded the state’s school choice program at the expense of public school funding, prohibited the revocation of professional or occupational licenses for conduct based on religious beliefs, and removed controversial statements from the state’s 9/11 memorial. It is also noteworthy that in 2011, the governor’s party held a 2/3 majority in the legislature—sufficient to override most vetoes. However, the lawmakers did not exercise this power in these instances.

If the governor pushes too hard, he or she can jeopardize the delicate relationships that are needed for legislative success.

Some saw evidence of that in the dramatic failure of a special session called by Governor Brewer in the aftermath of her vetoes of several high profile bills.

6 The Judicial Branch
### Figure 6.1 The Arizona court system, 2011. (Superior courts and justice of the peace courts have concurrent jurisdiction over some landlord-tenant disputes.)

**ARIZONA SUPREME COURT**
- One court—5 justices, 6-year terms
- Handles appeals from lower courts and has original jurisdiction over suits against state officials and suits between counties.

**ARIZONA COURT OF APPEALS**
- Two divisions—16 judges in Phoenix; 6 in Tucson, 6-year terms
- Handles appeals from superior court, tax court, the industrial commission, and unemployment compensation cases.

**SUPERIOR COURT**
- County divisions—174 judges statewide, 4-year terms
- Handles serious criminal and civil cases (e.g., felonies, private claims over $10,000, divorces, probate) and takes appeals from JP and municipal courts.

**JUSTICE OF THE PEACE COURT**
- County precincts 87 JPs statewide, 4-year terms
- Handles traffic cases, minor criminal cases (misdemeanors, petty offenses), private claims under $10,000, and preliminary hearings.

**MUNICIPAL COURT**
- City courts 154 full and part-time judges, varying terms
- Handles traffic cases, minor criminal cases (misdemeanors, petty offenses), and violations of city ordinances and codes.

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**Update case citation:**


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**Revise text and add a new note where indicated:**
To date, none of these efforts has gained traction, but the opposition persists. At the 2012 general election the matter came to a head. A compromise measure was sent to the voters by the Republican-controlled legislature. Among other proposed merit selection changes, the referendum would have expanded the governor’s power over the nominating process and authorized legislative hearings for judges up for retention. Critics objected that merit selection would be politicized, and that reform wasn’t needed. Seventy-two percent of the voters apparently agreed, and the measure was defeated. new note

new note:
Proposition 115 resulted from a compromise between the Republican supermajority that controlled the fiftieth legislature and the leaders of the State Bar, Arizona Judicial Council and Judges Association—who purportedly feared more extreme changes if they didn’t acquiesce. If approved, Proposition 115 would have mandated a minimum of 8 nominations for each judicial vacancy, sharply reduced the State Bar’s role in selecting nominating commission members, eliminated the prohibition against one party monopolizing all the nominations, and authorized a joint legislative committee to take testimony from judges up for retention. To sweeten the deal, all merit selection terms would have been extended to eight years, and the mandatory retirement age for judges lengthened to 75. Ignoring voter rejection, Republican legislators in the very next session passed HB2600, which was signed by the governor on April 5, 2013. The new statute requires a minimum of five judicial nominees to be submitted to governor, unless 2/3 of the nominating committee votes for fewer. Since the state constitution calls for the submission of “not less than three persons,” Article 6, sec. 37, a constitutional challenge is likely to ensue.

**Local Government**

[Page 167, line 7] Revise text:
For example, Maricopa County is home to more than roughly 60 percent . . .

[Page 167, line 10] Revise text:
…with more than 3.9 million people . . .

[Page 167, line 12] Revise text:
twenty-six twenty-four states.

[Page 167, line 13 and 252, n.4] Revise text and note 4:
a mere 8,437 people.‘

*Revise note 4 to delete existing citation and substitute:*
Figure 7.2. Relative populations of Arizona counties, \textit{2008 estimate} 2010 census.

Add to the end of the note:
Maricopa County Attorney Andrew Thomas resigned on April 6, 2010 to unsuccessfully run for the state office of Attorney General. By the end of 2011, nearly all of the litigation that his office filed against other county officials and judges had been dismissed by the courts. Thomas was disbarred in May, 2012, having been found guilty of 27 separate counts of serious misconduct, including “conduct prejudicial to the administration of justice.” \textit{Arizona Attorney} (September 2012) 68-71. Sheriff Joe Arpaio won reelection to another four-year term in 2012. Claims and countersuits by the targeted county officials are still pending, and the final bill for Maricopa County taxpayers has yet to be tallied.

Revise text:
Phoenix—a relatively young city founded in 1870—is now the \textit{fifth} largest city in the United States…

Delete existing citation and substitute:

[Page 175, line 15]:}
[Page 175, Figure 7.5] Revise chart to include 2010 census data:

![Graph showing population growth](image)

**Figure 7.5.** Arizona’s population growth

[Page 176, Figure 7.6] Revise chart and caption, to delete Tempe, include 2010 census data, and add more information to the caption:

![Bar chart showing population growth](image)

**Figure 7.6.** Population growth in Arizona’s largest cities, 1990—2010. (These seven cities are also among the nation’s 100 largest.)
Arizona charter schools can be authorized by one of three entities: a local school board, a public university or community college with an enrollment over 15,000, the State Board of Education, or the State Board for Charter Schools. (The vast majority of charter schools are authorized by the charter school board.) Arizona Revised Statutes, sec. 15-183.C.

Arizona has more than 500 charter schools that enroll roughly 13 percent of the state's public school students.


Currently, the State Board for Charter Schools has a staff of ten. In 2011, the State Board of Charter Schools had a staff of eight. [Continue with rest of note]

These findings have prompted calls for new legislation, and federal litigation challenging the religious neutrality of the program is pending—a limited modification of the program in 2010. A second legal challenge based on religious neutrality failed in 2011.

The Kotterman ruling (see n. 70) involved a "facial challenge" to the tax credit—i.e., it was decided before any programs were actually implemented. Since then new plaintiffs have challenged the tax credits in federal court, arguing that the program, as actually implemented, violates the U.S. Constitution's Establishment Clause. According to the plaintiffs, the program is not religiously neutral since the three largest tuition-granting organizations restrict grants to religious schools, and nearly all of the government-subsidized tuition grants go to religious schools. The Ninth Circuit agreed, holding that the plaintiffs had stated a colorable constitutional claim. See Winn v. Arizona Christian School Tuition Organization, 562 F.3d 1002 (9th Cir. 2009). On May 24, 2010, the U.S. Supreme Court accepted the case for review. As of this writing, therefore, the constitutionality of Arizona's tax credit program remains uncertain. Finally, the 49th Legislature modified the tuition tax credit program during its second regular session in 2010. The legislature added some additional oversight to the program, although the new revisions did not resolve all of the concerns that had been raised. See note 71 and Pat Kossan and Ronal J. Hansen, "Tuition Tax Credit Bill is Signed by Governor Brewer," Arizona Republic, May 11, 2010. The 2010 legislation also allowed the contribution ceiling to rise with inflation, demonstrating the lawmakers’ unwavering commitment to the tax credit program. Arizona Revised Statutes, sec. 43-1089.

Arizona Christian School Tuition Organization v. Winn, 563 U.S. ___, 131 S. Ct. 1436 (2011) ruled that Arizona taxpayers lacked legal standing to challenge the tuition credit program on Establishment Clause grounds. The U.S. Supreme Court distinguished tax credits from government expenditures in a 5 to 4 ruling that was somewhat reminiscent of the earlier Kotterman case (see n. 70).

Add to Figure Credits:

Fig. 3.1: Data source: Arizona News Service, “Legislative Turnover,” Political 2012 Almanac, 35.