1954 SESSION LAWS

STATE OF ARIZONA

Twenty-first Legislature

SECOND REGULAR SESSION

1953

FIRST SPECIAL SESSION

TWENTY-FIRST LEGISLATURE

Wesley Bolin

Secretary of State

STATE OF ARIZONA

U. S. ELECTIVE OFFICIALS

Office	Name and Party	Address
SENATORS	Carl Hayden (D)	Phoenix
	Barry M. Goldwater (R)	Phoenix
REPRESENTATIVES		
District No. 1	John J. Rhodes (R)	Mesa
District No. 2	Harold A. "Porque" Patten (D)	Tucson

(Addresses as given are the home addresses. Official mail should be addressed to Washington, D. C.)

STATE ELECTIVE OFFICIALS

1953-1954

SUPREME COURT		
Chief Justice	M. T. Phelps (D)	209 Capitol Bldg., Phoenix
Judge	R. C. Stanford (D)	209 Capitol Bldg., Phoenix
Judge	Arthur T. LaPrade (D)	209 Capitol Bldg., Phoenix
Judge	Levi S. Udall (D)	209 Capitol Bldg., Phoenix
Judge	Dudley W. Windes (D)	209 Capitol Bldg., Phoenix
GOVERNOR	Howard Pyle (R)	204 Capitol Bldg., Phoenix
SEC'Y OF STATE	Wesley Bolin (D)	203 Capitol Bldg., Phoenix
ATT'Y GENERAL	Ross F. Jones (R)	108 Capitol Bldg., Phoenix
TREASURER	J. W. Kelly (D)	101 Capitol Bldg., Phoenix
AUDITOR	Mrs. Jewel W. Jordan (D)	104 Capitol Bldg., Phoenix
SUPT. OF PUBLIC INSTRUCTION		
	M. L. Brooks (D)	212 Capitol Bldg., Phoenix
MINE INSPECTOR		
	Edward (Ed) Massey (D)	109 Capitol Bldg., Phoenix
TAX COMMISSION		
Chairman	Warren Peterson (D)	101 Capitol Bldg., Phoenix
Member	Thad M. Moore (D)	101 Capitol Bldg., Phoenix
Member	William E. Stanford (D)	101 Capitol Bldg., Phoenix
CORPORATION COMMISSION		
Chairman	Mit Simms (D)	New State Bldg., Phoenix
Member	William T. Brooks (D)	New State Bldg., Phoenix
Member	Timothy D. Parkman (R)	New State Bldg., Phoenix

U. S. DISTRICT COURT IN ARIZONA

1954

Judge Dave W. Ling	Phoenix and Prescott
William H. Loveless, Clerk	Phoenix
Jack D. H. Hays, U. S. District Attorney	Phoenix
Stanley A. Jerman, Referee in Bankruptcy	Phoenix
F. A. Hickernell, Probation Officer	Phoenix
Gloria Frandle, Official Reporter	Phoenix
Judge James A. Walsh	Tucson and Globe
Catherine A. Dougherty, Chief Deputy Clerk	Tucson
Archie M. Meyer, U. S. Marshal	Tucson
Richard C. Griffith, Chief Deputy U. S. Marshal	Tucson
Robert S. Murlless, Asst. U. S. Dist. Attorney	Phoenix
Robert Roylston, Asst. U. S. Dist. Attorney	Tucson
Edward Dougherty, Probation Officer	Tucson
Fred Baker, Official Reporter	Tucson

SUPREME COURT OF ARIZONA

M. T. Phelps, Chief Justice.....State House, Phoenix
R. C. Stanford, Judge.....State House, Phoenix
Levi S. Udall, Judge.....State House, Phoenix
Dudley W. Windes, Judge.....State House, Phoenix
A. T. LaPrade, Judge.....State House, Phoenix
Eugenia Davis, Clerk.....State House, Phoenix

SUPERIOR COURTS OF ARIZONA

County	Judge	County Seat
Apache	J. Smith Gibbons	St. Johns
Cochise	Frank E. Thomas	Bisbee
Coconino	H. L. Russell	Flagstaff
Gila	Sam Lazovich	Globe
Graham	Jesse A. Udall	Safford
Greenlee	Porter Murry	Clifton
Maricopa, Div. No. 1	Fred C. Struckmeyer, Jr.	Phoenix
Maricopa, Div. No. 2	Nicholas Udall	Phoenix
Maricopa, Div. No. 3	Charles C. Bernstein	Phoenix
Maricopa, Div. No. 4	Lorna E. Lockwood	Phoenix
Maricopa, Div. No. 5	Francis J. Donofrio	Phoenix
Maricopa, Div. No. 6	Renz L. Jennings	Phoenix
Maricopa, Div. No. 7	Ralph Barry	Phoenix
Maricopa, Div. No. 8	Henry S. Stevens	Phoenix
Maricopa, Div. No. 9	Robert E. Yount	Phoenix
Mohave	J. W. Faulkner	Kingman
Navajo	Don T. Udall	Holbrook
Pima. Div. No. 1	J. Mercer Johnson	Tucson
Pima, Div. No. 2	Lee Garrett	Tucson
Pima, Div. No. 3	Robert S. Tullar	Tucson
Pima, Div. No. 4	Herbert F. Krucker	Tucson
Pinal	W. C. Truman	Florence
Santa Cruz	Gordon Farley	Nogales
Yavapai	W. E. Patterson	Prescott
Yuma	Henry C. Kelly	Yuma

CLERKS OF THE SUPERIOR COURT

Apache—Merle W. Heap.....St. Johns
Cochise—Dan S. Kitchel.....Bisbee
Coconino—Mary P. Lewis.....Flagstaff
Gila—Arnold M. Ambos.....Globe
Graham—Mrs. Cleora Hancock.....Safford
Greenlee—Harriet Sweeting.....Clifton
Maricopa—Walter S. Wilson.....Phoenix
Mohave—C. B. Tatum.....Kingman
Navajo—Lafe S. Hatch.....Holbrook
Pima—Grayce Gibson O'Neill.....Tucson
Pinal—T. J. Marks.....Florence
Santa Cruz—Mrs. Dorothy Titcomb.....Nogales
Yavapai—Mrs. Emma Shull.....Prescott
Yuma—James B. McLay.....Yuma

ELECTIVE COUNTY OFFICIALS FOR ARIZONA

1953-1954

COUNTY	COUNTY SEAT	ASSESSOR	ATTORNEY
Apache	St. Johns	Parley Heap	Norman Whiting
Cochise	Bisbee	Sam R. Clark	Wesley Polley
Coconino	Flagstaff	D. L. McKinney	H. K. Mangum
Gila	Globe	Margarite Harding Webb	Barry De Rose
Graham	Safford	Robert Goodman	Ruskin Lines
Greenlee	Clifton	Wm. Paterson	H. Earl Rogge
Maricopa	Phoenix	C. L. Sparks	William P. Mahoney
Mohave	Kingman	R. H. Lesher	Carl D. Hammond
Navajo	Holbrook	Arthur Palmer	Melvyn T. Shelley
Pima	Tucson	Leo J. Finch	Morris K. Udall
Pinal	Florence	Wyly Parsons	Timothy J. Mahoney
Santa Cruz	Nogales	Pierre S. Baffert	Ruffo Espinosa
Yavapai	Prescott	Joel H. Baldwin	David H. Palmer, Jr.
Yuma	Yuma	A. O. Williamson	F. Lewis Ingraham

COUNTY	COUNTY SEAT	RECORDER	SHERIFF
Apache	St. Johns	Virgie Heap	John T. Crosby
Cochise	Bisbee	P. W. Newbury	W. J. "Jack" Howard
Coconino	Flagstaff	Edna Mae Thornton	J. Peery Francis
Gila	Globe	Joseph Kinsman	Jack Jones
Graham	Safford	H. Lyle Grant	E. R. (Zeke) McBride
Greenlee	Clifton	Mrs. Don C. Marsh	Fred Carrell*
Maricopa	Phoenix	Roger G. Laveen	L. C. Boies
Mohave	Kingman	Mrs. Peggy B. Smith	Frank L. Porter
Navajo	Holbrook	Mrs. Elda R. Probst	Ben L. Pearson
Pima	Tucson	Mrs. Anna Sullinger	Frank A. Eyman
Pinal	Florence	Mrs. Sophie M. Smith	Lawrence R. White
Santa Cruz	Nogales	Mrs. Mary Bettwy	J. J. Lowe
Yavapai	Prescott	Mrs. Grace Chapman	Orville D. Bozarth
Yuma	Yuma	Vernon C. Wright	Jim Washum

COUNTY	COUNTY SEAT	SCHOOL SUPERINTENDENT	TREASURER
Apache	St. Johns	Roland S. Hamblin	Wallace DeWitt
Cochise	Bisbee	Miss Ruby E. Fulghum	F. C. (Alex) Alexander
Coconino	Flagstaff	Mrs. Bessie Kidd Best	Mrs. Rose Stacy
Gila	Globe	Jess G. Hayes	Roy Wood
Graham	Safford	Wilford Hamblin	Lola Hubbard
Greenlee	Clifton	Esthermae F. Kleinman	E. C. Fitzgerald
Maricopa	Phoenix	John H. Barry	Phil A. Isley
Mohave	Kingman	Mrs. Fay Logsdon	Ruth Moser
Navajo	Holbrook	Miss Mary A. Brown	Joseph L. Petersen
Pima	Tucson	Mrs. Florence Reece	Carroll H. Christian
Pinal	Florence	Mary C. O'Brien	Alice M. Diffin
Santa Cruz	Nogales	Mrs. Cora Everhart	George "Coki" Lowe
Yavapai	Prescott	Sarah Folsom	Paul J. Wedepohl
Yuma	Yuma	Mrs. Gwyneth Ham	Vida Lee Hightower

*Appointed to replace Joe H. Tea

COUNTY BOARDS OF SUPERVISORS OF ARIZONA
1953

APACHE COUNTY—St. Johns

Dist. No. 1 James S. Shreeve (D) St. Johns
Dist. No. 2 Jos. A. Burk (D) Eagar
Dist. No. 3 Hugh Lee (R) Ganado
Benj. Burgess—Clerk

COCHISE COUNTY—Bisbee

Dist. No. 1 James Allison (D) Bisbee
Dist. No. 2 C. A. Stewart (D) Douglas
Dist. No. 3 W. R. Moore (D) Willcox
Mrs. Harriett Heister—Clerk

COCONINO COUNTY—Flagstaff

Dist. No. 1 J. D. Tissaw, Sr. (D) Flagstaff
Dist. No. 2 S. O. Morrow (D) Flagstaff
Dist. No. 3 Chas. M. Proctor (D) Williams
Jane Burns—Clerk

GILA COUNTY—Globe

Dist. No. 1 Ben Armer (D) Globe
Dist. No. 2 Charles Curnow (D) Miami
Dist. No. 3 Steve Bryant (D) Miami
Mrs. Adah H. Anderson—Clerk

GRAHAM COUNTY—Safford

Dist. No. 1 Victor Christensen (D) Safford
Dist. No. 2 Glen Hoopes (R) Thatcher
Dist. No. 3 Willie Hinton (D) Ft. Thomas
W. L. Buffington—Clerk

GREENLEE COUNTY—Clifton

Dist. No. 1 Richard Campbell (D) Clifton
Dist. No. 2 Wayne Evans (D) Morenci
Dist. No. 3 S. A. Foster (D) Duncan
H. E. Brubaker—Clerk

MARICOPA COUNTY—Phoenix

Dist. No. 1—James E. Lindsay (D) Phoenix
Dist. No. 2 James G. Hart, Sr. (R) Phoenix
Dist. No. 3 James T. O'Neill (D) Phoenix
Mrs. Rhea Averill—Clerk

MOHAVE COUNTY—Kingman

Dist. No. 1 George C. Ricca (D) Oatman
Dist. No. 2 A. J. Mullen (R) Chloride
Dist. No. 3 Ray Van Marter (D) Kingman
J. J. Cunningham—Clerk

NAVAJO COUNTY—Holbrook

Dist. No. 1 Ben R. Hunt (D) Holbrook
Dist. No. 2 W. J. Crozer (D) Winslow
Dist. No. 3 Vern Willis (R) Snowflake
Dorothy J. Leavitt—Clerk

PIMA COUNTY—Tucson

Dist. No. 1 Charles A. Lamb (R) Tucson
Dist. No. 2 Lambert Kautenburger (D) Tucson
Dist. No. 3 Thomas S. Jay (D) Ajo
Richard E. Kolb—Clerk

PINAL COUNTY—Florence

Dist. No. 1 Jay Bateman (D) Ray
Dist. No. 2 J. W. Spray (D) Superior
Dist. No. 3 Frank Williams (D) Casa Grande
Eleanor K. Robertson—Clerk

SANTA CRUZ COUNTY—Nogales

Dist. No. 1 R. T. Frazier, Jr. (D) Nogales
Dist. No. 2 Gilbert C. Soto (D) Nogales
Dist. No. 3 Blain Lewis (D) Patagonia
Estella Holler—Clerk

YAVAPAI COUNTY—Prescott

Dist. No. 1 John J. Pruitt (D) Prescott
Dist. No. 2 Jack A. Medd (D) Skull Valley
Dist. No. 3 Taylor E. Estes (D) Cottonwood
Mrs. Dorothy B. Manton—Clerk

YUMA COUNTY—Yuma

Dist. No. 1 M. G. Miniken (D) Yuma
Dist. No. 2 Otis Shipp (D) Yuma
Dist. No. 3 Glen Strohm (D) Parker
R. L. Odom—Clerk

STATE OF ARIZONA

1953-1954

No.	DISTRICT	JUSTICES OF THE PEACE	CONSTABLES
	APACHE COUNTY		
1	St. Johns*-**	Edward E. Carter	Grant Hamblin
2	Concho*-**	E. M. DeGlane	Leo M. Garcia
3	McNary*-**	D. I. Fergus	A. M. Parker
4	Round Valley (Alpine, Eagar*, Greer, Nutrioso, Springerville**)	Carl L. Haws	G. L. Maxwell
5	Puerco (Chambers*, Sanders**, Adamana, Houck, Lupton)	Chas. M. McDonald	Jeff N. Lauderdale
6	Maverick*	Foch Phillips	None
7	Vernon*	Ray Webb	None
8	Ganado*	Wendell H. Harris	None
	COCHISE COUNTY		
1	Hereford, Ash, Bisbee*-** Don Luis, Warren, Lowell, Naco	L. T. Frazier	None
2	Douglas*-**, Central Bridge, Lusk, McNeal, Webb, Paradise, Pirtleville, Whitewater	George W. Martin	None
3	Benson*, Pool, Robinson, St. David	Harold W. Holcomb	None
4	Cochise, Dos Cabezas, Dragoon, El Dorado, Pearce, Wilgus, Willcox*	W. L. Chastain	L. G. Neely
5	Buena, Fairbank, Tombstone*-**	John P. Sebring	Chas. E. Brubaker
6	Bowie*-**, San Simon	T. W. Cooke	None
	COCONINO COUNTY		
1	Flagstaff*-**, Bellemont, Mormon Lake, Tuba City, Cameron, Saginaw Camp, Canyon Diablo	Shelby McCauley	Cliff Simmons
2	Williams*-**, Parks	Thomas E. Way	Clarke C. Cole
3	Grand Canyon*-**	S. G. Stephens	Robert R. McCann
4	Fredonia*, Marble Canyon	Joseph Brooksby	None
5	Sedona*	W. B. Raudebaugh	None
6	East Flagstaff	Jack Newsum	None
	GILA COUNTY		
1	Globe*-**	Clyde Shute	Wm. S. Edwards
2	Miami*-**, Claypool, Central Heights	John Carpenter	W. P. Ellis
3	Hayden*-**, Winkelman	Rex Curtis	Wm. A. Pratt
4	Roosevelt, Payson*-**	Calvin N. Greer	Wm. E. Jackson
5	Young*-**	Wm. L. Turner	Gene Seeley
6	Pine*-**	Isaac Hunt	William S. Lazear

* Mailing Address of Justice of Peace

** Mailing Address of Constable

DISTRICT		JUSTICES OF THE PEACE	CONSTABLES
	GRAHAM COUNTY		
No.			
1	Safford*, Lebanon, Layton	T. B. Reed	None for Graham County
5	Solomonville*	Mario de Ochoa	
6	Pima*, Eden, Bryce, Glenbar	John H. McBride	
7	Ft. Thomas*, Ashurst, Geronimo	C. J. Grover	
8	Bonita*	James DuBois	
9	Klondyke*	John Sanford	
12	Thatcher*	Jesse L. Green	
15	Central*	G. A. Bigler	
	GREENLEE COUNTY		
1	Clifton*, Blue, Eagle	Matt Danenhauer	None
2	Morenci*	J. C. Cooper	None
4	Duncan*, Franklin, York-Sheldon	J. B. Wright	None
	MARICOPA COUNTY		
	Buckeye*-**, Arlington, Palo Verde, Liberty, Tonopah	Bill Meck	Murrell Flood
	Chandler*-**, Queen Creek, Higley	Coy Beasley	Charlie Southard
	Gila Bend*-**, Homestead, Sentinel	Eddie A. Stout	Jack Mullenax
	Gilbert*-**	Harold R. Germaine	Hubert Harmon
	Glendale*-**	C. F. Carden	Frank C. Sheets
	Alma, Lehi, Fish Creek, Sunflower, Mesa*-**	J. E. Hunsaker	A. W. Hawkins
	Cotton City, Peoria*-**	John L. Meyer	R. H. Travis
	East Phoenix*-**	Harry E. Westfall	J. G. Hickey
	West Phoenix*-**	Al J. Flood	A. B. Spain
	Scottsdale*-**	Ben E. Fox	Geo. H. Thomas, Jr.
	Kyrene, Tempe*-**	Ralph W. Fowler	John H. Gregg
	Avondale**, Cartwright, Orme, Cashion, Fowler, Goodyear, Tolleson*	Arthur Webster	R. H. Brummell
	Wickenburg*-**, Morristown, Aguila	R. L. Westall	Clyde A. Hall
	MOHAVE COUNTY		
	Kingman*-**, Yucca	E. E. Wishon	Walter Black
	Oatman*-**, Topock	Alfred Nelson	Chas. Walz
	Chloride*-**	None	J. C. Wooten
	Hackberry*-**, Peach Springs	C. R. Neal	John L. Nelson
	Alamo Crossing, Owens*-**	Fred H. Wheadon	None
	Signal, Trout Creek, Whitney	None	Carl Duncan
	Littlefield*-**	Clifford Peterson	Louis Reber
	Mt. Trumbull*-**	James Ben Bundy	C. M. Bundy
	Cane Beds*-**, Moccasin, Tuweep	Sterling Heaton	None
	Short Creek		Alfonso H. Nyborg
	Bullhead City*-**	Mrs. Ethelyn Buck	E. S. Stone
	Davis Dam		

(There are no Constables in Mohave County. They are classed as Deputy Sheriffs.)

* Mailing Address of Justice of Peace

** Mailing Address of Constable

No.	DISTRICT	JUSTICES OF THE PEACE	CONSTABLES
	NAVAJO COUNTY		
1	Holbrook*-**, Greasewood, Indian Wells, Kayenta, Keams Canyon, Pinon, White Cone, Woodruff	A. G. McCloskey	Nick Apodaca
2	Winslow*-**, Hard Rock, Hotevilla, Oraibi, Polacca, Shonto, Tees To, Toreva	Burl Vincent	None
3	Snowflake*, Taylor, Shumway, Heber, Overgaard	Russell Hakes	None
4	Clay Springs*-**, Pinedale	Ben L. Perkins	Don C. Jackson
5	Linden, Burton, Show Low*-**, Cibecue	Wm. H. Lewis	Orley C. Higgins
6	Joseph City*-**	Newell Kay	John L. Bushman
7	Lakeside**, Pinetop*, Whiteriver	Martha McNary Wilson	Donald Fish
	PIMA COUNTY		
1	Tucson*-**	James Howsare	Robert C. Sigourney
2	Tucson*-**	Clark H. Johnson	Ed F. Echols
3	Ajo*-**	Braddy Byars	Thomas Fred Larremore
	PINAL COUNTY		
1	Florence*-**	Lottie C. Devine	Pete C. Van Haren
2	Casa Grande*-**, Sacaton	E. O. Mason	H. B. Ward
3	Eloy*-**, Red Rock	Norman Murphy	Hubert Wilks
4	Stanfield*-**, Maricopa	W. W. Duncan	Bill Harer
5	Oracle*-**	Lewis T. Derwin	H. O. Ramsey
6	Mammoth*-**, Tiger	John Carnighan	Harry R. Clark
7	Aravaipa, Dudleyville (Mailing address: Hayden Junction**)	Kate M. Trent	Nelson Cluff
8	Coolidge*-**	R. L. Briscoe	Asa F. Gardner
9	Ray*-**, Kelvin	Orwin S. Pearson	George P. Bartlett
10	Superior*-**	Dale D. Webb	Alex Arnett
11	Goldfield, Apache Jct. (Mailing Address: Rt. 2, Box 568, Mesa*)	Norman L. Teason	None
	SANTA CRUZ COUNTY		
1	Nogales*-**, Santa Cruz	Fred U. Allen	A. J. Baca
2	Patagonia*, San Rafael, Elgin	Oliver J. Rothrock	None
3	Tubac*	Miss M. E. Cotter	None

* Mailing Address of Justice of Peace
** Mailing Address of Constable

DISTRICT	JUSTICES OF THE PEACE	CONSTABLES
YAVAPAI COUNTY		
No.		
Ashfork	J. J. Slamon	None
Bagdad*	C. D. Rhodes	None
Beaver Creek, Camp Verde*, Cherry Creek, Childs	Lisle A. Watts	None
Castle Hot Springs, Congress, Rincon, Constellation, Yarnell*-**	Jerold P. Kolar	Carl I. Scott
Jerome*-**	Jerry Sullivan	None
Bumble Bee, Rock Springs, Cleator, Humboldt*, Mayer	Marion T. Burleson	None
Camp Wood, Chino Valley, Groom Creek, Hillside, Kirkland, Miller Valley, Prescott*-**, Skull Valley, Wagoner, Walnut Creek, Walnut Grove, Whipple	Edward S. Lyman	Oscar E. Johnson
Seligman*	Edward E. Fall	
Clarkdale*, Cottonwood**, Oak Creek, Red Rock	W. J. Finnegan	Paris E. Webb
YUMA COUNTY		
Yuma*-**, Dome, Laguna, Rood, Crane, Blaisdell	Ersel C. Byrd	B. W. Long
Somerton*-**, Gadsden	C. R. Cavanah	A. M. Ray
Wellton*-**, Roll, Mohawk, Aztec, Hyder	Guy Hanes	Floyd L. Killman
Quartzsite*-**, Cibola	George Hagely	Fred V. Kuehn
Salome*-**, Wenden, Vicksburg	Ernest Hall	Ernest Bashor
Parker*-**, Bouse	O. N. Hamilton	Jack Harold

* Mailing Address of Justice of Peace

** Mailing Address of Constable

ACTS

Memorials and Resolutions

of the

Second Regular Session

of the

Twenty-First Legislature

of the

STATE OF ARIZONA

1954

SECOND REGULAR SESSION CONVENED

JANUARY 11, 1954

SECOND REGULAR SESSION ADJOURNED SINE DIE

APRIL 10, 1954 AT 1:06 A.M.

Publication Authorized

Section 4-201, Arizona Code of 1939

(Paragraph 23, Article 2, Chapter 2,
Revised Code of 1928)

Chapter 158, Laws of 1954

Second Regular Session, Twenty-First Legislature

NOTICE: There are a few misspellings, other errors and punctuation mistakes in the body of this volume, which originated in the original engrossed copies, and had to be duplicated herein so as to conform to such original copies.

AUTHENTICATION

STATE OF ARIZONA
Office of the Secretary of State } ss.

THIS IS TO CERTIFY—That the Acts, Memorials and Resolutions published in this volume are full, true and correct copies of the originals passed at the Second Regular Session of the Twenty-first Legislature of the State of Arizona, as they appear on file in the office of the Secretary of State of Arizona.

That the Second Regular Session of the Twenty-first Legislature of the State of Arizona was convened at the Capitol, in the City of Phoenix, January 11, 1954, and adjourned sine die on the 10th day of April, 1954.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary and affixed the Great Seal of the State of Arizona, this 19th day of May, 1954.

WESLEY BOLIN (Signature)
Secretary of State

MEMBERS OF THE SENATE

TWENTY-FIRST LEGISLATURE

OF ARIZONA

1953-1954

County	Name and Party	Address
Apache	Bryant Whiting (R)	Springerville
Cochise	Alfred Paul, Jr. (D)	Paul Spur
Cochise	A. R. Spikes (D)	Douglas
Coconino	Robert W. Prochnow (D)	Flagstaff
Gila	Clarence L. Carpenter (D)	Miami
Gila	Wm. A. Sullivan (D)	Globe
Graham	Jim Smith (D)	Central
Greenlee	A. C. Stanton (D)	Clifton
Maricopa	O. D. Miller (R)	Phoenix
Maricopa	William R. Pyper (R)	Phoenix
Mohave	Earle W. Cook (D)	Kingman
Navajo	Clay Simer (D)	Winslow
Pima	Wm. F. Kimball (D)	Tucson
Pima	H. S. Corbett (R)	Tucson
Pinal	James Herron, Jr. (D)	Superior
Santa Cruz	Hubert Merryweather (D)	Tumacacori
Yavapai	Kel M. Fox (D)	Sedona
Yavapai	Charles H. "Chick" Orme, Sr. (D)	Mayer
Yuma	Harold C. Giss (D)	Yuma

MEMBERS OF THE HOUSE
TWENTY-FIRST LEGISLATURE
OF ARIZONA
1953-1954

District	Name and Party	Address
	APACHE COUNTY	
	Lorin M. Farr (R)	St. Johns
	COCHISE COUNTY	
1.	Fred Dove (D)	Tombstone Box 53
2.	Evelyn Anderson (D)	Warren Box 733
3.	H. J. "Duffy" Lewis (D)	Douglas 733 12th St.
4.	Charles O. Bloomquist (D)	Douglas 1206 11th St.
5.	W. L. "Tay" Cook (D)	Willcox Box 189
	COCONINO COUNTY	
1.	Dr. John W. Stilley (R)	Flagstaff Box 97
2.	Harry F. Sutherland (R)	Williams Box 333
	GILA COUNTY	
1.	Louis B. Ellsworth, Jr. (D)	Globe 345 Josephine St.
2.	Chas. A. Horne (D)	Miami 1121 Live Oak St.
3.	Edwynne C. Rosenbaum (D)	Hayden Mail: 930 W. McDowell Rd., Phoenix
	GRAHAM COUNTY	
1.	E. L. "Tid" Tidwell (D)	Safford Box 337
2.	Milton Lines (D)	Pima Box 64
	GREENLEE COUNTY	
	M. L. Simms (D)	Clifton Box 518

MARICOPA COUNTY

1. Ed Ellsworth (D) ..... Chandler
   Box 75
2. William S. Porter (R) ..... Mesa
   15 E. 2nd Ave.
3. Jack Cummard (D) ..... Mesa
   424 N. Macdonald
4. L. Max Connolly (D) ..... Tempe
   212 E. 14th St.
5. C. S. "Clint" Anderson (D) ..... Phoenix
   Rt. 5, Box 673
6. Sidney Kartus (D) ..... Phoenix
   2107 S. 15th Place
7. Robert "Bob" E. Wilson (D) ..... Phoenix
   2521 E. Adams
8. D. F. "Doc" Benson (D) ..... Phoenix
   1337 E. Monroe
9. Owen A. Kane (D) ..... Phoenix
   140 N. 1st St.
10. Sherman R. Dent (D) ..... Phoenix
    512 S. 24th St.
11. Ruth White (R) ..... Scottsdale
    Box 24
12. Ruth C. Kuntz (R) ..... Phoenix
    1429 E. Culver
13. W. W. Franklin (D) ..... Phoenix
    1645½ E. Culver
14. Clara S. Haberl (R) ..... Phoenix
    3030 N. 7th St.
15. Laura M. McRae (D) ..... Phoenix
    929 E. Coronado Road
16. W. H. "Bill" Ridgeway (D) ..... Phoenix
    1804 E. Sheridan
17. Robert H. Wallace (R) ..... Phoenix
    Box 1870
18. Harold W. Tshudy (R) ..... Phoenix
    306 W. Arroyo Vista Dr.
19. Carl Sims, Sr. (D) ..... Phoenix
    1304 W. Magnolia
20. Mary Dwyer (D) ..... Phoenix
    346 N. 6th Ave.

21. Harry S. Ruppelius (D) ..... Phoenix
1505 N. 15th Ave.

22. L. S. (Dick) Adams (D) ..... Phoenix
418 N. Oakland

23. J. P. "Jess" Stump (D) ..... Phoenix
3154 Westward Blvd.

24. Norman S. (Shorty) Lee (D) ..... Phoenix
3106 West McKinley

25. Richard G. Kleindienst (R) ..... Phoenix
Title & Trust Bldg.

26. Derek Van Dyke (R) ..... Phoenix
1838 Palmcroft Way, N.W.

27. Robert L. Myers (R) ..... Phoenix
5022 N. Arden Drive

28. William Younger Wood (D) ..... Phoenix
416 Security Bldg.

29. Hal Warner (D) ..... Wickenburg
Box 758

30. T. C. "Doc" Rhodes (D) ..... Avondale
Box 146

31. H. C. Armstrong (D) ..... Tolleson
Box 672

32. Walter Hirsch (R) ..... Phoenix
1512 W. McDowell Road

33. C. H. "Hank" Marion (R) ..... Phoenix
4433 N. 7th Ave.

34. *James B. Phillips (R) ..... Phoenix
1303 West Bethany Home Road

35. Isabel Burgess (R) ..... Phoenix
2501 E. Pinchot

36. Sam Joy (R) ..... Glendale
Rt. 3, Box 688

37. Robert "Bob" Brewer (R) ..... Phoenix
3015 W. Palm Lane

MOHAVE COUNTY

Robert Morrow (D) ..... Kingman

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* appointed to replace Jack Hays, resigned

NAVAJO COUNTY

1. Wallace H. Larson (R) ..... Lakeside
   Box 238

2. Lee F. Dover (D) ..... Winslow
   1026 Warren Ave.

PIMA COUNTY

1. **David S. Wine (D) ..... Ajo
   Box 539

2. Enos P. "Pepe" Schaffer (D) ..... Tucson
   Santa Rita Hotel Mez.

3. ***Mrs. Etta Mae Hutcheson (D) ..... Tucson
   337 South 4th Ave.

4. David F. "Lucky" Lindsay (D) ..... Tucson
   415 W. 44th St.

5. John W. McInnes (R) ..... Tucson
   1600 E. Speedway

6. Douglas S. Holsclaw (R) ..... Tucson
   1746 E. 5th St.

7. Julliette C. Willis (R) ..... Tucson
   123 Sierra Vista Dr.

8. V. S. Hostetter (R) ..... Tucson
   100 Calle Encanto

9. Wm. K. Richey (R) ..... Tucson
   1030 E. Prince

10. Alvin Wessler (R) ..... Tucson
    1711 N. Desmond Lane

11. Norval W. Jasper (R) ..... Tucson
    3226 E. 26th St.

12. John H. Haugh (R) ..... Tucson
    N. Campbell Ave.

13. David G. Watkins (D) ..... Tucson
    Rt. 4, Box 309

14. Frank G. Robles (D) ..... Tucson
    Box 2203

15. Harold Burton (R) ..... Tucson
    1825 N. Rosemary Dr.

** appointed to replace Oscar C. Cole, deceased
*** appointed to replace Larry Woods, resigned

PINAL COUNTY

1. A. L. Bartlett (D) ..... Coolidge
   Box 156
2. J. Ney Miles (D) ..... Ray
3. E. Blodwen Thode (D) ..... Casa Grande
   913 N. Olive St.

SANTA CRUZ COUNTY

Neilson Brown (D) ..... Nogales
Buena Vista Ranch

YAVAPAI COUNTY

1. ****Mrs. Mabel S. Ellis (D) ..... Prescott
   820 Whipple Street
2. Dick W. Martin (R) ..... Prescott
   Box 1270
3. Dr. Walter V. Edwards (R) ..... Cottonwood
4. A. H. Bisjak (D) ..... Chino Valley
   Box 4

YUMA COUNTY

1. Robert Hodge (D) ..... Yuma
   1200 7th Ave.
2. John C. Smith, Jr. (D) ..... Somerton
   Rt. 1, Box 40
3. E. C. "Johnnie" Johnson (D) ..... Parker
   Box 1538

**** appointed to replace Henry Rush, resigned

ORDER OF ACTS

ORDER OF ACTS

TWENTY-FIRST LEGISLATURE

SECOND REGULAR SESSION

Chapter	Title	Page
1 S. B. 11	Relating to the Arizona children's colony, and amending section 1, chapter 101, Laws of 1953, first regular session. (Emergency clause) Approved February 4, 1954. Effective February 4, 1954.	3
2 H. B. 24	Relating to the Arizona State College at Flagstaff, providing funds for the furnishing of Ashurst Auditorium, and amending subdivision 42, section 1, chapter 132, laws of 1953, first regular session. (Emergency clause) Approved February 9, 1954. Effective February 9, 1954.	3
3 H. B. 21	Making an appropriation to the Arizona Children's Colony. (Emergency clause) Approved February 11, 1954. Effective February 11, 1954	5
4 H. B. 28	Making an appropriation to the Governor for the repair and reconditioning of air conditioning equipment in the west wing of the capitol building. (Emergency clause) Approved February 11, 1954. Effective February 11, 1954	5
5 H. B. 36	Making a supplemental appropriation to the Superintendent of Public Instruction. (Emergency) Approved February 23, 1954. Effective February 23, 1954.	6
6 S. B. 42	Relating to dead bodies; providing for the donating or bequesting by any person of his body or any part thereof for the purposes of medical science and the rehabilitation of the maimed; providing for the manner of such donation or bequest and the time such shall take effect; releasing corporations, associations and persons from liability for acts performed in carrying out such donations or bequests, and	

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			amending chapter 43, article 52, Arizona Code of 1939, by adding sections 43-5202a, 43-5202b, 43-5202c, 43-5202d and 43-5202e. (Emergency clause) Approved February 27, 1954. Effective February 27, 1954.	7
7	S. B.	70	Relating to fish and game; authorizing reciprocal agreements between Arizona and adjoining states concerning sport fishing and hunting licenses; providing for special licenses and permits for use on and along the Colorado river; granting special privileges to California licensees; authorizing the game and fish commission to handle certain permits and remit proceeds thereof to state of California, and amending article 1, chapter 57, Arizona Code of 1939, by adding sections 57-115a to 57-115f, inclusive. Approved February 27, 1954. Effective. The provisions of this Act shall become operative when the Arizona game and fish commission finds that under the laws of the state of California substantially similar licenses and permits are authorized to be issued to licensees of the state of Arizona upon substantially the same terms and conditions as are provided for in this Act as to the issuance of licenses and permits to licensees of the state of California.	9
8	H. B.	68	Relating to negotiable instruments, and amending section 52-109, Arizona Code of 1939. (Emergency clause) Approved March 5, 1954. Effective March 5, 1954.	11
9	H. B.	190	Relating to the qualifications of directors and electors of electrical districts; amending section 75-621, Arizona Code of 1939. Approved March 5, 1954. Effective July 9, 1954.	12
10	H. B.	160	Relating to Education; making an appropriation to the state school fund. (Emergency clause) Approved March 5, 1954. Effective March 5, 1954.	13

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11	H. B.	151	Relating to the Arizona State Retirement System, and amending chapter 132, section 1, subdivision 86, Laws of 1953, first regular session. Approved March 5, 1954. Effective March 5, 1954.	13
12	H. B.	150	Relating to the Arizona State Retirement system, and authorizing certain expenditures. Approved March 5, 1954. Effective March 5, 1954.	14
13	H. B.	58	Relating to the conduct of elections; requiring the display of the flag of the United States at polling places on election days, and amending article 5, chapter 55, Arizona Code of 1939, by adding section 55-504a. Approved March 5, 1954. Effective July 9, 1954.	15
14	H. B.	57	Making an appropriation to the Livestock Sanitary Board. Approved March 5, 1954. Effective March 5, 1954.	15
15	H. B.	202	Relating to the Governor and making an appropriation. Approved March 5, 1954. Effective March 5, 1954.	16
16	H. B.	79	Making a supplemental appropriation to the state department of health for the Arizona state tuberculosis sanatorium. (Emergency clause) Approved March 5, 1954. Effective March 5, 1954.	17
17	H. B.	49	Relating to the supervisor of parolees; providing an increase in salary, and amending section 44-3007, Arizona Code of 1939. Approved March 8, 1954. Effective July 9, 1954.	17
18	H. B.	52	Relating to highways; providing for installation of traffic signals on state highways; and making an appropriation. Approved March 8, 1954. Effective March 8, 1954.	18
19	H. B.	48	Relating to motor vehicles; providing for distinctive number plates for operators	

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			of amateur radio stations, and amending article 2, chapter 66, Arizona Code of 1939, by adding section 66-208b. (Emergency clause) Approved March 10, 1954. Effective March 10, 1954.	19
20	S. B.	79	Relating to the equipment and operation of hoists in mines, amending chapter 65, Arizona Code of 1939, as amended, by amending section 65-216. (Emergency clause) Approved March 10, 1954. Effective March 10, 1954.	20
21	H. B.	162	Relating to the department of public welfare, and authorizing an expenditure. Approved March 10, 1954. Effective March 10, 1954.	22
22	H. B.	205	Making an appropriation to the National Guard of Arizona for the purpose of matching federal grants for armory construction purposes. (Emergency clause) Approved March 11, 1954. Effective March 11, 1954.	23
23	H. B.	175	Making an appropriation to the Governor for capitol buildings and grounds. (Emergency clause) Approved March 11, 1954. Effective March 11, 1954.	24
24	Sub. H. B.	24	Relating to the Arizona State College at Flagstaff, providing funds for the furnishing of Ashurst Auditorium; amending subdivision 42, section 1, chapter 132, Laws of 1953, first regular session, and repealing chapter 2, Laws of 1954, second regular session. (Emergency clause) Approved March 11, 1954. Effective March 11, 1954.	25
25	S. B.	50	For the relief of the industrial commission of Arizona, and declaring an emergency. (Emergency clause) Approved March 16, 1954. Effective March 16, 1954.	26
26	S. B.	51	For the relief of the industrial commis-	

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			sion of Arizona, and declaring an emergency. (Emergency clause) Approved March 16, 1954. Effective March 16, 1954.	27
27	S. B.	62	Relating to the commission of agriculture and horticulture and providing for the reallocation of appropriated funds. (Emergency clause) Approved March 16, 1954. Effective March 16, 1954.	28
28	H. B.	25	Relating to taxation; providing for the distribution of certain funds heretofore collected for interstate motor vehicle license tax collections, and fixing an expiration date of this Act. (Emergency clause) Approved March 16, 1954. Effective March 16, 1954.	28
29	H. B.	129	Relating to public health; providing for the sanitation of labor camps by prescribing minimum sanitation standards, and prescribing penalties therefor. Approved March 16, 1954. Effective July 9, 1954.	29
30	S. B.	126	Making an appropriation to the governor for the control of grasshoppers and other insects. (Emergency clause) Approved March 17, 1954. Effective March 17, 1954.	32
31	S. B.	76	Making an appropriation for the relief of the forest service of the United States department of agriculture. (Emergency clause) Approved March 17, 1954. Effective March 17, 1954.	33
32	S. B.	47	Relating to workmen's compensation, providing for death benefits, increasing burial expense allowance and amending section 56-953, Arizona Code of 1939, and declaring an emergency. (Emergency clause) Approved March 17, 1954. Effective March 17, 1954.	34
33	S. B.	40	Relating to the state tax commission and making an appropriation. (Emergency clause) Approved March 17, 1954. Effective March 17, 1954.	36

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34	S. B.	39	Relating to the tax commission, and making an appropriation. (Emergency clause) Approved March 17, 1954. Effective March 17, 1954.	36
35	H. B.	54	Relating to the Uniform Law Commission; providing that a member or members attend annual meetings at state expense, and amending section 3-102, Arizona Code of 1939. Approved March 17, 1954. Effective July 9, 1954.	37
36	H. B.	167	Relating to motor vehicles; prescribing the standards for road lighting equipment of motor vehicles, and amending sections 66-174L, 66-174m, 66-174t, and 66-174u, Arizona Code of 1939. Approved March 17, 1954. Effective July 9, 1954.	38
37	S. B.	10	Making a supplemental appropriation to the Superintendent of Public Instruction. (Emergency clause) Approved March 18, 1954. Effective March 18, 1954.	40
38	S. B.	12	Relating to soil conservation districts; amending sections 75-1702, 75-1703, 75-1704a, 75-1704b, 75-1706, 75-1706b, 75-1706c, 75-1706e, 75-1706f, 75-1708b, 75-1709, 75-1712; adding section 75-1709a, and repealing sections 75-1705 and 75-1714, Arizona Code of 1939. (Emergency clause) Approved March 18, 1954. Effective March 18, 1954.	41
39	S. B.	20	Relating to the licensing of motor vehicles; authorizing an alternative method of licensing truck tractors and trailing units, and amending article 2, chapter 66, Arizona Code of 1939, by adding section 66-256a. Approved March 19, 1954. Effective July 1, 1954.	52
40	S. B.	61	Making a supplemental appropriation to the Livestock Sanitary Board for expenses. (Emergency clause) Approved March 19, 1954. Effective March 19, 1954.	54

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41	S. B.	77	Making a supplemental appropriation to the state mine inspector for current expenses. (Emergency clause) Approved March 19, 1954. Effective March 19, 1954.	54
42	S. B.	117	Making a supplemental appropriation to the Arizona highway department out of unexpended and unallocated balances remaining in the state highway fund, for a bridge across the San Pedro river. (Emergency clause) Approved March 19, 1954. Effective March 19, 1954.	55
43	H. B.	87	Relating to the Code Commission; amending section 2, chapter 1, Laws of 1953, first regular session to extend the time within which the Code Commission shall complete its work, and making an appropriation. (Emergency clause) Approved March 19, 1954. Effective March 19, 1954.	56
44	S. B.	33	Relating to the corporation commission; providing for the bonding of the cashier and assistant cashiers in the accounting division, and amending article 1, chapter 53, Arizona Code of 1939, by adding section 53-101a. Approved March 22, 1954. Effective July 9, 1954.	57
45	S. B.	94	Relating to public finances; providing for the issuance of duplicate warrants in lieu of lost or destroyed auditor's warrants, and amending section 10-928, Arizona Code of 1939. Approved March 22, 1954. Effective July 9, 1954.	58
46	H. B.	12	Relating to elections; prescribing the number, method of appointment, and qualifications of deputy registration officers, and amending section 55-202a, Arizona Code of 1939. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	59
47	H. B.	165	Relating to contracts for supplies and buildings by county boards of super-	

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			visors, and amending section 17-312, Arizona Code of 1939. Approved March 24, 1954. Effective July 9, 1954.	60
48	H. B.	184	Relating to the excise revenue act; prescribing methods of transferring sales tax licenses, and amending section 73-1312, Arizona Code of 1939. Approved March 24, 1954. Effective July 9, 1954.	60
49	H. B.	194	Relating to decedents' estates, and amending section 38-1101, Arizona Code of 1939. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	62
50	H. B.	228	Relating to sanitary districts; providing an election to determine the method of furnishing sewer services, and amending article 10, chapter 68, Arizona Code of 1939, by adding section 68-1011a. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	63
51	H. B.	243	Relating to public health; authorizing the state department of health to charge certain fees, and amending article 1, chapter 68, Arizona Code of 1939, by adding section 68-118a. Approved March 24, 1954. Effective July 9, 1954.	64
52	S. B.	9	Relating to agriculture and horticulture; amending sections 49-101, 49-103, 49-104 and 49-112, Arizona Code of 1939; amending article 1, chapter 49, by adding sections 49-101a, 49-104a, 49-115, 49-116, 49-117, 49-118 and 49-119, and repealing sections 49-105, 49-110 and 49-114. Approved March 24, 1954. Effective July 9, 1954	65
53	S. B.	13	Making an appropriation for the relief of Iva Reeves. Approved March 24, 1954. Effective March 24, 1954.	69
54	S. B.	58	Relating to housing projects for war or defense workers, and amending section 3, chapter 64, Laws of 1953, regular session. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	70

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55 S. B. 65	Relating to motor vehicle fuel tax; providing that applications for refund need not be made under oath, and amending section 66-320, Arizona Code of 1939. Approved March 24, 1954. Effective July 9, 1954.	70
56 S. B. 67	Relating to fish and game; authorizing sale of surplus products of federal aid fish and wildlife projects; providing for a special fund and use of the proceeds, and amending article 3, chapter 57, Arizona Code of 1939, by adding section 57-306a. Approved March 24, 1954. Effective July 9, 1954.	72
57 S. B. 71	Relating to authority of the board of regents of the university and state colleges of Arizona concerning construction of dormitories, borrowing money and issuance of bonds therefor, at the university of Arizona, and amending section 54-1641c, 1952 Supplement to Arizona Code of 1939; and declaring an emergency. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	73
58 S. B. 72	Relating to authority of the board of regents of the university and state colleges of Arizona to borrow money and issue bonds for a student union building at the Arizona state college at Tempe, extending the time within which the board may act, and amending section 54-1352, 1952 supplement to Arizona Code of 1939; and declaring an emergency. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	74
59 S. B. 73	Relating to authority of the board of regents of the university and state colleges of Arizona concerning construction of dormitories, borrowing money and issuance of bonds therefor, at the Arizona state college at Tempe, and amending section 54-1363c, 1952 supplement to Arizona code of 1939; and declaring an emer-	

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			gency. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	75
60	S. B.	83	Relating to elections; limiting campaign expenditures at primary elections, and amending section 55-1018, Arizona Code of 1939. Approved March 24, 1954. Effective July 9, 1954.	76
61	S. B.	86	Relating to state-owned vehicles, and repealing chapter 136, Laws of 1951, first regular session. Approved March 24, 1954. Effective July 9, 1954.	77
62	S. B.	119	Making an appropriation to the commission of agriculture and horticulture for construction of inspection stations. (Failed to pass the House with sufficient votes to carry emergency clause) Approved March 24, 1954. Effective July 9, 1954.	78
63	H. B.	8	Relating to taxation, and providing for the allocation of revenue received by the state from the federal government as payments in lieu of taxes on property located on or along the Colorado River. (Emergency clause) Approved March 24, 1954. Effective March 24, 1954.	79
64	S. B.	1	Relating to insurance; providing an insurance code for the state of Arizona; regulating insurance companies, the insurance business, and the sale and solicitation of insurance; levying certain taxes on insurance business and providing for the disposition of the proceeds thereof; prescribing penalties; and repealing sections 1773 to 1882, inclusive, Revised Code of 1928, being chapter 61, Arizona Code of 1939, chapter 86, Laws of 1933, chapter 68, Laws of 1939, chapters 93 and 113, Laws of 1941, chapters 36, 70, 78 and 95, Laws of 1943, chapter 100, Laws of 1945, chapter 13, Laws of 1945 (first special session), chapters 124, 125, 126, 127 and 138, Laws of 1947, chapters 16 and 32,	

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	Laws of 1947 (second special session), chapters 6 and 7, Laws of 1948 (seventh special session), chapters 116 and 117, Laws of 1949, chapters 121 and 146, Laws of 1951 (first regular session), and all amendments to said statutes. Approved March 24, 1954. Effective January 1, 1955.	80
65 H. B. 1	Relating to taxation and the raising of revenue; providing for a graduated tax on the net incomes of persons and corporations; prescribing penalties, and repealing "The Income Tax Act of 1933", being sections 73-1501 to 73-1551, as amended, Arizona Code of 1939. Approved March 25, 1954. Effective July 9, 1954.	80
66 H. B. 180	Relating to partnerships, and making uniform the law with respect thereto. Approved March 25, 1954. Effective July 9, 1954.	81
67 H. B. 191	Relating to mortgages and pledges; providing for foreclosure of a mortgage of personal property and foreclosure of a pledge of personal property by notice and sale; and amending sections 62-527 and 62-530, Arizona Code of 1939. (Emergency clause) Approved March 25, 1954. Effective March 25, 1954.	98
68 S. B. 104	Relating to hospital districts; designating the advisory survey and construction council as the state agency to determine need; providing for the election of a board of directors; prescribing provisions and conditions in bonds, and amending section 68-1403, 68-1407 and 68-1410, Arizona Code of 1939. (Emergency clause) Approved March 25, 1954. Effective March 25, 1954.	101
69 H. B. 85	Relating to employers and employees of railroads, and providing for the regulation of health and safety conditions in places of railroad employment. Dissap-	

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	proved by the Governor March 24, 1954. Passed over Governor's Veto. Effective January 1, 1956.	104
70 S. B. 14	Relating to the regulation of public highway transportation; providing certain exemptions from the license tax imposed on gross receipts derived from the transportation of property and passengers, by common motor carriers and contract motor carriers, and amending section 66-518, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	106
71 S. B. 54	Relating to improvement, school and other public districts, and fixing time for notifying assessors of change in boundaries. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	107
72 H. B. 102	Making an appropriation to the board of barber examiners for travel and printing costs. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	107
73 H. B. 76	Relating to taxation, amending section 73-701, Arizona Code of 1939. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	108
74 H. B. 193	Relating to garnishment; amending chapter 25, article 2, Arizona Code of 1939, by adding a new section thereto to be numbered section 25-225. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	109
75 H. B. 195	Relating to writs of garnishment, and amending section 25-206, Arizona Code of 1939. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	110
76 H. B. 63	Relating to elections; permitting absentee voters to vote at all primary, general or special elections, and amending sections 55-1301 and 55-1302, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	111

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77	H. B.	109	Relating to the department of law; reallocating funds appropriated under chapter 30, Laws of 1953, and declaring an emergency. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	113
78	H. B.	41	Relating to taxation and the raising of revenue; providing for an amendment of the tax provisions relating to banks, and amending sections 73-1702 and 73-1704, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	114
79	H. B.	42	Relating to taxation and the raising of revenue; providing for an amendment of the tax provisions relating to investment companies, and amending sections 73-2101 and 73-2102, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	115
80	H. B.	43	Relating to taxation and the raising of revenue; providing for an amendment of the tax provisions relating to building and loan and savings and loan associations, and amending sections 73-1901 and 73-1902, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	116
81	H. B.	119	Relating to banks and to bank deposits; providing for payments to survivor or survivors, and amending section 51-515, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	117
82	H. B.	125	Relating to the State Tax Commission; providing for multiple bonding of agents performing duties under the provisions of the Excise Revenue Act, and amending section 73-1325, Arizona Code of 1939. Approved March 30, 1954. Effective July 9, 1954.	118
83	H. B.	133	Relating to the use of highways by vehicles; providing for written reports of accidents thereon; and amending section 66-	

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			135r, Arizona Code of 1939, as amended. Approved March 30, 1954. Effective July 9, 1954.	118
84	H. B.	186	Relating to the State Hospital for the Insane; changing the name thereof to Arizona State Hospital, and amending article 2, chapter 8, Arizona Code of 1939, by adding section 8-204a. Approved March 30, 1954. Effective July 9, 1954.	119
85	H. B.	188	Making an appropriation to the contribution fund for reimbursement of costs incurred in the administration of chapter 126, Laws of 1951, relating to state employees' participation in federal social security insurance. (Emergency clause) Approved March 30, 1954. Effective March 30, 1954.	120
86	H. B.	367	Relating to Underground Water; continuing the life of the underground water commission; amending sections 75-2115 and 75-2116, Arizona Code of 1939, and reappropriating funds. (Emergency clause) Approved March 31, 1954. Effective March 31, 1954.	121
87	H. B.	107	Relating to duties of support; prescribing the procedure for the enforcement thereof; making uniform the law relating thereto, and amending sections 27-822 and 27-832, Arizona Code of 1939. Approved April 2, 1954. Effective July 9, 1954.	129
88	H. B.	117	Relating to Decedents' Estates; amending sections 38-502, 38-802, 38-1701, 38-1702, 38-1704, 38-1705, 38-1706, and 38-1707, Arizona Code of 1939; amending chapter 38, articles 5, 8, and 17, Arizona Code of 1939. Approved April 2, 1954. Effective July 9, 1954.	131
89	H. B.	250	Relating to the discharge and restoration to competency of persons committed to the State Hospital for the Insane, and amending article 2, chapter 8, Arizona	

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	Code of 1939, by adding section 8-208a. Approved April 2, 1954. Effective July 9, 1954.	135
90 H. B. 347	Relating to the State Highway Department and providing for the reallocation of funds. Approved April 2, 1954. Effective April 2, 1954.	135
91. H. B. 348	Authorizing the State Auditor to pay from the Highway fund certain claims presented by the State Engineer after the expiration of the time limitation for regular payment. (Emergency clause) Approved April 2, 1954. Effective April 2, 1954.	136
92 S. B. 127	Relating to inmates of the state prison selected for transfer to the educational rehabilitation system, and amending section 47-502, Arizona Code of 1939. Approved April 2, 1954. Effective July 9, 1954.	137
93 S. B. 2	Relating to election contests; prescribing the time within which a contest of election shall be brought and judgment rendered thereon, and amending section 55-1505, Arizona Code of 1939. Approved April 3, 1954. Effective July 9, 1954.	138
94 S. B. 19	Making a supplemental appropriation to the State Hospital for the Insane. (Emergency clause) Approved April 3, 1954. Effective April 3, 1954.	139
95 S. B. 21	Relating to revolving funds for state budget units; authorizing revolving funds for state agencies requiring immediate cash outlays; amending section 10-932, Arizona Code of 1939; and repealing section 10-217, Arizona Code of 1939. Approved April 3, 1954. Effective July 9, 1954.	140
96 S. B. 48	Relating to public improvement by special assessment, and amending section 16-2325, Arizona Code of 1939. Approved April 3, 1954. Effective July 9, 1954.	141

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97	S. B.	68	Relating to real estate; providing qualifications for brokers and salesmen, and amending sections 67-1702, and 67-1714, Arizona Code of 1939. Approved April 3, 1954. Effective July 9, 1954.	142
98	H. B.	13	Relating to livestock; exempting persons feeding fewer than fifty swine from the prohibition against feeding untreated garbage to swine; requiring a permit for removal of said swine from the premises; amending section 2, chapter 104, Laws of 1953, first regular session; amending chapter 104, Laws of 1953, by adding section 2a; repealing section 10, chapter 104, Laws of 1953, first regular session; and making an appropriation. Approved April 3, 1954. Effective April 3, 1954.	145
99	H. B.	61	Relating to financial liability for minor drivers; providing that car owners are responsible for negligence of minors operating a car without a driver's license, and amending article 2, chapter 66, Arizona Code of 1939, by adding section 66-269d. (Emergency clause) Approved April 3, 1954. Effective April 3, 1954.	147
100	H. B.	135	Relating to the motor vehicle safety responsibility act; and amending section 66-1306, Arizona Code of 1939, as amended. Approved April 3, 1954. Effective July 9, 1954.	148
101	H. B.	159	Relating to certain administrative agencies and providing for judicial review of their decisions. Approved April 3, 1954. Effective July 9, 1954.	149
102	H. B.	211	Relating to workshops and other industries for the blind; for marketing of the products thereof; for assisting blind persons to become self-supporting; for use of proceeds from sales for continuation of program, regulating sales, increasing the revolving fund, and amending section 70-331, Arizona Code of 1939.	

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103 H. B. 231	Relating to uniform standards of form and content of any prospectus including any offering circular to be used in connection with the registration and offering of securities; providing for the correlation of standards prescribed by the Securities Act of Arizona to those prescribed by the Securities Act of 1933, as defined in section 53-1402, Arizona Code of 1939 and the rules and regulations promulgated thereunder, and amending chapter 53, article 14, by adding section 53-1426, Arizona Code of 1939. (Emergency clause) Approved April 3, 1954. Effective April 3, 1954.	156
104 H. B. 324	Relating to dairy and dairy products; regulating the sale of cheese, and amending section 50-973, Arizona Code of 1939. (Emergency clause) Approved April 3, 1954. Effective April 3, 1954.	157
105 S. B. 107	Relating to municipal corporations engaging in business as public utilities; declaring a public policy, and amending article 6, chapter 16, Arizona Code of 1939, by adding sections 16-604b and 16-604c. (Emergency clause) Approved April 3, 1954. Effective April 3, 1954.	158
106 S. B. 106	Relating to county, city and town budgets and tax levies, and excluding retirement system costs from budget and tax levy limitations. Approved April 7, 1954. Effective July 9, 1954.	159
107 H. B. 215	Relating to education; and amending sections 54-414 and 54-419, Arizona Code of 1939. Approved April 7, 1954. Effective July 9, 1954.	160
108 H. B. 224	Relating to the sale of state lands; what lands may be purchased; who may purchase; mineral and other reservations to	

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			be contained in sales, grants, deeds or patents; providing for compensation and damages to the owner of the surface; amending section 11-401, Arizona Code of 1939, and repealing inconsistent laws and parts of laws. Approved April 7, 1954. Effective July 9, 1954.	162
109	H. B.	259	Relating to teachers, establishing a teachers' lieu pension system, amending chapter 137, Laws of 1953, by adding sections 3a, 3b, and 3c, and amending sections 4 and 5 thereof. Approved April 7, 1954. Effective July 9, 1954.	164
110	H. B.	289	Making an appropriation to the Arizona Game and Fish Commission to reimburse dealers for overpayments on license sales. Approved April 7, 1954. Effective April 7, 1954.	170
111	H. B.	312	Relating to the Arizona Children's Colony Board, and providing for the reallocation of funds. (Emergency clause) Approved April 7, 1954. Effective April 7, 1954.	170
112	H. B.	363	Making a supplemental appropriation to the state tax commission. Approved April 7, 1954. Effective April 7, 1954.	171
113	H. B.	22	Relating to tourist and industry development; establishing an Arizona development board having as its purpose the development of tourist business and the bringing of new industry to Arizona, prescribing the duties, powers and purposes of the board, and making an appropriation therefor. Approved April 7, 1954. Effective April 7, 1954.	172
114	H. B.	139	Relating to military leave; granting leave with pay to members of the armed services reserves while absent from elective offices, or other employment of the State and any political subdivision thereof, and amending section 12-425, Arizona Code of	

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	1939. Approved April 7, 1954. Effective July 9, 1954.	176
115 H.B. 136	Relating to motor vehicle safety responsibility; providing for security requirements; and providing for procedures to be followed following an accident; and amending section 66-1305, Arizona Code of 1939, as amended. Approved April 7, 1954. Effective July 9, 1954.	176
116 H.B. 183	Relating to the State Employees' Retirement System; and amending sections 3, 4, 5, 7, 8, 9, 11, 15, 16, 18, and 25, Chapter 128, Laws of 1953. Approved April 7, 1954. Effective July 9, 1954.	178
117 H.B. 216	Relating to education; providing for a board of trustees in school districts; prescribing the powers and duties thereof, and amending sections 54-409, 54-416 and 54-905, Arizona Code of 1939. Approved April 7, 1954. Effective July 9, 1954.	193
118 H.B. 118	Relating to guardian and ward; amending chapter 42, article 1, by amending sections 42-114, 42-119, 42-120, and 42-125; repealing sections 42-126, 42-127, 42-128; amending section 42-129; and repealing sections 42-130 and 42-143, Arizona Code of 1939. Approved April 7, 1954. Effective July 9, 1954.	199
119 H.B. 238	Relating to Employment Security, and amending section 56-1008, Arizona Code of 1939. Approved April 7, 1954. Effective July 9, 1954.	201
120 H.B. 239	Relating to Employment Security, and amending section 56-1007d, Arizona Code of 1939. Approved April 7, 1954. Effective July 9, 1954.	203
121 H.B. 240	Relating to Employment Security, and amending section 56-1007c, Arizona Code of 1939, as amended. Approved April 7, 1954. Effective July 1, 1954.	205

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122	H. B.	257	Relating to the Livestock Sanitary Board; making an appropriation thereto; providing for the reversion of appropriations to the general fund, and repealing chapter 84, Laws of 1947, regular session. (Emergency clause) Approved April 8, 1954. Effective April 8, 1954.	207
123	S. B.	44	Relating to County Officers; prescribing salaries; providing for appointment and classification of deputy county attorneys; amending sections 12-724, 12-725 and 12-726, and adding sections 12-724a, 17-902a and 17-902b, Arizona Code of 1939. Approved April 8, 1954. Effective July 9, 1954.	208
124	S. B.	116	Making an appropriation for Arizona Corporation Commission. (Emergency clause) Approved April 8, 1954. Effective April 8, 1954.	212
125	H. B.	227	Adopting the Palo Verde (Genera Cercidium) as the State tree. Approved April 9, 1954. Effective July 9, 1954.	213
126	H. B.	86	Relating to hospitals; providing for a lien for charges for hospital care and treatment of injuries of persons admitted to a hospital, and exempting cases falling within the purview of the workmen's compensation law. Approved April 9, 1954. Effective July 9, 1954.	213
127	H. B.	315	Relating to cities and towns; providing for the contents of petitions submitted by property owners for annexation to a city or town, and amending section 16-701, Arizona Code of 1939. Approved April 9, 1954. Effective July 9, 1954.	215
128	H. B.	94	To provide for the clearance and redevelopment of slum and blighted areas in cities and towns in this state in accordance with plans approved by the governing bodies thereof; to define the duties, liabilities, exemptions and powers of such	

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	cities and towns in undertaking such activities, including the power to acquire and dispose of property, to exercise the power of eminent domain, to issue bonds and other obligations and give security therefor, and to enter into agreements to secure federal aid or contributions and comply with conditions imposed in connection therewith; to authorize public bodies to furnish funds, services, facilities and property in aid of redevelopment projects hereunder; to authorize cities and towns to prepare general plans for their development in connection with redevelopment projects; and to authorize cities or towns to obtain funds therefor by the issuance of obligations, by taxation or otherwise. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	217
129 H. B. 365	Relating to mileage and traveling expenses; authorizing the governor to permit the use of state equipment for out of state travel under certain conditions; and amending section 12-713, Arizona Code of 1939. Approved April 9, 1954. Effective July 9, 1954.	236
130 S. B. 15	Relating to abandoned refrigerators; requiring the doors and lids to be removed from abandoned refrigerators, and prescribing penalties. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	238
131 S. B. 88	Relating to motor vehicles; providing for the registration of foreign vehicles owned by nonresidents, and amending section 66-225, Arizona Code of 1939. Approved April 9, 1954. Effective July 9, 1954.	238
132 H. B 258	Relating to public employees, and prescribing time off or extra compensation for legal holidays worked. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	241

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133 H. B. 182	Relating to dogs and other animals; providing for licensing and vaccination; permitting the establishment of county pounds; creating office of humane officer; prescribing method of disposing of dogs and other animals suspected of having rabies; prescribing penalties; amending section 17-1607, Arizona Code of 1939, and article 16, chapter 17, by adding sections 17-1607a to 17-1607q, inclusive, and repealing article 20, chapter 17. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	242
134 H. B. 241	Relating to the practice of medicine and surgery, and amending sections 67-1101 and 67-1103, Arizona Code of 1939. Approved April 9, 1954. Effective July 9, 1954.	247
135 H. B. 200	Relating to school district boundaries, and amending section 54-403, Arizona Code of 1939. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	251
136 H. B. 278	Relating to Excise taxation; imposing a license fee and a privilege tax upon the privilege of engaging in certain occupations and businesses; amending sections 73-1302a, 73-1303, 73-1304, 73-1306, 73-1310, 73-1314, 73-1315, 73-1317, 73-1318, 73-1319, 73-1320, 73-1324, 73-1329 and 73-1331, and repealing sections 73-1308, 73-1309, 73-1313 and 73-1330, Arizona Code of 1939. Approved April 9, 1954. Effective July 9, 1954.	252
137 H. B. 161	Relating to a recognition of the State Banking Department and office of Superintendent of Banks; providing for appointment, term, compensation, oath and bond of superintendent, providing for deputy examiner, appraisers and other employees; prohibiting disclosure of confidential information, exceptions; prohibiting certain acts by superintendent and employees; defining financial institu-	

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	tions subject to supervision and examination; defining powers and duties of superintendent and examiners; providing for minimum annual examinations; granting oath and subpoena powers; providing for levy of minimum annual examination assessments and other examination costs on banks and other financial institutions; providing for disposition of revenue received by state banking department; authorizing joint examinations, exchange of information and acceptance of other authorized examinations; authorizing membership in national or regional organizations; providing for issuance of licenses to and reports from small money lenders; providing for penalties for violations; amending sections 51-101, 51-102, 51-103, 51-104, 51-106, 51-107, 51-108, 51-109, 51-111, 51-112, 51-113, 51-802, 51-804 and 51-807, Arizona Code of 1939; amending chapter 51, article 1, Arizona Code of 1939, by adding section 51-114, and repealing sections 51-503 and 51-521, Arizona Code of 1939. (Emergency clause) Approved April 9, 1954. Effective April 9, 1954.	267
138 H. B. 247	Relating to dairy products; prescribing the butter-fat content of milk, and amending section 50-963, Arizona Code of 1939. Approved April 12, 1954. Effective July 9, 1954.	277
139 H. B. 232	Relating to trailers; providing that farm trailers need not have a certificate of title or be registered; providing for assessment thereof; prescribing a penalty; and amending section 66-204, Arizona Code of 1939. Approved April 12, 1954. Effective July 9, 1954.	278
140 H. B. 270	Relating to public health; defining the powers and duties of the health department; creating the position of commissioner of public health, prescribing his selection, qualifications, term of office, removal, and prescribing powers and	

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	duties therefor; defining the powers and duties of the state board of health and authorizing the promulgation of regulations in connection therewith; prescribing penalties and declaring certain acts to be public nuisances and providing for the abatement of the same; amending article 1, chapter 68 by adding sections 68-108a and 68-112a, and amending sections 68-107, 68-108, 68-109, 68-110, 68-111, 68-112, 68-114, 68-115a, 68-116, 68-119, 68-601, and repealing section 68-115b, Arizona Code of 1939. (Emergency clause) Approved April 12, 1954. Effective April 12, 1954.	279
141 H. B. 296	Relating to airports and landing fields, and amending section 48-101, Arizona Code of 1939. (Emergency clause) Approved April 12, 1954. Effective April 12, 1954.	297
142 H. B. 260	Relating to the Arizona Children's Colony; and amending sections 8-901, 8-905, 8-906, and 8-911, Arizona Code of 1939. Approved April 12, 1954. Effective July 9, 1954.	298
143 H. B. 18	Relating to professional and business pursuits; providing for the regulation of the practice of optometry, and repealing article 14, chapter 67, Arizona Code of 1939. Approved April 12, 1954. Effective July 9, 1954.	300
144 H. B. 332	Relating to State agencies; requiring the preparation of annual reports, and amending section 13-119, Arizona Code of 1939. Approved April 12, 1954. Effective July 9, 1954.	306
145 H. B. 361	Relating to elections; providing for nomination of Superior Court Judges by divisions and Supreme Court Judges by terms; and amending article 10, chapter 55, Arizona Code of 1939, by adding sections 55-1002a, 55-1002b and 55-1002c, and	

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	providing for severability and declaring an emergency. (Emergency clause) Approved April 12, 1954. Effective April 12, 1954.	307
146 H. B. 368	Reallocating funds and enlarging purposes of appropriations made available for capitol building construction, and amending section 2, chapter 107, Laws of 1952, second regular session. (Emergency clause) Approved April 12, 1954. Effective April 12, 1954.	309
147 H. B. 236	Relating to education; providing purposes for which school money may be used; providing for school district budgets; and amending sections 54-431 and 54-603, Arizona Code of 1939. (Emergency clause) Approved April 12, 1954. Effective April 12, 1954.	310
148 S. B. 134	Relating to fraud and false dealing; making unlawful dealing with livery stable or garage owner with intent to defraud, and amending article 26, chapter 43, Arizona Code of 1939, by adding section 43-2612a. Approved April 12, 1954. Effective July 9, 1954.	317
149 H. B. 282	Relating to Education; providing for a county school fund; and amending article 6, chapter 54, Arizona Code of 1939, by adding section 54-608a. (Emergency clause) Approved April 15, 1954. Effective April 15, 1954.	318
150 H. B. 302	Relating to the motor vehicle license tax, and amending section 66-901, Arizona Code of 1939. Approved April 15, 1954. Effective July 9, 1954.	319
151 S. B. 133	Relating to municipal privilege taxes of municipalities of less than thirty thousand population, and providing for the allocation, transfer and distribution of the proceeds thereof. (Emergency clause) Approved April 15, 1954. Effective April 15, 1954.	320

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152	S. B.	23	Making an appropriation to the Board of Regents of the University and State Colleges of Arizona for capital outlay at the University of Arizona, including furnishings, equipment and services in connection therewith. Approved April 15, 1954. Effective April 15, 1954.	321
153	S. B.	24	Making an appropriation to the Board of Regents of the University and State Colleges of Arizona for capital outlay at the Arizona State College at Flagstaff, including furnishings, equipment and services in connection therewith. Approved April 15, 1954. Effective April 15, 1954.	322
154	S. B.	25	Making an appropriation to the Board of Regents of the University and State Colleges of Arizona for the purchase of land and for other capital outlay for the Arizona State College at Tempe, including service facilities, furnishings and equipment. Approved April 15, 1954. Effective April 15, 1954.	322
155	S. B.	26	Making an appropriation to the Arizona State Children's Colony for the construction of a sewage disposal plant. (Emergency clause) Approved April 15, 1954. Effective April 15, 1954.	323
156	H. B.	255	Relating to public health; providing for local health departments; prescribing the powers and duties thereof; providing for exemption from budget limitation of expenditures for county health departments; authorizing appropriations therefor, and amending sections 68-212, 68-213, 68-214, 68-215, 68-217, and 68-218, Arizona Code of 1939. Approved April 15, 1954. Effective April 15, 1954.	324
157	H. B.	352	Relating to Insurance; authorizing the director of Insurance to appoint an assistant director of insurance and to procure actuarial technical and professional services; amending section 61-301b, Arizona	

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	Code of 1939, as amended; and reallocating funds heretofore appropriated. (Emergency clause) (Failed to pass Senate with sufficient vote to carry emergency clause) Approved April 15, 1954. Effective July 9, 1954.	329
158 H. B. 366	Relating to appropriations for the different departments of the state, for public schools, and for interest on the public debt. Approved April 15, 1954. Effective July 1, 1954.	330
159 H. B. 274	Relating to school district organization, boundaries, annexation, and prescribing regulations for petitions, elections, and assumption of bonded indebtedness in connection therewith; and amending section 54-408, Arizona Code of 1939. (Emergency clause) Approved April 20, 1954. Effective April 20, 1954.	377
160 S. B. 135	Relating to Ground Water; transferring the powers and duties of the undergroundwater commission to the state land department; retaining previously declared critical groundwater areas, and making an appropriation. (Emergency clause) (Having held this bill for 10 days (Sundays excepted) since the Legislature's adjournment, it became law without the signature of the Governor, in accordance with Article 5, Section 7, of the Constitution.) Effective April 22, 1954.	378

GOVERNOR'S MESSAGE

MESSAGE

of

GOVERNOR HOWARD PYLE

to the

21ST ARIZONA LEGISLATURE

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January 11, 1954

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Mr. President, Mr. Speaker, Members of the Senate and the House of Representatives of the Twenty-first Legislature, Guests and Fellow Citizens:

This brings us to a final appraisal, for the 21st Legislature, of just where we stand in our assigned and continuing responsibility of assuring smooth and uninterrupted progress for our state and all of our people.

In studying what we have accomplished and what has been done to put us in a position to accomplish more, I am convinced that this Legislature can still record the best record in the state's legislative history.

Already more has been achieved than is generally realized, because much of the good that has been done has been somewhat obscured by our rather spectacular defeats. These reverses are over and done with, as far as I am concerned. The important thing is that the good lives on and invites more good as represented by the points we will cover during these next few minutes.

For a central idea let's concentrate on this thought . . Let's finish the unfinished business. It can be done!

I. Education

In putting first things first it's impossible to outpoint the growing challenge of public school financing in Arizona. Without exception we are all determined that every child in Arizona, no matter where he or she may live or under what circumstances, must have an equal opportunity for an equal education.

This is not true in our schools today notwithstanding the fact that more than 45¢ of every tax dollar we invest goes for education.

For 40 years we have clung to the superstition that equality in the distribution of our dollars for education would automatically produce equality of educational opportunity. This theory never has worked and it never will.

In the first regular session of this Legislature, with only one dissenting vote, you asked the voters of Arizona to relax the rigid Constitutional basis for this increasingly fallacious idea. The vote last September 29 was . . NO! However great the temptation might be to take that vote as final it just can't be.

Our school district taxes have gone up 632% in the last ten years and this is only the beginning. Count the number of children aged one to five now living in Arizona . . children we wouldn't trade for anything on earth . . and you'll quickly agree that Mother Nature has produced a situation that is above and beyond routine taxation, politics, ballots or debate.

One thing we do know. From a practical dollars and cents point of view another across the board increase in A D A assistance from the state and counties is not the answer. Why? Simply because we have the facts to prove that approximately half the districts in the state need it and the other half do not. Still, some of the districts that do need help need it very badly.

On the strength of this knowledge we are now well along with an intensive series of studies based on a full picture of the internal workings of our entire public school financing system. Many rather startling things are coming to light not the least of them being the possibility that the beginning of a sound solution may be nearer at hand than we have thought.

As yet statistical documentation is not complete, but we have obtained sufficient information to believe that we are on the way out of at least a part of the dilemma that has surrounded us.

It is anticipated that we will have certain reliable conclusions available shortly. When they are in order I would appreciate an opportunity to bring you a special message devoted entirely to the school situation.

II. Taxation

This is the fifth time in the last three years that the Legislature's attention has been brought to bear on certain vital problems of taxation that have long needed correction. As yet the people of Arizona are still waiting for action.

The one thing that's different this time is that we have every reason to believe that we are nearer to removal of our admittedly serious tax deficiencies than we have been at any time. We came close during the recent special session . . . so close that I am convinced the special was a very necessary preliminary to this last general session of the 21st Legislature.

In anticipation of the conclusions you will soon be considering, I would like to make these observations.

From the very first moment of my interest in the matter, I have urged that no new or additional taxes be levied . . . that the tax relief to which our citizens are entitled should come through the capture of justly due revenues that have long been escaping through costly loopholes.

With this in mind I asked that we put luxury tax licenses on an annual basis as a means of permitting a more accurate check on those who are collecting luxury taxes for the state. There is not the slightest excuse for trying to turn this change into a revenue producing measure by increasing the license fees which are designed solely to offset the cost of issuing those licenses . . the licenses being merely check points for the collectors.

The sales tax law corrections and increased penalties that you are contemplating will undoubtedly produce a great deal of revenue, but they will still fall short of our full loophole-plugging objective unless they are accompanied by a use tax.

Various contacts I have had since the close of the special session - - - and no doubt you have had the same experience - - - convince me that an acceptable compromise can be worked out on this issue. It's a must if we are going to stop a very serious revenue leak and provide much needed and deserved assistance to many of our merchants.

I recognize that some of you are violently opposed to exemptions of any kind in a use tax, but don't forget that all good Legislation is, to some degree, the result of compromise. Approached from this standpoint, the great benefits of a use tax can be achieved without hurting anyone.

Our fourth problem is the income tax. Before discussing it briefly I would like right here to set the record straight.

At the outset of the special session in October, we handed the President and the Speaker a bill embodying the administration's wishes on income tax reform. It was, as you must have recognized, your own income tax revision of the First Regular Session, exactly as the bill passed the house and was sent to the senate. Ignoring this bill you began a new ap-

proach to income tax reform as contained in a complicated measure involving more than two hundred pages of text and designed as a complete substitute for our present law. The word went out that the Governor had called you into special session and handed you an Income Tax bill so big you couldn't possibly handle it in the brief time you had available. You know this was not the case.

I still believe the original bill is superior in many ways to the one you have substituted and it's certainly far more comprehensive.

As far as I am concerned the number one question to be answered is . . by which means will we most fairly and efficiently collect the maximum revenue due the State.

The contention of all concerned has been that our present Income Tax code has been losing us a considerable amount of earned revenue. Therefore the revisions we enact must not lose us any part of what we have been collecting in order to collect what we have been losing.

One other observation on the general subject of taxation should be added here.

It is reported that a number of our schools have been seriously affected by the transfer of certain federal housing projects to county control. Under federal control, substantial sums in lieu of taxes were paid out of the property income, to the concerned political subdivisions, such as the county and the schools. Under county control the schools are being paid nothing. It would seem desirable to require a proper payment to the schools in lieu of taxes. Generally these projects contain intense concentrations of the very pupils that are so swiftly expanding the population of our schools.

III. Finances

Under no circumstances can we afford to accept as final the present suspended state of our planning for an adequate finance department.

In referring this matter to the people in the 1952 election, we were given a mandate that virtually demands an improvement in the handling of purchasing, budget control, and general fiscal procedure of our state government.

We did what seemed to be a workmanlike job of fulfilling that mandate, but now we know we must work out a different procedure.

The mandate itself remains on the books, still saying in effect: Reorganize the state's financial structure. Remember,

the people's order has a higher effect than an act of this Legislature itself.

Take another good look at the big blue book we call a budget if you're in doubt about the need.

It isn't a budget! It hardly even slightly resembles a budget!

Don't misunderstand my reasons for referring to the blue book. Actually the various departments of state are to be complimented on their diligence in supplying financial estimates to go in the book, and State Auditor Jewel Jordan is to be complimented on turning out the earliest printed compilation of these estimates we have yet seen.

But it isn't a budget. I strongly doubt that there's a single individual anywhere who can explain the real meaning of half the figures in the book.

It contains the true financial picture of only a few departments. This is because no accounting is provided of nearly half the funds that actually will be spent in the next fiscal year.

Since the untimely death of the Finance Department law interested legislators, Attorney General Ross Jones and his staff, and others have worked hard to recapture the benefits of financial modernization within the conditions imposed by the supreme court.

Bills to attain these ends have been prepared and will be introduced. I commend them to your most earnest consideration as you seek to fulfill an undeniable obligation to the people of Arizona.

IV. Public Health

Public health and particularly tuberculosis control are still front rank problems in this growing state of ours.

You are all aware that the State Health Department is operating under only stop-gap legislation. A completely new health code will be presented to you by one of your own committees. Members of that committee have enlisted the counsel of Dr. Roscoe Kandle, a national medico-legal authority, the guidance of the state health department, and the services of the attorney general to produce a new code that will be given you as a suggested substitute for the present emergency act.

On the other half of the problem, tuberculosis control, designated representatives of the Legislature, the executive department, and the health department recently adopted a

resolution which was addressed to the federal government in support of a long-range program. On this question you'll be hearing from your own members in detail, and it's my hope that you'll give their suggestions most earnest consideration.

Undoubtedly we have been subjected to more criticism for our failure to provide adequate public health and tuberculosis control support than for any other reason.

Certainly the thousands of men and women throughout our state who have taken an honest and active interest in these matters can't all be wrong.

The next move is up to us!

V. Other Codes

1. Agriculture and horticulture:

   The supreme court decision virtually nullifying our public health laws, leading to our present unsettled situation, has turned attention to another very similar and certainly parallel code. Qualified legal authorities are of the opinion that Chapter 49 of the 1939 code cannot stand a test in the supreme court for the same reasons that caused the health code to be set aside.

   A revised agricultural and horticultural code has been prepared, and will be ready for your early study. It's early approval by the Legislature is a matter of vital concern to one of the most important segments of our economic life.

2. Underground water:

   Your Underground Water Commission, with the exercise of great care and almost tireless effort, has completed the work of drafting a proposed new code for the sound control of our rapidily diminishing supply of underground water. Please study it very carefully. As you undoubtedly know there are a number of court cases pending which could seriously affect certain portions of this proposed code. It is important that you continue the life of this commission until final court decisions are reached so the commission can promptly make such alterations as the court cases require and thus perfect a code that will stand every field and court test.

3. Banking:

   For the second time, you will be asked to approve a new code to govern banking operations in this state. Banking and various other money lending operations in Arizona make up not only a vast economic asset but likewise a tremendous responsibility on the part of the

state government to insure their proper conduct. Well qualified authorities will be prepared to outline for you our present weaknesses, and the strengths that are sought through the new legislation.

4. Insurance:

   The banking and insurance committees have advised me that they have completed work on a new insurance code. It appears to be acceptable to all segments of this important business in which our citizens and industries have a two billion dollar stake. Representatives of all groups within the industry have assured me, first, that all differences which may have existed between them have been amicably reconciled. Second, that the code now represents the best interests of the people of Arizona generally as well as the insurance people. It is my earnest hope that, if humanly possible, this subject can be closed with this session. Don't let it lay around, getting in the way of other legislation—now that it's in shape for quick disposition.

5. Codifying codes:

   This relates to the Arizona Code Commission itself. It is my earnest hope that enough codified laws can be cleared through this session so that the statutes on these several subjects can be stabilized for years to come. I realize that each of these codes that may be adopted will require a great deal more work by the code commission itself, if its compiled work is to represent the last word in sensibly arranged and orderly statutes. Nevertheless, it is my hope that a new code can be completed during this calendar year, in sufficient time to permit holding the special sessions that will be necessary to produce a useable set of books. We will call such sessions at any time you're ready.

VI. Highways

By specific law, this Legislature authorized a complete study, by a special committee, of our highway operations. This committee has completed its work and made its report to the Governor and to the Legislature.

We may not agree with all the details of its recommendations, but the overall objective of the committee's presentation is most commendable, and every one of the proposals merits our most serious consideration. Believe me, if recommendations were ever urgent, these recommendations are urgent now.

Typical of the constructive suggestions made by this committee is one that urges the development of a job classifica-

tion and rating system for the Highway Department. This idea parallels very closely the proposals you have already had under consideration in the personnel bill introduced during the First Regular session. This brings us to - -

VII. Personnel In Government

It is again recommended that there be established a State Department of Personnel, to provide a scientific classification for all state employees . . establish uniform hiring and discharge practices with public hearings and appeal rights . . offer first employment opportunity at the highest possible classification to present employees . . and remove both the necessity and the temptation to engage in politics as state employees.

Already three departments of our government are covered by a form of this proposal . . welfare, employment security, and health. I distinctly do not propose that we set up an exact counterpart of the present federally-imposed merit system now existing in these particular departments.

I do believe, however, that an efficient, proper, and useful system for our State employees can be created by this Legislature.

VIII. Development

The establishment of a tourist and industrial development commission is one of the most constructive steps that could be taken by this Legislature. This is the fourth time emphasis has been placed on this very practical matter. Had the agency established by the First Session of the 20th Legislature been permitted to start functioning - - instead of being stopped by referendum - - we would be enjoying today a rich return from our investment.

We would also be in a better position to maintain the full income of our current economy and perhaps even be increasing it. Instead, we are facing the possibility of some reduction through the rather drastic federally ordered reductions in our cotton production.

Many astute students of our economic life have joined in the last year or two in urgent requests that the Legislature act promptly to establish a central state agency through which can be channeled a state-wide effort to increase the number and length of stay of our visitors from other states, and at the same time assist the establishment of industries which will add to the diversity of our business life.

IX. Sudden Death

In highway safety, or the lack of it that is implied by this title, we have made exactly no gain in the last year. We killed and injured approximately the same number of men, women and children on our highways in 1953 as suffered and died in 1952. The pace continues in 1954. The multi-million dollar economic loss continues year after year.

In all of our considerations of this problem, certain factors stand out with great clarity. We must have better traffic law enforcement, four ways: We must have a substantial increase in our highway patrol for better protection of our arterial routes; we must provide adequate policing of now-neglected but increasingly deadly secondary routes; we must have more uniform handling of serious traffic violations in our courts; and above all things, we must ruthlessly remove the dangerous drivers from our highways.

Most serious consideration should be given by this Legislature to the establishment of a rigid, 60 miles per hour maximum speed limit on even the finest of our highways.

The utmost care should be taken by our highway department in properly posting those sections of highway where lesser speeds than 60 miles are the maximum that may be safely undertaken.

There are those in this room who devote almost unlimited amounts of time and a passionate interest to the conservation of natural resources . . fish and game, forest and range lands. This is commendable, but where is the economy or the sense in protecting things, and more or less indifferently allowing 400 people a year to kill themselves on our public roads.

The greatest natural resource we have is people. Let's begin at once to plan for greater conservation of human life on our public roads.

X. The Capitol

This venerable structure, older than the state, has been suffering an almost continuous series of physical mishaps for the last year or so. I suspect they are warnings of greater trouble to come.

The mounting cost of a widening variety of temporary repairs already has been discussed with the house appropriations committee but patchwork can't be the answer much longer.

Previous legislative sessions have earmarked a considerable sum of money to meet our expanding building needs, and

that money is available to this Legislature. If it can be anticipated before the close of this session that a considerable operational surplus will exist at the close of this fiscal year, it would be wise to place a good portion of it in the building reserve fund. Also, the Capitol Building Commission should be encouraged to take immediate steps to develop architectural plans to meet our long-range requirements.

Conclusion

In reflecting on the substance of this statement and the program it involves, you may consider the number of points covered as being fewer than similar messages may have contained in the past. There's a sound reason.

It's too late in the life of the 21st Legislature to burden you with a lot of new and unexplored issues. We need to complete the work we have already begun.

In the foregoing 10 divisions you have the heart of the work that's before us. Only you can give it life . .

In my judgment no Legislature in the history of the state has applied more solid time and energy to profitable committee study of major problems than has been true of the 21st. If this great and good effort can now be applied to actual working solutions to our problems you will complete a record of accomplishment for the 21st that will be worthy of the highest commendation.

I have said before and I'd like to repeat here:

The State of Arizona is going forward and I for one intend to continue to devote every ounce of my energy to making this forward motion as swift and sure as humanly possible. Certainly we have a lot of problems, but not one of them is insurmountable unless we think so.

As always, I will be ready and willing at all times to meet with any or all of you, to the end that the people of Arizona receive in full measure the one thing to which they are unwaveringly entitled . . the full best effort of every one of us to do what is right for Arizona.

HOWARD PYLE

Governor

ACTS

ACTS

CHAPTER 1

(Senate Bill No. 11)

AN ACT

RELATING TO THE ARIZONA CHILDREN'S COLONY, AND AMENDING SECTION 1, CHAPTER 101, LAWS OF 1953, FIRST REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 1, chapter 101, Laws of 1953, first regular session, is amended to read:

Sec. 1. APPROPRIATION. The sum of three hundred sixty-five thousand dollars is appropriated to the Arizona children's colony board for the construction and complete furnishing and equipping of an infirmary, two children's cottages and a central kitchen at the Arizona children's colony at Randolph. If any money of the appropriation remains after such construction, furnishing and equipping has been completed and paid for, the board is authorized to use it to extend present roads and sidewalks on the property of the colony at Randolph.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure to take effect as provided by law.

Approved by the Governor—February 4, 1954.

Filed in the Office of the Secretary of State—February 4, 1954.

CHAPTER 2

(House Bill No. 24)

AN ACT

RELATING TO THE ARIZONA STATE COLLEGE AT FLAGSTAFF; PROVIDING FUNDS FOR THE FURN-

ISHING OF ASHURST AUDITORIUM, AND AMENDING SUBDIVISION 42, SECTION 1, CHAPTER 132, LAWS OF 1953, FIRST REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Subdivision 42, section 1, chapter 132, Laws of 1953, first regular session, is amended to read:

Subdivision 42. ARIZONA STATE COLLEGE AT FLAGSTAFF.

Contributions for teacher's retirement Act of 1953	$ 7,324.00
Remodeling, altering, repairing, and furnishing Ashurst Auditorium	$190,000.00*
Lump sum appropriation	$578,503.00
Total appropriation	$775,827.00

*This appropriation is not subject to the provisions in section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Any unencumbered balance remaining in the collections account on June 30, 1953, and all collections received by the college during the fiscal year when paid into the state treasury are hereby appropriated for personal services, current expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—February 9, 1954.

Filed in the Office of the Secretary of State—February 9, 1954.

CHAPTER 3

(House Bill No. 21)

AN ACT

MAKING AN APPROPRIATION TO THE ARIZONA CHILDREN'S COLONY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of three hundred eighty-six dollars sixty-six cents is appropriated to the Arizona children's colony board for the purpose of paying the state land department for the rental of land described as: The east one-half of the east one-half and the south one-half of the southwest quarter of section sixteen, township six south, range eight east, Gila and Salt River Base and Meridian, for the period from February 6, 1953, to June 30, 1953.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—February 11, 1954.

Filed in the Office of the Secretary of State—February 11, 1954.

CHAPTER 4

(House Bill No. 28)

AN ACT

MAKING AN APPROPRIATION TO THE GOVERNOR FOR THE REPAIR AND RECONDITIONING OF AIR CONDITIONING EQUIPMENT IN THE WEST WING OF THE CAPITOL BUILDING.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of two thousand five hundred dollars is appropriated to the governor for the purpose of repairing and reconditioning machinery and effecting alterations and adjustments necessary to render efficient the air conditioning plant of the west wing of the state capitol building.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—February 11, 1954.

Filed in the Office of the Secretary of State—February 11, 1954.

CHAPTER 5

(House Bill No. 36)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to all other appropriations, there is appropriated from the general fund to the superintendent of public instruction the sum of eleven thousand fifty-nine dollars.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for the purposes and in the amounts following:

1. Personal services, two additional auditors and two additional stenographers, six thousand two hundred fifty dollars;

2. State travel, two thousand dollars; and,

3. Capital outlay for purchases of equipment and supplies, two thousand eight hundred nine dollars.

Sec. 3. LAPSING OF APPROPRIATION; QUARTERLY ALLOTMENTS. The appropriation made under the provisions of this Act shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations, respectively.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—February 23, 1954.

Filed in the Office of the Secretary of State—February 23, 1954.

CHAPTER 6

(Senate Bill No. 42)

AN ACT

RELATING TO DEAD BODIES; PROVIDING FOR THE DONATING OR BEQUESTING BY ANY PERSON OF HIS BODY OR ANY PART THEREOF FOR THE PURPOSES OF MEDICAL SCIENCE AND THE REHABILITATION OF THE MAIMED; PROVIDING FOR THE MANNER OF SUCH DONATION OR BEQUEST AND THE TIME SUCH SHALL TAKE EFFECT; RELEASING CORPORATIONS, ASSOCIATIONS AND PERSONS FROM LIABILITY FOR ACTS PERFORMED IN CARRYING OUT SUCH DONATIONS OR BEQUESTS, AND AMENDING CHAPTER 43, ARTICLE 52, ARIZONA CODE OF 1939, BY ADDING SECTIONS 43-5202a, 43-5202b, 43-5202c, 43-5202d AND 43-5202e.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 52, chapter 43, Arizona Code of 1939, is amended by adding section 43-5202a, to read:

43-5202a. BEQUEST FOR THE PURPOSE OF MEDICAL SCIENCE OR REHABILITATION OF THE MAIMED AUTHORIZED. Any person who may otherwise validly make a will in this state may by will or other written, signed and acknowledged instrument dispose of the whole or any part of his or her body to a teaching institution, university, college, state department of health, facility designated or maintained by the anatomy board of Arizona, legally licensed hospital or any other agency or commission operating a tissue, eye, bone, cartilage or blood bank or any other bank of a similar kind designated for the purposes of medical science and the rehabilitation of the maimed.

Sec. 2. Article 52, chapter 43, Arizona Code of 1939, is amended by adding section 43-5202b, to read:

43-5202b. DONEE AND PURPOSE OF DONATION OR BEQUEST. Persons so donating or bequeathing the whole or any part of their bodies under the provisions of this Act may designate the donee or may expressly designate the

purpose for which his or her body, or any part thereof, is to be used, but such shall not be necessary. If no donee is named by the donor, then any hospital in which the donor may depart this life or any available doctor of medicine or medical surgeon shall be considered the donee and have full authority to take the body or the part thereof so donated and to transfer such body or part thereof to any depository referred to in section 1 of this Act for the purposes designated by the donor and if no such purpose has been designated, then for purposes in accordance with the intention of this Act.

Sec. 3. Article 52, chapter 43, Arizona Code of 1939, is amended by adding section 43-5202c, to read:

43-5202c. NO PARTICULAR FORM OR WORDS REQUIRED; LIBERAL CONSTRUCTION. No particular form or words shall be necessary or required but any signed and acknowledged written instrument or any last will and testament or codicil shall be liberally construed to effectuate the intent and purpose of the persons wishing to donate their bodies or any part thereof for the purpose elaborated in this Act.

Sec. 4. Article 52, chapter 43, Arizona Code of 1939, is amended by adding section 43-5202d, to read:

43-5202d. PROVISION EFFECTIVE IMMEDIATELY UPON DEATH. Subject only to any provision of law relating to medical examination or autopsy of dead human bodies, any provision in any signed and acknowledged written instrument or last will and testament or codicil which donates the body of the donor or testator or any part thereof as provided by this Act shall become effective immediately upon the death of the donor or testator and the authority for any hospital, physician, or surgeon to remove said body or any part thereof shall be such signed and acknowledged written instrument or such last will and testament or codicil.

Sec. 5. Article 52, chapter 43, Arizona Code of 1939, is amended by adding section 43-5202e, to read:

43-5202e. LIABILITY FOR ACTS PERFORMED. Any statute to the contrary notwithstanding, no person, association or corporation shall be subject to liability for any act performed in carrying out such instructions of the donor or testator.

Sec. 6. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—February 27, 1954.

Filed in the Office of the Secretary of State—February 27, 1954.

CHAPTER 7

(Senate Bill No. 70)

AN ACT

RELATING TO FISH AND GAME; AUTHORIZING RECIPROCAL AGREEMENTS BETWEEN ARIZONA AND ADJOINING STATES CONCERNING SPORT FISHING AND HUNTING LICENSES; PROVIDING FOR SPECIAL LICENSES AND PERMITS FOR USE ON AND ALONG THE COLORADO RIVER; GRANTING SPECIAL PRIVILEGES TO CALIFORNIA LICENSEES; AUTHORIZING THE GAME AND FISH COMMISSION TO HANDLE CERTAIN PERMITS AND REMIT PROCEEDS THEREOF TO STATE OF CALIFORNIA, AND AMENDING ARTICLE 1, CHAPTER 57, ARIZONA CODE OF 1939, BY ADDING SECTIONS 57-115a TO 57-115f, INCLUSIVE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 1, chapter 57, Arizona Code of 1939, is amended by adding sections 57-115a to 57-115f, inclusive, to read:

57-115a. RECIPROCAL AGREEMENTS. The Arizona game and fish commission, subject to the approval of the department of law, is authorized to enter into reciprocal agreements with corresponding state or county official agencies of adjoining states pertaining to the establishment of a basis whereby sport fishing licenses, sport hunting licenses, or both, issued by either of the parties may be used by the licensees within the jurisdiction of either party to the agreement.

57-115b. COLORADO RIVER SPECIAL USE PERMIT. (a) Any person taking fish for purposes other than for profit from or while on a boat or other floating device on the waters of the Colorado river and on adjacent waters where the river forms a boundary between the states of Arizona and California, must have in his possession a valid angling or fishing license issued by either the state of Arizona or the state of California. In addition to one of the above described licenses, such person must have in his possession a valid California or Arizona Colorado river special use permit, as provided in this Act, which shall be obtainable on payment of a

fee to be fixed by the Arizona game and fish commission, but not to exceed two dollars.

(b) A person having in his possession a valid Arizona fishing license must have a California Colorado river special use permit to legally fish the waters described in subsection (a). A person having in his possession a valid California angling license must have an Arizona Colorado river special use permit to legally fish the waters described above. Such special use permit when accompanied by the proper license will allow the holder to fish in any portion of said waters and permit him to enter the waters from any point.

(c) Shore-line fishing does not require a Colorado river special use permit as long as the fisherman remains on the shore and does not embark on the water.

57-115c. SALE OF SPECIAL USE PERMITS; ACCOUNTING. (a) The Arizona game and fish commission may handle California Colorado river special use permits, issue them to Arizona license dealers and prior to March 1 of each year shall make an audit report together with remittance to the California department of fish and game covering permit sales.

(b) The California department of fish and game may handle Arizona special use permits and issue them to California license dealers, if prior to August 31 of each year it will make an audit report and remittance to the Arizona game and fish commission covering permit sales.

57-115d. SALE OF SPECIAL USE PERMITS. Arizona Colorado river special use permits may be obtained from California license dealers under the supervision of the California department of fish and game, and the California Colorado river special use permits may be obtained from Arizona license dealers under the supervision of the Arizona game and fish commission.

57-115e. PERIOD OF VALIDITY OF SPECIAL PERMITS. Arizona Colorado river special use permits shall be valid from January 1 to December 31, inclusive, of each year to coincide with California angling licenses. California Colorado river special use permits will be valid from July 1 to June 30, inclusive, of each year to coincide with Arizona fishing licenses.

57-115f. EFFECTIVE DATE. The provisions of this Act shall become operative when the Arizona game and fish commission finds that under the laws of the state of California substantially similar licenses and permits are authorized to be issued to licensees of the state of Arizona upon sub-

stantially the same terms and conditions as are provided for in this Act as to the issuance of licenses and permits to licensees of the state of California.

Approved by the Governor—February 27, 1954.

Filed in the Office of the Secretary of State—February 27, 1954.

CHAPTER 8

(House Bill No. 68)

AN ACT

RELATING TO NEGOTIABLE INSTRUMENTS, AND AMENDING SECTION 52-109, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 52-109, Arizona Code of 1939, is amended to read:

52-109. WHEN PAYABLE TO BEARER. The instrument is payable to bearer:

When it is expressed to be so payable; or

When it is payable to a person named therein or bearer; or

When it is payable to the order of a fictitious or non-existing or living person not intended to have any interest in it, and such fact was known to the person making it so payable, or known to his employee or other agent who supplies the name of such payee; or

When the name of the payee does not purport to be the name of any person; or

When the only or last endorsement is an endorsement in blank.

Sec. 2. EMERGENCY. To preserve the public peace, health and safety, it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 9

(House Bill No. 190)

AN ACT

RELATING TO THE QUALIFICATIONS OF DIRECTORS AND ELECTORS OF ELECTRICAL DISTRICTS; AMENDING SECTION 75-621, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 75-621, Arizona Code of 1939, is amended to read:

75-621. ANNUAL ELECTION TO FILL VACANCIES—QUALIFICATIONS OF VOTERS AND DIRECTORS—PAYING EXPENSES. The annual election of directors shall be held on the second Saturday in January of each year for the filling of all vacancies occurring by expiration of terms of office or otherwise and for the replacing of appointees to fill vacancies by the board. Ten (10) days notice of said election shall be given by the posting of notices thereof in one (1) public place in each township or part of township of each range or part of range, as heretofore defined in the district and not less than three (3) notices in different public places in each county in which any part of the district is located.

Persons qualified to hold the office of director or vote at the election therefor must be freeholders of the district, and election precinct, if any, and must possess all the qualifications required of electors under the general election laws of the state, except as to residence within a particular county or precinct. A freeholder shall be construed to be any person who owns real property acreage within the district which is, or may be, beneficially served by the district. The board of directors shall have power to determine the place or places of voting at any and all elections and in case more than one place of voting is designated then and in that case the board shall divide the district into election precincts which may be changed from time to time and when changed within ninety (90) days before any election the notice of the next election shall contain an accurate description of the precincts as changed. All election expenses shall be paid by the district.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 10

(House Bill No. 160)

AN ACT

RELATING TO EDUCATION; MAKING AN APPROPRIATION TO THE STATE SCHOOL FUND.

Be it Enacted by the Legislature of the State of Arizona:

Section. 1. APPROPRIATION. The sum of fourteen thousand three hundrey sixty-three dollars sixty cents ($14,363.60) is appropriated to the state school fund, and upon the order of the superintendent of public instruction to be distributed to the various schools having the homebound teaching program as prescribed by sections 54-812 and 54-813, Arizona Code of 1939. This appropriation is to be used for payments due the various schools for the school year 1952-1953.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 11

(House Bill No. 151)

AN ACT

RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM, AND AMENDING CHAPTER 132, SECTION 1, SUBDIVISION 86, LAWS OF 1953, FIRST REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Chapter 132, section 1, subdivision 86, Laws of 1953, first regular session, is amended to read:

For the 42nd
Fiscal Year

Subdivision 86. ARIZONA STATE RETIREMENT SYSTEM

ADMINISTRATION

Personal services	
Board Members	$ 3,050.00
Other Personal Services	27,800.00
Total Personal Services	$ 30,850.00
Contractual Services	509.47
State Travel	1,657.53
Other Current Expenditures	9,190.37
Fixed Charges	2,292.63
Capital Outlay	5,500.00
Total Administration	$ 50,000.00
State Contribution	568,500.00
Total Appropriation	$618,500.00

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 12

(House Bill No. 150)

AN ACT

RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM, AND AUTHORIZING CERTAIN EXPENDITURES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. AUTHORIZATION. The state auditor is directed to audit and, if found to be lawful, to pay from the current board administration funds of the Arizona state retirement system the sum of one thousand one hundred forty-five dollars fifteen cents ($1,145.15) from the following classifications: 1. From personal services — board members, Charles S. Voigt, one hundred fifty dollars ($150.00); Lloyd A. Fallers, one hundred dollars ($100.00); Ashby I. Lohse, one hundred dollars ($100.00); 2. from personal services — other, Arizona teachers retirement system, six hundred sixty-six dollars thirty-six cents ($666.36); 3. from current expendi-

tures — other, Arizona teachers retirement system, thirty-two dollars eighteen cents ($32.18); 4. from state travel, Ashby I. Lohse, ninety-six dollars sixty-one cents ($96.61).

Sec. 2. BASIS OF CLAIM. The authorization made in section 1 is in full satisfaction of claims against the Arizona state retirement system for services rendered and materials delivered during the period May 23, 1953 to June 30, 1953.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 13

(House Bill No. 58)

AN ACT

RELATING TO THE CONDUCT OF ELECTIONS; REQUIRING THE DISPLAY OF THE FLAG OF THE UNITED STATES AT POLLING PLACES ON ELECTION DAYS, AND AMENDING ARTICLE 5, CHAPTER 55, ARIZONA CODE OF 1939, BY ADDING SECTION 55-504a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 5, chapter 55, Arizona Code of 1939, is amended by adding section 55-504a, to read:

55-504a. FLAG OF THE UNITED STATES TO BE DISPLAYED. The board of supervisors shall provide for the display of the flag of the United States in or near every polling place on election days during the hours the polls are open. This Act shall apply only to elections over which the county board of supervisors has jurisdiction.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 14

(House Bill No. 57)

AN ACT

MAKING AN APPROPRIATION TO THE LIVESTOCK SANITARY BOARD.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of one thousand one hundred twenty-five dollars ($1,125.00) is appropriated to the livestock sanitary board for the payment of bounty.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 shall be expended for the payment of bounty due the following listed claimants for reimbursement on lions killed during the 41st fiscal year:

Marvin Glenn, Douglas	$ 75.00
Donald R. Lyall, San Simon	75.00
Jan Belier, Young	75.00
W. E. McKenzie, Skull Valley	75.00
Clarence Conway, Tonto Basin	225.00
Russ A. Layton, Safford	75.00
James A. Cosper, Clifton	75.00
J. W. Hunt, Prescott	225.00
Marvin W. Ratcliff, Flagstaff	75.00
E. B. Fuller, Douglas	75.00
Alfredo Heredia, Patagonia	75.00
	$1,125.00

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 15

(House Bill No. 202)

AN ACT

RELATING TO THE GOVERNOR AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the funds appropriated to the governor under the provisions of subdivision 6, chapter 132, Laws of 1953, there is hereby appropriated the sum of ten thousand dollars ($10,000.00).

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for the purpose of paying insurance premiums due on state properties during the balance of the forty-second fiscal year.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 16

(House Bill No. 79)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE DEPARTMENT OF HEALTH FOR THE ARIZONA STATE TUBERCULOSIS SANATORIUM.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of five thousand one hundred eighty-nine dollars is appropriated to the state department of health for the Arizona state tuberculosis sanatorium, to be available during the balance of the forty-second fiscal year.

Sec. 2. PURPOSE. The Appropriation made under the terms of section 1 is to supplement the appropriation made by subdivision 38, section 1, chapter 132, Laws of 1953, first regular session, and to be available for the purpose of salary increases and merit increases for personnel of the Arizona state tuberculosis sanatorium.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 5, 1954.

Filed in the Office of the Secretary of State—March 5, 1954.

CHAPTER 17

(House Bill No. 49)

AN ACT

RELATING TO THE SUPERVISOR OF PAROLEES; PROVIDING AN INCREASE IN SALARY, AND AMENDING SECTION 44-3007, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 44-3007, Arizona Code of 1939, is amended to read:

44-3007. SUPERVISOR OF PAROLEES. (a) The supervisor of parolees shall make investigations and collect information which will assist the board of pardons and paroles in passing upon applications for parole of inmates of the state prison. He shall keep a record of parolees and of the reports of parolees required to report to the board, and contact parolees and give field supervision whenever possible.

(b) The chairman of the board of pardons and paroles shall be the supervisor of parolees ex-officio. He shall receive not to exceed twenty dollars per day for not to exceed two hundred ninety days in any calendar year, and necessary expenses incurred in the performance of his duties as supervisor of parolees, but shall not receive such compensation for any day for which he draws compensation as chairman of the board of pardons and paroles.

Approved by the Governor—March 8, 1954.

Filed in the Office of the Secretary of State—March 8, 1954.

CHAPTER 18

(House Bill No. 52)

AN ACT

RELATING TO HIGHWAYS; PROVIDING FOR INSTALLATION OF TRAFFIC SIGNALS ON STATE HIGHWAYS; AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of sixty thousand dollars is appropriated from the state highway fund for the remainder of the 42nd fiscal year.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for the purchase and installation of traffic signals on state highways at such locations as the state highway commission may direct.

Approved by the Governor—March 8, 1954.

Filed in the Office of the Secretary of State—March 8, 1954.

CHAPTER 19

(House Bill No. 48)

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR DISTINCTIVE NUMBER PLATES FOR OPERATORS OF AMATEUR RADIO STATIONS, AND AMENDING ARTICLE 2, CHAPTER 66, ARIZONA CODE OF 1939, BY ADDING SECTION 66-208b.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 66, Arizona Code of 1939, is amended by adding section 66-208b, to read:

66-208b. PLATES FOR AMATEUR RADIO OPERATORS. (a) Any owner of a private motor vehicle who is a resident of the state and in all respects qualified to receive motor vehicle number plates as provided by section 66-208, Arizona Code of 1939, and who owns and holds an unrevoked and unexpired amateur radio station license issued by the federal communications commission, shall, upon application, accompanied by proof of ownership of such amateur radio station license and payment of an additional fee of three dollars, be issued number plates upon which shall be inscribed the official identifying amateur radio call letters of the applicant, as assigned by the federal communications commission. Such plates to be in addition to the numbered plates as prescribed by section 66-208, Arizona Code of 1939.

(b) Call letter license plates shall be provided each year in the same color combination as that used for the numbered plates prescribed by section 66-208, Arizona Code of 1939, and may be legally displayed in place of number plates as prescribed in section 66-208, Arizona Code of 1939, and will remain the property of the licensee and shall not be transferable.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 10, 1954.

Filed in the Office of the Secretary of State—March 10, 1954.

CHAPTER 20

(Senate Bill No. 79)

AN ACT

RELATING TO THE EQUIPMENT AND OPERATION OF HOISTS IN MINES, AMENDING CHAPTER 65, ARIZONA CODE OF 1939, AS AMENDED, BY AMENDING SECTION 65-216.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 65-216, Arizona Code of 1939, is amended to read:

65-216. HOISTS, EQUIPMENT AND OPERATION. No person addicted to the use of intoxicating liquors or drugs, or under eighteen years of age, shall be employed as a hoisting engineer. All power hoisting machinery used in hoisting from or lowering employees and materials into mines, except prospect shafts not exceeding three hundred feet in depth, shall be equipped with an indicator, placed near and in clear view or hearing of the engineer. This indicator must be in addition to marks on the rope, or cable, or drum. It shall be unlawful to hoist men out of, or lower men into, a mine at a speed greater than fifteen hundred feet per minute; provided, however, the state mine inspector or his deputies may designate a lesser speed than fifteen hundred feet per minute, in any shaft, if in his discretion this speed may be unsafe.

All hoisting machinery shall be inspected once in every twenty-four hours by a competent person appointed by the mine operator for that purpose, and every such inspector shall immediately report in writing to said operator any and all defects found. All ropes or cables used for hoisting purposes shall be of approved quality and manufacture; and in shafts and winzes of over two hundred feet in depth wire ropes or cables only shall be used for hoisting purposes. All head frames where men are hoisted at a speed of over two hundred fifty feet per minute and where more than twenty-five men are employed, shall be so constructed as to allow at least twenty-five feet above the hoist landing stage, in which the cage, skip, or bucket can travel freely in case of an overwind.

It shall be unlawful for the operator of any mine to permit the hoisting or lowering of men in any shaft deeper than three hundred feet, excepting shafts in process of sinking, unless an iron-bonneted safety cage equipped with gates at

least five feet in height, be used for the hoisting and lowering of such men. Every cage shall have over-head bars of such arrangement as to give every man on the cage an easy and secure handhold, and every cage or skip used for hoisting men shall be provided with a safety catch of sufficient strength to hold the cage or skip with its maximum load at any point in the shaft in the event that the hoisting cable should break. The inspector shall see that all cages and skips are equipped as herein required, and that on all cages the safety catches are kept well oiled and in good working condition. In any shaft of less that three hundred feet deep, where no safety cage is used, and where cross-heads are used, platforms for employees to ride upon, equipped with safety catches as required herein for cages and skips, shall be provided. Skips, the capacity of which exceeds five tons, running on steel guides in shafts designed primarily for the hoisting of rock, need not be equipped with safety catches. Said skips, however, shall be equipped with a platform and bonnet for the protection of the men, who, as set forth herein, may legally ride said skips. Only men engaged in shaft maintenance, pumpmen, skiptenders, supervisors and inspectors shall be permitted to be hoisted or lowered in such skips. No person, including those specifically mentioned in this paragraph, shall be permitted to ride a loaded skip.

All vertical shafts more than two hundred feet deep from which hoisting is done by means of a bucket, must be provided with suitable guides, and in connection with the bucket there must be a cross-head traveling upon the guides. The height of the cross-head shall be at least one and one-half times its width. If the cross-head be a type that is not secured to the hoisting rope, a stopper of design to be approved by the mine inspector must be securely and rigidly fastened to the hoisting-rope at a suitable point above the rim of the bucket. The number of persons permitted to ride on the deck of a cage, or in or on a skip or bucket, shall be determined by the mine inspector, and no more than that number shall be allowed to ride. No persons shall ride upon a cage, nor in nor on a skip, or bucket, when the same is loaded with rock or ore, nor when loaded with tools, timber, powder, or other material, except for the purpose of assisting in passing these through the shaft.

When tools, timber, or other materials are to be loaded or hoisted in the shaft, the ends, if projecting above the top of the bucket, skip, or other vehicle, shall be securely fastened to the hoisting rope or to the upper part of the vehicle, and tools, timber, or other material loaded erectly upon a cage must be securely lashed before being hoisted or carried. No cage, skip, bucket, or other vehicle, shall be lowered directly to the bottom of a shaft, fifty feet or more in depth, where

men are working, but must be stopped at least fifteen feet above the bottom until the signal to lower further has been given by one of the men at the bottom of the shaft.

Persons engaged in deepening a shaft in which regular hoisting from an upper level is going on shall be protected from the danger of falling material by a suitable covering, sufficient opening in such covering being left only for the passage of the bucket or conveyance used in the sinking operations. In shafts, winzes or raises, where two or more crews of men are working, one crew above another, there shall be a bulkhead between each two crews of men, strong enough to stop any tools or other material that may fall from the men working above, and only the cage, skip, or bucket compartments shall be left open. All shafts or winzes shall have a bulkhead over the men working in the bottom of the shaft or winze, built of timber not less than six inches in thickness, not more than fifty feet above the bottom of said shaft or winze, providing ample protection for the men working in the bottom of said shaft or winze, and so constructed as not to shut off the air circulation; the cage, skip, or bucket compartment only to be left open. All shafts or winzes shall be cleaned down below the bulkhead after each blasting. Windlasses and winzes in mines shall be provided with a suitable plug or some other reliable device to prevent running back of the bucket or other conveyance. No open hook shall be used with a bucket in hoisting, but only some approved form of safety hook or shackle hook.

A release signal of one bell to the hoisting engineer shall be given to release the cage, skip, or bucket after it has been stopped at any station. At any mine where men are hoisted by mechanical means, a hoistman charged with the hoisting thereof shall be kept on duty at the hoist at all times when men are underground.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 10, 1954.

Filed in the Office of the Secretary of State—March 10 1954.

CHAPTER 21

(House Bill No. 162)

AN ACT

RELATING TO THE DEPARTMENT OF PUBLIC WEL-

FARE, AND AUTHORIZING AN EXPENDITURE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. AUTHORIZATION. The state auditor is directed to pay from current funds of the department of public welfare the sum of one thousand five hundred thirty-five dollars ninety cents ($1,535.90), in the amounts and for the purposes following:

1. From the crippled children's services, other current expenditures fund, the sum of two hundred fifty dollars ($250.-00) in payment of the claim of John C. Jones, M. D., for services rendered September 15, 1952.

2. From the crippled children's services, other current expenditures fund, the sum of one thousand fifty-one dollars fifty-two cents ($1,051.52) to the Roy Brooks Plumbing and Heating Company for services rendered December 21, 1952.

3. From the blind services fund, the sum of two hundred thirty-four dollars thirty-eight cents ($234.38) for the payment of goods ordered during the 1952-53 fiscal year.

Approved by the Governor—March 10, 1954.

Filed in the Office of the Secretary of State—March 10, 1954.

CHAPTER 22

(House Bill No. 205)

AN ACT

MAKING AN APPROPRIATION TO THE NATIONAL GUARD OF ARIZONA FOR THE PURPOSE OF MATCHING FEDERAL GRANTS FOR ARMORY CONSTRUCTION PURPOSES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of one hundred and fifty thousand dollars ($150,000.00) is hereby appropriated to the national guard of Arizona.

Sec. 2. PURPOSE. The purpose of the appropriation made in section 1 is to provide for the construction of armory buildings in various cities of the state of Arizona for the use and occupancy of the national guard of Arizona. Such funds

shall be used only to provide state funds to match federal grants for the purpose of armory construction. Funds of the state of Arizona shall not be used to provide for the costs of any project in excess of thirty-five per cent of the amount thereof. The appropriation made by section 1 is not subject to section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 11, 1954.

Filed in the Office of the Secretary of State—March 11, 1954.

CHAPTER 23

(House Bill No. 175)

AN ACT

MAKING AN APPROPRIATION TO THE GOVERNOR FOR CAPITOL BUILDINGS AND GROUNDS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of four thousand nine hundred sixteen dollars ($4,916.00) is appropriated to the governor for capitol buildings and grounds, to be expended for the purposes and in the amounts following:

1. Repair of the roof of the flat deck on the original annex building located at Seventeenth Avenue and Adams Street, one thousand nine hundred dollars ($1,900.00);

2. painting and repairing of damaged walls and ceilings in the vocational and education room, the horticultural department, and the animal disease laboratory, all located within the original annex building located at Seventeenth Avenue and Adams Street, two hundred fifty-eight dollars ($258.00);

3. repair of roof of the new west addition to the main capitol building, two thousand, seven hundred fifty-eight dollars ($2,758.00).

Sec. 2. EMERGENCY. To preserve the public peace,

health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 11, 1954.

Filed in the Office of the Secretary of State—March 11, 1954.

CHAPTER 24

(Substitute House Bill No. 24)

AN ACT

RELATING TO THE ARIZONA STATE COLLEGE AT FLAGSTAFF; PROVIDING FUNDS FOR THE FURNISHING OF ASHURST AUDITORIUM; AMENDING SUBDIVISION 42, SECTION 1, CHAPTER 132, LAWS OF 1953, FIRST REGULAR SESSION, AND REPEALING CHAPTER 2, LAWS OF 1954, SECOND REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Subdivision 42, section 1, chapter 132, Laws of 1953, first regular session, is amended to read:

Subdivision 42. ARIZONA STATE COLLEGE AT FLAGSTAFF.

Contributions for teachers' retirement Act of 1943	$ 7,324.00
Remodeling, altering, repairing, and furnishing Ashurst Auditorium	190,000.00*
Lump sum appropriation	578,503.00
Total appropriation	$775,827.00

*This appropriation is not subject to the provisions in section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Any unencumbered balance remaining in the collections account on June 30, 1953, and all collections received by the college during the fiscal year when paid into the state treas-

ury are hereby appropriated for personal services, current expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the enabling act and the constitution.

Sec. 2. REPEAL. Chapter 2, laws of 1954, second regular session, is hereby repealed.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 11, 1954.

Filed in the Office of the Secretary of State—March 11, 1954.

CHAPTER 25

(Senate Bill No. 50)

AN ACT

FOR THE RELIEF OF THE INDUSTRIAL COMMISSION OF ARIZONA, AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of fifty-five thousand three hundred twenty-five dollars nine cents is appropriated for the relief of the industrial commission of Arizona.

Sec. 2. PURPOSE. Payment of the sum appropriated in section 1, shall be in full satisfaction and discharge of the following certificates of indebtedness issued by the state auditor to the industrial commission of Arizona, the numbers of which and dates and amounts of which are as follows:

NO.	DATE	PERIOD COVERED		AMOUNT
1	7-10-1951	1-1-50 to 6-30-50	Workmen's Comp.	$ 6,088.60
2	7-10-1951	7-1-50 12-31-51	Workmen's Comp.	32,881.61
3	7-10-1951	1-1-50 6-30-50	Occ. Disease	93.55
4	7-10-1951	7-1-50 12-31-50	Occ. Disease	514.77
5	2-28-1952	1-1-51 6-30-51	Workmen's Comp.	15,661.83
6	2-28-1952	1-1-51 6-30-51	Occ. Disease	84.73
				$55,325.09

Said certificates of indebtedness having been issued by the state auditor for the purposes therein indicated when no funds were available to cover payment of the same.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

CHAPTER 26

(Senate Bill No. 51)

AN ACT

FOR THE RELIEF OF THE INDUSTRIAL COMMISSION OF ARIZONA, AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of one hundred twenty-seven dollars and fifty-six cents is appropriated for the relief of the industrial commission of Arizona.

Sec. 2. PURPOSE. Payment of the sum appropriated in section 1, shall be in full satisfaction of the claim of the industrial commission of Arizona for premiums on workmen's compensation coverage and occupational disease disability law coverage on employees of the department of law, covering the period of March 6, 1953 to June 30, 1953, which expenses were incurred by the industrial commission of Arizona for said period when no funds were available for payment of the same.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

CHAPTER 27

(Senate Bill No. 62)

AN ACT

RELATING TO THE COMMISSION OF AGRICULTURE AND HORTICULTURE AND PROVIDING FOR THE REALLOCATION OF APPROPRIATED FUNDS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. TRANSFER OF FUNDS. From the funds heretofore appropriated to the commission of agriculture and horticulture for the 42nd fiscal year, by chapter 132, section 1, subdivision 56, Laws of 1953, for personal services, there is hereby transferred to current expenditures the sum of two thousand dollars for professional fees.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

CHAPTER 28

(House Bill No. 25)

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE DISTRIBUTION OF CERTAIN FUNDS HERETOFORE COLLECTED FOR INTERSTATE MOTOR VEHICLE LICENSE TAX COLLECTIONS, AND FIXING AN EXPIRATION DATE OF THIS ACT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. DISTRIBUTION OF FUNDS. The sum of forty-five thousand one hundred thirty-seven dollars forty-five cents ($45,137.45) heretofore collected from interstate motor carriers under section 11, article IX, constitution of Arizona, and now held by the state treasurer as and for undistributed interstate motor vehicle license tax collections shall be distributed by the state treasurer as follows:

1. Twenty-five per cent to the general fund of the state, and

2. seventy-five per cent of said fund to be distributed to the respective counties in proportion to the collections made from each county from interstate motor carriers under section 11, article IX, constitution of Arizona, and once the amount to which each county is entitled has been ascertained, then the amount to which each county is entitled shall be distributed to each such county as follows:

(a) One-third of said sum to the treasurer of each county, to be placed in the county general fund;

(b) one-third of said sum to the special county school reserve funds of each county; and

(c) one-third of said sum to the several incorporated cities and towns of each county.

Sec. 2. EXPIRATION DATE. The provisions of this Act shall expire on December 31, 1954.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

CHAPTER 29

(House Bill No. 129)

AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING FOR THE SANITATION OF LABOR CAMPS BY PRESCRIBING MINIMUM SANITATION STANDARDS, AND PRESCRIBING PENALTIES THEREFOR.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. PURPOSE OF THIS ACT. The purpose of this Act is to provide for the better protection of the public health of the people of Arizona and for the better protection of the health of persons occupying labor camps, by prescribing pro-

visions regarding sanitation and safety in respect to the establishment and operation of labor camps and providing for their supervision by the local county, city, or city-county health department, or if there be none, by the state department of health.

Sec. 2. DEFINITIONS. In this Act, unless the context otherwise requires, "labor camps" means any camp or similar place of temporary abode, established by or for the care of workmen engaged in construction, repair, or alteration work on roads or highways, railroads, or in lumbering or agricultural operations, or in other industrial activities. A labor camp occupied by less than five employees, or a labor camp required to meet a public emergency, shall be subject only to sections 3, 12 and 13 of this Act.

Sec. 3. LOCATION. Every labor camp shall be located on well drained ground near an adequate safe water supply.

Sec. 4. LAYOUT. The general layout of the camp should be well conceived and planned to facilitate frequent cleaning of the premises and to lessen fire, accident, and disease hazards.

Sec. 5. WATER SUPPLY. Every labor camp shall be provided with a water supply of sufficient quantity to provide a minimum of five gallons per person per day to the camp site at a rate of two and a half times the average hourly demand, and be of a safe, sanitary quality, meeting the standards of the state department of health.

No cross — or back-flow connections with contaminated water supplies or other possible sources of contamination shall be permitted.

Sec. 6. TOILETS. Every camp shall be provided with privies or with suitable toilets and with disposal systems meeting minimum health requirements of the state department of health. One toilet or one privy shall be provided for every fifteen persons or fraction thereof in the camp population. Privies shall be located at least one hundred twenty-five feet from any source of domestic water and shall at all times be maintained in good repair and in a clean, and sanitary condition. No living unit shall be more than two hundred feet from toilet facilities.

Sec. 7. BATHING. Every camp shall be provided with an adequate supply of water for washing the hands, faces and bodies of the camp occupants.

Sec. 8. HOUSING. The following minimum housing shall be provided:

All openings shall be effectively screened.

Dirt floors shall not be permitted.

When heating is provided for any camp housing such heating units shall be properly vented to the outside atmosphere as directed by the local health authority.

Sec. 9. FIRE PROTECTION. Every camp shall be equipped with one or more pieces of fire fighting equipment; such as fire hydrants and hose, water barrels and buckets, sand barrels and shovels, and chemical extinguishers. The camp shall provide whichever equipment in the opinion of the owner is most feasible. If water barrels are provided, larviciding shall be necessary to prevent mosquito breeding.

Sec. 10. GARBAGE. A reasonable number of watertight metal garbage containers with tight-fitting lids shall be provided, and the containers shall be emptied and cleaned as necessary, and the garbage disposed of in accordance with minimum standards of the state department of health.

Sec. 11. DRAINAGE. In every labor camp all kitchen, toilet, bath and other drainage shall be disposed of in such manner as to prevent fly and mosquito breeding, and pollution of any water or food supply.

Sec. 12. RESPONSIBILITIES. Occupants of the camp shall be jointly responsible with the camp operator for sanitary conditions within and immediately adjacent to their living units.

Sec. 13. ABANDONED CAMPS. No camp shall be left unoccupied in such a condition as to constitute a public or health hazard.

Sec. 14. CAMP OWNERS' RESPONSIBILITY AFTER EXPIRATION OF EMPLOYMENT. The labor camp owner shall not be required to furnish any of the services or facilities set forth in this Act to any person who remains in such camp after the expiration of his term of employment or such period of time as may be authorized by the camp owner, and such person remaining on the land after expiration of either period is a trespasser.

Sec. 15. PENALTY. Any person violating any provision of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five ($25.00) nor more than two hundred dollars ($200.00), or imprisoned in the county jail not more than thirty days, or both.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

CHAPTER 30

(Senate Bill No. 126)

AN ACT

MAKING AN APPROPRIATION TO THE GOVERNOR FOR THE CONTROL OF GRASSHOPPERS AND OTHER INSECTS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of fifty thousand dollars is appropriated to the governor, for the purpose of defraying the cost of controlling such infestations of grasshoppers and other insects in the agricultural and grazing areas as are deemed by the governor to be a menace to the welfare of the state.

Sec. 2. CONTINGENCY. (a) The appropriation made under the provisions of section 1 is contingent upon: 1. the matching of the same by the United States or any agency thereof and the owner of the land to be treated, on the basis of one-third each, which sums when added to the state's contribution of one-third shall constitute the expendable fund; or, 2. in the event federal matching funds are not made available the matching shall be one-half by the owner of the land and one-half by the state from the fund provided by this Act.

(b) The supplying of poison and other materials, payment of wages or salaries of personnel, or any combination of such contributions, for the purpose of carrying out the provisions of this Act shall, to the extent of the value of such contributions, be accepted in place of a cash contribution. The appropriation provided for in this Act is exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing appropriations, respectively.

Sec. 3. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 31

(Senate Bill No. 76)

AN ACT

MAKING AN APPROPRIATION FOR THE RELIEF OF THE FOREST SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. One thousand two hundred two dollars sixty cents is appropriated for the relief of the forest service of the United States department of agriculture.

Sec. 2. BASIS OF APPROPRIATION. Payment of the sum appropriated under the terms of section 1, shall be in full satisfaction of the claim of the forest service of the United States department of agriculture for expense incurred in the control and suppression of forest fires on state lands under the cooperative agreement with the state of Arizona dated January 15, 1914, amended March 1, 1944, in the following amounts:

1. For the payment for fire fighters' wages, fire fighting tools and supplies, subsistence supplies, equipment rental and equipment use, and the overtime of regular forest officers in connection with the Old Beacon fire of June 8 to 10, inclusive, 1952, three hundred seventy-two dollars eighty-four cents.

2. For the payment of fire fighters' wages, fire fighting tools and supplies, subsistence supplies. equipment rental and equipment use, and the overtime of regular forest officers in connection with the Wildcat fire number 3 of June 24, 1953, eight hundred twenty-nine dollars seventy-six cents.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 32

(Senate Bill No. 47)

AN ACT

RELATING TO WORKMEN'S COMPENSATION, PROVIDING FOR DEATH BENEFITS, INCREASING BURIAL EXPENSE ALLOWANCE AND AMENDING SECTION 56-953, ARIZONA CODE OF 1939, AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 56-953, Arizona Code of 1939, is hereby amended to read:

56-953. DEATH BENEFITS. (a) In case of an injury causing death, the compensation therefor shall be known as a death benefit, and shall be payable in the amount, for the period, and to and for the benefit of the persons following: 1. burial expenses, not to exceed three hundred dollars, in addition to the compensation; 2. to the widow, if there is no child, thirty-five per cent of the average wage of the deceased, to be paid until her death or remarriage, with two years' compensation in one sum upon remarriage; 3. to the widower, if there is no child, thirty-five per cent of the average wage of the deceased, if wholly dependent for support upon the deceased employee at the time of her death, to be paid until his death or remarriage; 4. to the widow or widower, if there is a child or children, the additional amount of fifteen per cent of such wage for each child until the age of eighteen years, the total not to exceed sixty-six and two-thirds per cent of the average wage; 5. to a single surviving child (in the case of the subsequent death of a surviving wife, or a dependent husband, or if there be no surviving wife or dependent husband), twenty-five per cent of such average wages; or if there is more than one surviving child, twenty-five per cent for one child, and fifteen per cent for each additional child, to be divided among such children share and share alike, but not exceeding a total of sixty-six and two-thirds per cent of the average wage, and compensation to any such child shall cease upon death, marriage or reaching the age of eighteen years, except, if over eighteen years and incapable of self-support, when it becomes capable of self-support; 6. to a parent (if there be no surviving wife, dependent husband, or child under the age of eighteen years), if wholly dependent for support upon the deceased employee at the time of his death, twenty-five per cent of the average monthly wage of the deceased during dependency, with an added allowance of fifteen per cent if two dependent par-

ents survive; and, 6a. if neither parent is wholly dependent, but one or both partly dependent, fifteen per cent divided between them share and share alike; 7. to brothers or sisters under the age of eighteen years, if there be no surviving wife, dependent husband, dependent children under the age of eighteen years, or dependent parent; 7a. if one is wholly dependent upon the deceased employee for support at the time of injury causing death, twenty-five per cent of the average monthly wage until of the age of eighteen years; 7b. if more than one brother or sister is wholly dependent, thirty-five per cent of the average monthly wage at the time of injury causing death, divided among such dependents share and share alike; 7c. if none of them is wholly dependent, but one or more partly dependent, fifteen per cent divided among such dependents share and share alike; 8. if there be no dependents in the foregoing schedule dependency shall be determined according to the facts as of the time of the injury; if the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the monthly compensation shall be equal to such proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the employee to such partial dependents bears to the average wage of the deceased at the time of the injury resulting in his death; the duration of compensation to partial dependents shall be fixed by the commission in accordance with the facts shown, but shall in no case exceed compensation for one hundred months.

(b) A death benefit paid to an alien not residing in the United States shall be only sixty per cent of the amount specified in this section.

(c) In the event of the death of a dependent before the expiration of the time named in the award, the funeral expenses of such person, not to exceed three hundred dollars shall be paid.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure to take effect as provided by law.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 33

(Senate Bill No. 40)

AN ACT

RELATING TO THE STATE TAX COMMISSION AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. Two thousand one hundred forty-two dollars is appropriated from the general fund of the State of Arizona for the relief of the state tax commission.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1, is for the relief of the state tax commission to reimburse the firm of Small and Place for rental of the Tucson office of the state tax commission for the period from January 1, 1953, to June 30, 1953, at the monthly rate of three hundred fifty-seven dollars.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 34

(Senate Bill No. 39)

AN ACT

RELATING TO THE TAX COMMISSION, AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation made under the provisions of subdivision 10, section 1, chapter 132, Laws of 1953, first regular session, there is appropriated to the state tax commission, the sum of three thousand sixty dollars for fixed charges.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1, shall be expended for the rental of the Tucson offices of the state tax commission from the firm of Small and Place, for the period from January 1, 1954 to June 30, 1954, at the monthly rate of five hundred ten dollars.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 35

(House Bill No. 54)

AN ACT

RELATING TO THE UNIFORM LAW COMMISSION; PROVIDING THAT A MEMBER OR MEMBERS ATTEND ANNUAL MEETINGS AT STATE EXPENSE, AND AMENDING SECTION 3-102, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 3-102, Arizona Code of 1939, is amended to read:

3-102. POWERS AND DUTIES. (a) The commission shall investigate subjects concerning which uniform legislation throughout the United States is desirable and confer with like commissions from other states thereon.

(b) The commission shall report to the governor and the legislature from time to time the results of its investigations and recommend the adoption of such uniform legislation as it deems desirable.

(c) The commission is authorized to make a contribution of not to exceed four hundred dollars per annum on behalf of this state to the national conference of commissioners on uniform state laws, and may authorize the attendance at state expense of a member or members of the commission at annual meetings of the conference.

(d) The commission shall meet at least annually, and may meet at other times on call of the chairman. It shall elect a chairman and a secretary-treasurer from among its members.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 36

(House Bill No. 167)

AN ACT

RELATING TO MOTOR VEHICLES; PRESCRIBING THE STANDARDS FOR ROAD LIGHTING EQUIPMENT OF MOTOR VEHICLES, AND AMENDING SECTIONS 66-174L, 66-174m, 66-174t, AND 66-174u, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-174L, Arizona Code of 1939, is amended to read:

66-174L. MULTIPLE-BEAM ROAD LIGHTING EQUIPMENT. Except as hereinafter provided, the head lamps or the auxiliary driving lamp, or the auxiliary passing lamp, or combinations thereof, on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that selection may be made between distributions of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred fifty feet ahead for all conditions of loading.

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead; and under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1,

1955, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

Sec. 2. Section 66-174m, Arizona Code of 1939, is amended to read:

66-174m. USE OF MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT. (a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 66-173a, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light or composite beam specified in subsection (b) of section 66-174L shall be deemed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this Act other than the uppermost distribution of light specified in subsection (a) of section 66-174L.

Sec. 3. Section 66-174t, Arizona Code of 1939, is amended to read:

66-174t. SELLING OR USING LAMPS OR EQUIPMENT. (a) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semi-trailer or use upon any such vehicle any head lamp, auxiliary driving lamp, rear lamp, signal lamp, or reflector which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the department and approved by them.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle,

trailer, or semi-trailer any lamp or device mentioned in this section which has been approved by the department unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semi-trailer any lamps mentioned in this section unless said lamps are mounted and adjusted as to focus and aim in accordance with instructions of the department.

Sec. 4. Section 66-174u, Arizona Code of 1939, is amended to read:

66-174u. AUTHORITY OF DEPARTMENT WITH REFERENCE TO LIGHTING DEVICES. (a) The department is hereby authorized to approve or disapprove lighting devices, promulgate rules and enforce regulations and specifications for the approval of such lighting devices, their installation and aiming, within the standards prescribed in this article.

(b) The department is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this Act, within a reasonable time after such device has been submitted.

(c) The department is further authorized to set up the procedure which shall be followed when any device is submitted for approval.

(d) The department upon approving any such lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by them.

(e) The department shall publish lists of all lamps and devices by name and type which have been approved by them.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

CHAPTER 37

(Senate Bill No. 10)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation contained in subdivision 45, section 1, chapter 132, Laws of 1953, first regular session, there is appropriated to the superintendent of public instruction the sum of one thousand five hundred dollars ($1,500.00), to be available during the remainder of the forty-second fiscal year.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for the purposes and in the amounts following:

1. Travel, in state, one thousand dollars ($1,000.00); and

2. travel, out of state, five hundred dollars ($500.00).

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 18, 1954.

Filed in the Office of the Secretary of State—March 18, 1954.

CHAPTER 38

(Senate Bill No. 12)

AN ACT

RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTIONS 75-1702, 75-1703, 75-1704a, 75-1704b, 75-1706, 75-1706b, 75-1706c, 75-1706e, 75-1706f, 75-1708b, 75-1709, 75-1712; ADDING SECTION 75-1709a, AND REPEALING SECTIONS 75-1705 AND 75-1714, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 75-1702, Arizona Code of 1939, is amended to read:

75-1702. DECLARATION OF POLICY. It is declared to be the policy of the legislature to provide for the restoration and conservation of lands and soil resources of the state and the control and prevention of soil erosion, and thereby to preserve natural resources, preserve wildlife, protect the tax base, protect public lands, and in such manner to protect and

promote the public health, safety, and general welfare of the people.

Sec. 2. Section 75-1703, Arizona Code of 1939, is amended to read:

75-1703. DEFINITIONS. In this Act, unless the context otherwise requires:

1. "District" means a soil conservation district organized in accordance with the provisions of this Act;

2. "supervisor" means a member of the governing body of a district, elected or appointed in accordance with the provisions of this Act;

3. "department" means the state land department;

4. "commissioner" or "state soil conservation commissioner" means the state land commissioner;

5. "petition" means a petition for the creation or for the dissolution of a district;

6. "nominating petition" means a petition to nominate candidates for the office of supervisor;

7. "agency of the state" includes the government of the state and any subdivision, agency, or instrumentality, corporate or otherwise, of the state government;

8. "United States" or "agencies of the United States" includes the United States of America, the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America;

9. "government" or "governmental" includes the government of the state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;

10. "landowner" or "owner of land" means any person, firm, or corporation, including the state of Arizona, holding title to any land lying within a district organized or proposed to be organized under the provisions of this Act, and includes a buyer on contract who is the occupant of land; provided that, for the purposes of this Act, a holder of a certificate of purchase or lease from the state of Arizona shall be considered the "landowner" or "owner of land";

11. "qualified elector" means a person who is a land owner and a qualified elector of the state;

12. "due notice" means notice published at least twice with an interval of at least six days between the two publi-

cation dates, in a newspaper of general circulation within the area affected, or, if there is no newspaper of general circulation within the area affected, in a newspaper of general circulation in the county in which the area is situated;

13. "agricultural lands" means irrigated farm lands or dry farm lands devoted to the purpose of agriculture on the effective date of this Act;

14. "range lands" means lands other than agricultural lands and devoted principally to the purpose of grazing livestock;

15. "irrigation district" means an irrigation district, drainage district, water conservation district, agricultural improvement district, and, in addition thereto, includes any district, political subdivision, government agency, canal company, association, corporation or instrumentality of the state of Arizona, having territorial boundaries and heretofore or hereafter created or organized for the purpose of furnishing irrigation water for lands in the state of Arizona.

Sec. 3. Section 75-1704a, Arizona Code of 1939, is amended to read:

75-1704a. STATE SOIL CONSERVATION COMMISSIONER. (a) The powers, functions and duties heretofore vested in and imposed upon the state soil conservation committee are vested in and imposed upon the state soil conservation commissioner.

(b) The state land commissioner shall be ex-officio the state soil conservation commissioner. He shall serve as such without additional compensation, but shall be reimbursed for traveling and other expenses incurred in the performance of the duties imposed upon him by this Act.

(c) The commissioner may appoint an administrative officer of the division of soil conservation, a secretary, and such other assistants as may be required, assign their duties, define their powers, determine the amount of bond required of such as may be entrusted with funds or property, and fix their compensation.

(d) The commissioner shall adopt a seal, which shall be judicially noticed, and shall hold such public hearings, provide for the keeping of a record of all proceedings, and annual records of district operations, promulgate such orders, rules and regulations and perform such other acts as may be necessary to carry out the provisions of this Act.

Sec. 4. Section 75-1704b, Arizona Code of 1939, is amended to read:

75-1704b. DUTIES OF COMMISSIONER. The state soil conservation commissioner shall:

1. Offer appropriate assistance to the supervisors of soil conservation districts, in the carrying out of their powers and programs;

2. keep the supervisors of each soil conservation district informed of the activities and experiences of other districts, and facilitate cooperation and interchange of advice and experience between districts;

3. coordinate the programs of the several soil conservation districts in so far as possible, by advice and consultation;

4. require the supervisors of each district to file with him annually the records of the operations of the district for the preceding year, in such form and detail as he shall prescribe;

5. secure the cooperation and assistance of the United States, its agencies, and agencies of this state, in the work of soil conservation districts, as he deems to be in the best interest of the state; and

6. disseminate information throughout the state concerning the activities and program of the soil conservation districts.

Sec. 5. Section 75-1706, Arizona Code of 1939, is amended to read:

75-1706. PETITION FOR CREATION OF DISTRICT. (a) Twenty-five or more owners of land, but not less than twenty per cent of the owners of land lying within the limits of a proposed district, or if there be fewer than twenty-five owners of land in the proposed district, not less than twenty-five per cent of all such owners, may petition the commissioner, asking that a soil conservation district be organized. The petition shall contain:

1. The proposed name of the district;

2. a declaration that there is need, in the interest of preservation of property, health, safety, and public welfare, for a soil conservation district in the territory described;

3. a description of the exterior boundaries of the territory proposed to be organized;

4. a request that the commissioner: 1. Determine that the district be created; 2. define the boundaries of the proposed district, and, 3. direct that a referendum be held within the territory so defined on the question of the creation of a district.

Sec. 6. Section 75-1706b, Arizona Code of 1939, is amended to read:

75-1706b. DETERMINATION BY COMMISSIONER. (a) If, after final hearing upon a petition, the commissioner determines, upon the facts presented and other relevant information, that a soil conservation district within the territory considered is in the public interest, he shall record such determination and define the boundaries of the district. In defining the boundaries, he shall consider: 1. The topography of the area; 2. the character of soils; 3. the distribution of erosion; 4. prevailing land use practices; 5. the desirability and necessity of including within the boundaries of the district the particular lands under consideration and the benefits to be received from being included; 6. the relation of the proposed area to existing watersheds and agricultural regions, and to other districts already organized or proposed for organization, and, 7. such other physical, geographical, and economic factors as are relevant. In defining the boundaries of the district, the commissioner shall not include therein any area, land or property of any person or persons who do not desire to have such area, land or property included in such district. Notwithstanding anything in this Act to the contrary, lands held under certificate of purchase or lease from the state of Arizona shall not be included in any district if the holder or holders of certificates of purchase or the leases therefor do not desire such lands included.

(b) In the event the commissioner determines that it is not in the public interest for a district to function in the territory considered, he shall record such determination and deny the petition.

(c) After the expiration of eighteen months from the date of entry of a determination by the commissioner that operation of a proposed district is not administratively and economically feasible, and denial of a petition pursuant to that determination, petitions may again be filed and action taken in accordance with the provisions of this Act.

Sec. 7. Section 75-1706c, Arizona Code of 1939 is amended to read:

75-1706c. REFERENDUM AND ELECTION. (a) Within a reasonable time after the commissioner has recorded his determination that it is in the public interest for the organization of a district and defined the boundaries thereof, he shall hold a referendum within the proposed district upon the question of the creation of the district, and an election to elect three supervisors. He shall promulgate regulations for the conduct of such referendum and election and prescribe

procedure for the determination of persons eligible to vote. The referendum and election of supervisors shall be conducted by separate ballots.

(b) The ballot for the referendum shall: 1. Describe the boundaries of the proposed district as determined by the commissioner; 2. contain the propositions: "For the creation of a soil conservation district" and "against the creation of a soil conservation district", with a square after each proposition, and, 3. an instruction to mark an X in the square after the proposition for which the voter wishes to vote.

(c) Only owners of land lying within the boundaries of the territory described shall be eligible to vote on the referendum, but any such owner who is not a qualified elector of the district, or any owner who is a qualified elector but is unable, because of illness or absence from the district, to appear at the polls, may appoint in writing, on a form prescribed by the commissioner, a qualified elector of the district as his agent or proxy. The appointment of agent or proxy shall be presented to the board of election, and if it is found to be bona fide and in proper form, the holder thereof shall be allowed to vote in behalf of the owner executing the same, on the question of creation of the district only. The appointment shall be filed with the ballots and other election returns.

(d) Candidates for supervisor shall file nomination petitions with the commissioner in the manner prescribed by the commissioner. Any qualified elector of the proposed district may sign the petitions of not more than three candidates. The names of candidates shall appear on the election ballot in alphabetical order by surnames, with a square opposite each name, and an instruction to mark an X in the squares opposite the names of not more than three candidates for whom the voter wishes to vote.

(e) No informality in the conduct of any referendum or election held under the provisions of this Act, or in any matter relating thereto, shall invalidate the result thereof, if notice shall have been given substantially as prescribed in section 75-1706a, and the referendum and election shall have been fairly conducted. All expenses of any referendum and election shall be paid by the commissioner.

Sec. 8. Section 75-1706e, Arizona Code of 1939, is amended to read:

75-1706e. PROCEEDINGS BY ORGANIZED DISTRICT. (a) A district is declared to be organized, and, shall be a body corporate upon the taking of the following steps:

1. The supervisors elected as provided in section 75-1706d shall present to the secretary of state an application, signed and acknowledged by each supervisor, setting forth: 1a. That a petition for the creation of the district was approved by the state soil conservation commissioner pursuant to the provisions of this Act; 1b. the name and official residence of each supervisor, and a certified copy of their notification of election; 1c. the name proposed for the district; 1d. the location of the proposed office of the supervisors of the district. The application shall be accompanied by a certificate of the commissioner which shall set forth; 1e. the boundaries of the district as determined by him; 1f. that a petition was filed, notice issued, and a hearing held as prescribed by law; 1g. that for a soil conservation district to function in the proposed territory was determined by the commissioner to be in the public interest; 1h. that notice was given and a referendum on the question of the creation of the district and an election of supervisors were held; 1i. that the results of the referendum showed not less than sixty-five per cent of the votes cast, representing not less than fifty per cent of the owners of land, to be in favor of the creation of the district, and, 1j. that the supervisors signing the application are the duly elected supervisors of the district.

2. The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with nor so similar to that of any other soil conservation district as to lead to confusion, he shall record them. If the name proposed is identical with or so similar to another soil conservation district as to lead to confusion, he shall certify that fact to the commissioner, who shall submit another name. Upon receipt of a new name, free from defects, the secretary of state shall record the application and statement.

(b) The secretary of state shall issue to the supervisors a certificate, under the seal of the state, certifying the organization of the district, and record the certificate with the application and statement. The district shall include the territory as determined by the commissioner, but it shall not include any area within the boundaries of another district, nor shall it include any area, land or property of or lands held under certificate of purchase or lease from the state of Arizona by any person or persons, which area, land, property or leaseholds lie within the geographical limits of said district but the owners or holders of certificates of purchase or lessees of which do not desire to come within the district.

(c) In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have

been established in accordance with the provisions of this Act upon proof of the issuance of the certificate of organization by the secretary of state. A copy of the certificate certified by the secretary of state shall be admissible in evidence in any suit, action, or proceeding, and shall be proof of the filing and contents thereof.

Sec. 9. Section 75-1706f, Arizona Code of 1939, is amended to read:

75-1706f. ADDITION OF TERRITORY. Territory adjacent to an organized district may be included therein upon a petition signed by seventy-five per cent of the owners of land other than publicly owned within the territory proposed for addition filed with the district supervisors, requesting the inclusion of their lands in the district. The supervisors shall hold a public hearing upon the advisability and feasibility of including the additional territory, notice of which shall be given by posting at least two weeks prior to the date of the hearing in the office of the supervisors, and such other public notice as the supervisors may deem proper. If, after such hearing, the supervisors recommend and the commissioner, upon a review of the findings of the supervisors, shall approve, the additional land shall be considered a part of the district. The commissioner shall certify the action to the secretary of state, and the certificate shall be filed with the original certificate of organization of the district. No area, lands, property or lands held under lease or certificate of purchase from the state of Arizona shall be included in any territory added to any district if the owner or owners of such area, lands, property, certificate of purchase or leaseholds do not desire the same to be included in such district.

Sec. 10. Section 75-1708b, Arizona Code of 1939, is amended to read:

75-1708b. POWERS AND DUTIES OF SUPERVISORS. (a) The supervisors shall: 1. Provide for the keeping of a record of all proceedings, resolutions, regulations, and orders issued or adopted, and, 2. furnish to the commissioner copies of such ordinances, rules, regulations, orders, contracts, forms or other documents adopted or employed, and such information concerning their activities as the commissioner may request.

(b) The supervisors may delegate to the chairman or any member, or to any agent or employee, such powers and duties as they may deem proper.

Sec. 11. Section 75-1709, Arizona Code of 1939, is amended to read:

75-1709. POWERS OF DISTRICT. (a) A soil conservation district is empowered to:

1. Conduct surveys, investigations, and research relating to the character of the soil, soil erosion prevention within a farm or ranch, methods of cultivation, farm and range practices, seeding, eradication of noxious growths, and such other measures as will aid farm and range operations; disseminate information pertaining thereto, and carry on research programs with or without the cooperation of the state, the United States agencies thereof;

2. conduct demonstration projects within the district, on lands owned or controlled by the state or any of its agencies, with the consent and cooperation of the agency having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner thereof or the necessary rights or interests therein, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion and soil washing prevented and controlled;

3. cooperate and enter into agreements with a land owner, operator or any agency or the state or federal government to carry on programs of soil erosion prevention, methods of cultivation, cropping practices, land leveling and improvement on agricultural lands; and programs limited to methods of re-seeding and the eradication of noxious growth on grazing lands, all within the limits of an individual farm or ranch and subject to such conditions as the supervisors may deem necessary;

4. acquire, by purchase, exchange, lease, or otherwise, any property, real or personal, or rights or interest therein; maintain, administer, and improve any properties acquired; receive income therefrom and expend the same in carrying out the purpose of this Act, and sale, lease or otherwise dispose of any property or interest therein in furtherance of the purposes of this Act;

5. make available, on such terms as it shall prescribe, to land owners within the district, agricultural and engineering machinery and equipment, fertilizer, seed and such other material or equipment as will assist the land owners to carry on operations upon their lands for the purposes and programs authorized by this Act;

6. develop, publish, and bring to the attention of owners of lands within the district, comprehensive plans for the conservation of soil resources within the district, which plans shall specify in such detail as may be feasible the acts, pro-

cedures, performances, and avoidances necessary or desirable for the effectuation of the plans;

7. sue and be sued in the name of the district; have a seal, which shall be judicially noticed; have perpetual succession unless terminated as provided in this Act; make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; and make, amend and repeal rules and regulations not inconsistent with this Act to carry into effect its purposes and powers;

8. accept donations, gifts, and contributions in money, services, materials, or otherwise, and to use or expend the same in carrying on its operations.

(b) No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized under this Act unless specifically stated therein.

(c) After the formation of any district under the provisions of this Act, all participation hereunder shall be purely voluntary, any provision of this Act to the contrary notwithstanding.

Sec. 12. Article 17, chapter 75, Arizona Code of 1939, is amended by adding section 75-1709a, to read:

75-1709a. LIMITATION OF POWERS. (a) Nothing in this Act shall affect existing water rights or in any manner contravene the provisions of chapter 75, articles 1 to 16 inclusive, Arizona Code of 1939, or any amendments thereto.

(b) No soil conservation district or government shall undertake or cooperate in the planning, construction, improvement or maintenance of any structure, dike or channel for the storage, spreading, diversion or conveyance of water resulting in the consumptive use of water, on any water shed or drainage area which supplies or contributes water for the irrigation of lands within any irrigation district or for the irrigation of other lands having established rights in such water, without first submitting the plans therefor to the governing body of such irrigation district or districts; the governing body shall within forty-five days after receipt of such plans, either approve or reject the same. Such approval may be given for range lands soil conservation practices by agreement on an annual or continuing basis between the governing bodies of the affected irrigation districts and the supervisors of such soil conservation districts. In the event the governing body fails to approve or reject the plans within forty-five days, they shall be deemed to have approved the

same. In the event the governing body rejects the plans, the soil conservation district or government proposing such plans may appeal to the commissioner. Such appeal must be taken within forty-five days after such decision. The commissioner shall review such decision, and may approve such plans only if after investigation and hearing he finds that the work proposed to be done will not result in the consumptive use of water. An appeal from the decision of the commissioner may be taken by either party pursuant to the provisions of section 11-210, Arizona Code of 1939, as amended by subsection (c) of chapter 58, section 4, Laws of 1950, first special session; provided that the provisions hereof shall not preclude the use of any other legal remedy now or hereafter otherwise available to any person or interested party.

(c) The diversion, application or use of water by means of any improvement constructed, maintained or operated under the provisions of this Act shall never be construed to be an appropriation of or vest any right to the use of public water.

Sec. 13. Section 75-1712, Arizona Code of 1939, is amended to read:

75-1712. DISSOLUTION OF DISTRICT. (a) At any time after five years following the organization of a district, any twenty-five owners of land or not less than twenty per cent of the owners of land lying within the boundaries of the district may file a petition with the commissioner praying that the operations of the district be terminated and its existence discontinued. The commissioner shall conduct such public meetings and hearings upon the petition as may be necessary to assist in the consideration thereof. Within sixty days after the filing of the petition, the commissioner shall give notice of the holding of a referendum, and shall supervise the same and issue appropriate regulations governing the conduct thereof. The question shall be submitted by ballots upon which the propositions: "For terminating the existence of the (name of district)" and "Against terminating the existence of the (name of district)," shall be printed, with a square after each proposition and an instruction to mark an X in the square following the proposition for which the voter desires to vote. Only owners of lands lying within the boundaries of the district shall be eligible to vote on the referendum. No informality in the conduct of the referendum or in any matter relating thereto shall invalidate the referendum or the result thereof, if due notice thereof shall have been given substantially as provided in this Act and the referendum shall have been fairly conducted.

(b) If sixty-five per cent of the landowners voting thereon vote to terminate the existence of a district, the commission-

er shall advise the supervisors to conclude the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of the sale to the state treasury. The supervisors shall thereupon file a verified application with the secretary of state for discontinuance of the district, together with the certificate of the commissioner setting forth the determination of the commissioner that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and shall include a full accounting of the properties and the proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution, and shall record the same in his office.

(c) The state soil conservation commissioner shall not entertain a petition for the discontinuance of any district, nor conduct a referendum thereon, nor make any determination pursuant thereto, more often than once in five years.

Sec. 14. REPEAL. Sections 75-1705 and 75-1714, Arizona Code of 1939, are repealed.

Sec. 15. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 18, 1954.

Filed in the Office of the Secretary of State—March 18, 1954.

CHAPTER 39

(Senate Bill No. 20)

AN ACT

RELATING TO THE LICENSING OF MOTOR VEHICLES; AUTHORIZING AN ALTERNATIVE METHOD OF LICENSING TRUCK TRACTORS AND TRAILING UNITS, AND AMENDING ARTICLE 2, CHAPTER 66, ARIZONA CODE OF 1939, BY ADDING SECTION 66-256a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 66, Arizona Code of 1939, is amended by adding section 66-256a, to read:

66-256a. OPTIONAL REGISTRATION AND LICENSING OF TRUCK TRACTORS. (a) The owner of any motor vehicle which is propelled by a power supplying unit (hereinafter called a truck tractor) and which is intended for use on the highways of this state in a combination or combinations with one or more trailing vehicles may, at his option and in lieu of registration and payment of fees otherwise prescribed by law, register and license such vehicle and the trailing vehicles to be towed by it at any time in the following manner:

1. By paying the registration, plate and unladen weight fees required for such truck tractor under the provisions of section 66-256, and,

2. By paying an unladen weight fee equal to one and one-half times the maximum unladen weight fee prescribed by section 66-256, in addition to the registration fee, for the maximum number of trailing vehicles intended to be towed by such truck tractor in this state at any one time.

(b) Each truck tractor registered and licensed under the optional provision of this section shall receive and have affixed thereto the registration plates for such truck tractor and the maximum size and number of trailing units to be towed thereby at any one time, and all trailing units towed thereby shall be deemed to be fully registered and licensed for operation in this state without the affixing of any license plate or plates and regardless of any license plate or plates that may be affixed thereto; and without the payment of any additional fee or fees, the owner of such truck tractor, if he so desires, may be issued a distinctive plate for each trailing vehicle to be affixed to the rear thereof, which will constitute full registration and license for operation of such trailing vehicles only when used in combination with a truck tractor properly registered under this section; provided, however, that trailing units which are subject to the payment of a license tax under the provisions of Article 9, section 11, Constitution of Arizona, shall be required to procure and affix the distinctive plate to each such unit.

Sec. 2. EFFECTIVE DATE. This Act shall become effective July 1, 1954.

Approved by the Governor—March 19, 1954.

Filed in the Office of the Secretary of State—March 19, 1954.

CHAPTER 40

(Senate Bill No. 61)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE LIVESTOCK SANITARY BOARD FOR EXPENSES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation made under the terms of subdivision 62, section 1, chapter 132, Laws of 1953, first regular session, the sum of one thousand seven hundred dollars ($1,700.00) is appropriated to the livestock sanitary board to pay for the following: Additional personal services, one thousand three hundred dollars ($1,300.00); additional travel expense, four hundred dollars ($400.00).

Sec. 2. QUARTERLY ALLOTMENTS. The appropriation made under the terms of section 1 is exempt from the provisions of section 10-925, Arizona Code of 1939, relating to quarterly allotments.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 19, 1954.

Filed in the Office of the Secretary of State—March 19, 1954.

CHAPTER 41

(Senate Bill No. 77)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE MINE INSPECTOR FOR CURRENT EXPENSES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation made under the terms of subdivision 70, section 1,

chapter 132, Laws of 1953, first regular session, the sum of three hundred dollars is appropriated to the state mine inspector for the purpose of paying current expenses.

Sec. 2. EXEMPTION. This appropriation is not subject to the provisions of section 10-925, Arizona Code of 1939, relating to quarterly allotments.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 19, 1954.

Filed in the Office of the Secretary of State—March 19, 1954.

CHAPTER 42

(Senate Bill No. 117)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE ARIZONA HIGHWAY DEPARTMENT OUT OF UNEXPENDED AND UNALLOCATED BALANCES REMAINING IN THE STATE HIGHWAY FUND, FOR A BRIDGE ACROSS THE SAN PEDRO RIVER.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of eighty thousand dollars is appropriated to the Arizona highway department, out of any unexpended and unallocated balances remaining in the state highway fund.

Sec. 2. PURPOSE. The purpose of the appropriation made under the terms of section 1 is to enable the Arizona highway department to provide a bridge, and the necessary approaches thereto, across the San Pedro river at the point where the San Pedro river crosses state highway 90 between Fort Huachuca and the point where state highway 90 and United States interstate highway 80 join.

Sec. 3. REVERSION. Any balances of the appropriation made under the terms of section 1 shall revert to the state highway fund on June 30, 1955.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 19, 1954.

Filed in the Office of the Secretary of State—March 19, 1954.

CHAPTER 43

(House Bill No. 87)

AN ACT

RELATING TO THE CODE COMMISSION; AMENDING SECTION 2, CHAPTER 1, LAWS OF 1953, FIRST REGULAR SESSION TO EXTEND THE TIME WITHIN WHICH THE CODE COMMISSION SHALL COMPLETE ITS WORK, AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 2, chapter 1, Laws of 1953, first regular session, is amended to read:

Sec. 2. DUTIES. The commission shall cause the Laws of the State of Arizona to be revised, codified and annotated, such revision, codification and annotation to be thorough and complete. The commission shall not, however, undertake to make any change of existing Laws, but shall harmonize, clarify and remove inconsistencies where the same are found to exist, it being the intention of this Act that the commission shall in no manner assume to exercise legislative power, but shall otherwise seek to bring about the thorough revision, codification and annotation of the Laws of the State of Arizona. The commission shall cause to be prepared a full index to the code and the annotations thereto. The commission shall cause to be prepared proposed legislation wherever necessary to harmonize, clarify and make effective the Laws of the state. The commission shall complete its duties under this Act on or before February 1, 1955.

Sec. 2. APPROPRIATION. In addition to the funds appropriated to the code commission under the provisions of section 6, chapter 1, Laws of 1953, first regular session, there is appropriated the sum of sixty-five thousand dollars for the

preparing, printing and distribution of the revised statutes of 1955.

Sec. 3. EXEMPTION. The appropriation made under the terms of section 2 is exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations.

Sec. 4. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 19, 1954.

Filed in the Office of the Secretary of State—March 19, 1954.

CHAPTER 44

(Senate Bill No. 33)

AN ACT

RELATING TO THE CORPORATION COMMISSION; PROVIDING FOR THE BONDING OF THE CASHIER AND ASSISTANT CASHIERS IN THE ACCOUNTING DIVISION, AND AMENDING ARTICLE 1, CHAPTER 53, ARIZONA CODE OF 1939, BY ADDING SECTION 53-101a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 1, chapter 53, Arizona Code of 1939, is amended by adding section 53-101a, to read:

53-101a. BONDS FOR CASHIER AND ASSISTANT CASHIERS IN THE ACCOUNTING DIVISION. Official bonds approved as to form by the department of law, and as to sufficiency by the corporation commission, shall be executed by the cashier and assistant cashiers in the accounting division and in the amounts as follows: cashier, ten thousand dollars; assistant cashiers, each five thousand dollars.

Approved by the Governor—March 22, 1954.

Filed in the Office of the Secretary of State—March 22, 1954.

CHAPTER 45

(Senate Bill No. 94)

AN ACT

RELATING TO PUBLIC FINANCES; PROVIDING FOR THE ISSUANCE OF DUPLICATE WARRANTS IN LIEU OF LOST OR DESTROYED AUDITOR'S WARRANTS, AND AMENDING SECTION 10-928, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 10-928, Arizona Code of 1939, is amended to read:

10-928. DUPLICATE WARRANTS, WHEN AND HOW ISSUED. Whenever it is made to appear to the satisfaction of the state auditor, by affidavit or otherwise, that any auditor's warrant has been lost or destroyed prior to payment, and there is no reasonable probability of its being found or presented, the state auditor may issue to the owner a duplicate of such lost or destroyed warrant, provided, that before issuing such duplicate the state auditor shall send a written stop payment notice to the state treasurer giving the number, amount, and date of warrant, the payee, and the fund on which drawn. In addition, a bond equal to the face amount of the lost or destroyed warrant shall be required by the state auditor in all cases where the amount of the lost or destroyed warrant is less than two hundred dollars ($200.00), and in the case of a lost or destroyed warrant having a face value of two hundred dollars ($200.00) or more, a duplicate warrant may be issued without bond after the expiration of the six-month period next succeeding the date the affidavit is filed, or may be issued immediately upon the posting by the owner of the lost or destroyed warrant of a bond in an amount equal to the face value of such lost or destroyed warrant. The bond shall be approved as to form by the attorney general, payable to the state of Arizona, with surety to the approval of the state auditor and conditioned to make good any loss or damage sustained by the state or any person or persons on account of the issuance of said duplicate. The duplicate warrant issued shall be plainly stamped or marked so that its character may be readily and easily ascertained, and such duplicate warrant issued under authority of this section shall constitute full and sufficient authority to the state treasurer for the disbursement of public moneys in the amount set forth on said duplicate warrants, and the state treasurer shall not pay any warrant on which a stop payment

notice has been made, unless the state auditor has released the stop payment notice in writing.

Approved by the Governor—March 22, 1954.

Filed in the Office of the Secretary of State—March 22, 1954.

CHAPTER 46

(House Bill No. 12)

AN ACT

RELATING TO ELECTIONS; PRESCRIBING THE NUMBER, METHOD OF APPOINTMENT, AND QUALIFICATIONS OF DEPUTY REGISTRATION OFFICERS, AND AMENDING SECTION 55-202a, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 55-202a, Arizona Code of 1939, is amended to read:

55-202a. DEPUTY REGISTRATION OFFICERS. When the county recorder shall deem it necessary or advisable, in order to expedite or facilitate the registration of electors in any precinct, he may commission deputy registration officers for such purpose. He may appoint in each precinct in the county deputy registrars equal in number to not more than twice the number of political parties having candidates on the ballot in the last general election. Before making any such appointment he shall request the county chairman of each such political party to recommend persons for appointment, and if a county chairman shall within ten (10) days of such request nominate persons who are otherwise qualified, the persons appointed shall be selected from those so recommended. Each such political party shall be entitled to an equal number of deputy registrars in each precinct. Deputy registrars must be qualified electors of the precinct for which they are appointed, but may take registrations in any precinct in the county. No person who is a public officer or a candidate for office, other than a candidate for the office of precinct committeeman, shall be appointed a deputy registrar. A person appointed deputy registrar shall have a fixed office, place of business or residence; shall be qualified to take acknowledgments of affidavits of registration, and shall serve without pay.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 47

(House Bill No. 165)

AN ACT

RELATING TO CONTRACTS FOR SUPPLIES AND BUILDINGS BY COUNTY BOARDS OF SUPERVISORS, AND AMENDING SECTION 17-312, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 17-312, Arizona Code of 1939, is amended to read:

17-312. CONTRACT FOR SUPPLIES AND BUILDINGS; COMPETITIVE BIDS. All books, stationery, and supplies for county institutions for the ensuing year, and all erections of, repairs to and alteration in any county building exceeding in value the sum of five hundred dollars ($500.00), shall be let by contract, after advertisement made for bids therefor for not less than ten days nor more than four weeks in the official paper of the county. Such advertisements shall state that sealed bids will be received at the office of the board of supervisors until a date therein named, the nature of the bids, and that specifications therefor may be seen at the office of said board; or, it may call for specifications and bids. The board shall let the contract to the lowest bidder, or may reject all bids and readvertise.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 48

(House Bill No. 184)

AN ACT

RELATING TO THE EXCISE REVENUE ACT; PRESCRIBING METHODS OF TRANSFERRING SALES TAX LI-

CENSES, AND AMENDING SECTION 73-1312, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-1312, Arizona Code of 1939, is amended to read:

73-1312. LICENSES. (a) Every person having a gross proceeds of sales or gross income upon which a privilege tax is imposed by this article, desiring to engage or continue in business, shall make application to the commission for a privilege license, accompanied by a fee of one dollar, and no such person shall engage or continue in business until he shall have obtained such license. Provided, however, that such licensees as are operating under the existing laws shall be deemed to have complied with the provisions of this section.

(b) If the applicant is not in arrears in the payment of any tax imposed by this article, the commission shall issue a license authorizing him to engage and continue in such business, upon condition that he shall comply with the provision of this article. Such license shall be continuous.

(c) The privilege license prescribed herein to engage or continue in a business upon which a privilege tax is imposed shall not be transferable upon a change of ownership or location of the business.

For the purpose of this subsection: "Transferable" means any conveyance or change of the right or privilege to engage or continue in business by virtue of the issuance of the privlege license; "ownership" means any right, title or interest in the business; "location" means the firm, business and mailing address appearing in the application for license and on the privilege license.

(d) Whenever the ownership or location of a business upon which a privilege tax is imposed by this Act has been changed within the meaning of subsection (c) the licensee shall surrender the license to the tax commission. The license shall be re-issued upon application by the taxpayer and payment of the one dollar fee to the new owners or for the new location.

(e) A person engaged in or conducting a business in two or more locations, shall procure a license for each of such locations. This requirement shall not be construed as conflicting with section 73-1310 of this article.

(f) Any person who violates any provision of this section shall be guilty of a misdemeanor and upon conviction fined,

for each offense, not less than ten dollars, or imprisoned not less than ten days.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 49

(House Bill No. 194)

AN ACT

RELATING TO DECEDENTS' ESTATES, AND AMENDING SECTION 38-1101, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 38-1101, Arizona Code of 1939, is amended to read:

38-1101. POSSESSION OF ESTATE AND OPERATION OF BUSINESS OF DECEDENT. (a) The executor or administrator shall take into his possession all the estate of the decedent, real and personal, and collect all debts due to the decedent or to the estate. For the purpose of bringing actions to quiet the title or for partition of such estate, the possession of the executor or administrator is the possession of the heirs or devisees; such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator for the purpose of administration.

(b) An executor, administrator, or special administrator, in the event he deems it to be to the best interest of the estate and those interested therein, may petition the court for authority to continue the operation of a business of decedent. Upon the filing of such petition, notice of hearing thereon shall be given to all persons interested in the estate in such manner as may be directed by the court. At the hearing, all persons interested in the estate may appear and contest the petition by filing written objections. If, after hearing, the court determines that it is to the best interest of the estate and those interested therein that operation of a business of decedent shall be continued, it shall make and enter an order authorizing the executor, administrator, or special administrator to continue the operation of a business of decedent to such an extent and subject to such restrictions as may seem to the court to be to the best interest of the estate and

those interested therein. No such authority shall be granted to a personal representative if the will prohibits the same. Following entry of the aforementioned order, sales of personal property made in the regular course of the business authorized to be continued shall not require confirmation notwithstanding the provisions of sections 38-1218a, 38-1223, 38-1224 and 38-1225, Arizona Code of 1939.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 50

(House Bill No. 228)

AN ACT

RELATING TO SANITARY DISTRICTS; PROVIDING AN ELECTION TO DETERMINE THE METHOD OF FURNISHING SEWER SERVICES, AND AMENDING ARTICLE 10, CHAPTER 68, ARIZONA CODE OF 1939, BY ADDING SECTION 68-1011a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 10, chapter 68, Arizona Code of 1939, is amended by adding section 68-1011a, to read:

68-1011a. ELECTIONS. In the event the engineer's report required by this article recommends that sewer service for the sanitary district can be provided by a method other than construction of facilities by the district and the board of directors of the district desires to adopt such method and enter into a contract with another sanitary district, municipality or other governmental subdivision for sewer service for the district, the board shall submit to the qualified electors of the district who are eligible to vote in bond elections the question of whether the district shall enter into such a contract for sewer service. The proposition of whether sewer service for the district shall be provided by contract may be submitted to the qualified electors of the district in a separate election called for that purpose or in conjunction with a

bond election called pursuant to this article, or as an alternate proposition to the issuance of bonds by the district. Any election called pursuant to this section shall be called and held as provided in section 68-1011.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 51

(House Bill No. 243)

AN ACT

RELATING TO PUBLIC HEALTH; AUTHORIZING THE STATE DEPARTMENT OF HEALTH TO CHARGE CERTAIN FEES, AND AMENDING ARTICLE 1, CHAPTER 68, ARIZONA CODE OF 1939, BY ADDING SECTION 68-118a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 1, chapter 68, Arizona Code of 1939, is amended by adding section 68-118a, to read:

68-118a. FEES. (a) The state department of health is authorized to charge fees for the following:

1. Rental of films and film strips; and,
2. Laboratory tests.

(b) The amount of the fees charged for such services shall not exceed the cost to the department of rendering them, and all such fees shall be remitted, at least once each month, to the state treasurer and placed in the general fund, but no such rental or laboratory fee shall be charged to or collected from a county, city, town, school, school district or any political subdivision thereof.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 52

(Senate Bill No. 9)

AN ACT

RELATING TO AGRICULTURE AND HORTICULTURE; AMENDING SECTIONS 49-101, 49-103, 49-104 AND 49-112, ARIZONA CODE OF 1939; AMENDING ARTICLE 1, CHAPTER 49, BY ADDING SECTIONS 49-101a, 49-104a, 49-115, 49-116, 49-117, 49-118 AND 49-119, AND REPEALING SECTIONS 49-105, 49-110 AND 49-114.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 49-101, Arizona Code of 1939, is amended to read:

49-101. DEFINITIONS. In this article, unless the context otherwise requires:

1. "crop pests" includes all insects, mites, spiders, and every other animal organism which is injurious, or likely to become injurious to any domesticated, cultivated, native or wild plant, or to the product of any plant.

2. "crop diseases" includes all fungus, bacteria, viruses, or other organisms of every kind and any unknown cause which is or may be found to be injurious, or likely to be or to become injurious, to any domesticated or cultivated plant, or to the product of any such plant.

3. "plant" includes every kind of vegetation, wild or domesticated, and any part thereof, as well as the seed, fruit or any other natural product of such vegetation.

4. "nursery stock" includes all trees, shrubs, vines, cacti, agaves, succulents, herbaceous plants whether annuals, biennials or perennials, bulbs, corms, rizomes, roots, decorative plant material, flowers, fruit pits or seeds, cuttings, buds, grafts, scions and other plants intended for sale, gift or propagation, either cultivated or collected in the wild, except seeds as defined by the Arizona seed law.

5. "shipment" includes anything which may be the host or may contain or carry or may be susceptible of containing, carrying or having present on, in or about it, any plant pest or plant disease, brought into the state or transported therein.

6. "commission" means the Arizona commission of agriculture and horticulture.

7. "entomologist" means the state entomologist of Arizona.

Sec. 2. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-101a, to read:

49-101a. COMMISSION CREATED. (a) The Arizona commission of agriculture and horticulture shall consist of three members appointed by the governor with the advice and consent of the Senate for terms of six years. The term of only one member shall expire on June 30 of each even numbered year. Each member shall be a qualified elector and the owner of a commercial orchard, grove or improved agricultural land within the state and whose principal occupation is fruit growing or farming. One member shall be identified with the cotton growing industry. If a member shall cease to possess any qualification specified, his office shall be automatically vacated. A commissioner may be removed by the governor for cause. Appointment to fill a vacancy caused other than by expiration of term shall be for the unexpired portion thereof.

(b) The chairman of the commission shall receive a salary of five hundred dollars per annum. For attendance at meetings, the other members shall receive fifteen dollars per day, but they shall not be paid for more than sixty days attendance per annum. All members shall receive necessary expenses as provided in section 12-713, Arizona Code of 1939.

Sec. 3. Sec. 49-103, Arizona Code of 1939, is amended to read:

49-103. STATE ENTOMOLOGIST. The commission shall appoint an entomologist qualified by scientific training and practical experience, with the official title of state entomologist, and at such salary as the commission may fix, not to exceed six thousand six hundred dollars per annum. He shall take the official oath and furnish bond to the state, to be approved by the governor, in the sum of twenty-five hundred dollars for the faithful performance of his duties.

Sec. 4. Sec. 49-104, Arizona Code of 1939, is amended to read:

49-104. POWERS AND DUTIES OF ENTOMOLOGIST. The entomologist shall:

1. With the advice and consent of the commission, appoint and fix the compensation of all clerks, inspectors, and employees necessary to carry out the provisions of this article and the rules, regulations, and orders made pursuant hereto. Such employees shall be under his direction and control.

2. Keep the commission informed concerning dangers to the agricultural and horticultural interests of the state from crop pests and diseases. He shall act as technical and expert adviser to the commission on all matters pertaining to his office and see that the rules, regulations and orders of the commission and the provisions of this article are faithfully enforced and executed. During the intervals between the meetings of the commission, the entomologist shall have power to take all necessary and proper means, by court action or otherwise, to enforce the provisions of this article, and the rules, regulations and orders of the commission.

3. Prepare and have printed, at least once each year, bulletins containing such information as he deems proper and the rules, regulations, and orders of the commission revised to date of publication, and mail copies to the farm bureau and to each common carrier transporting plants and other agricultural products into or within the state.

4. Sign all vouchers for the expenditure of money under the provisions of this Act, which shall be paid as other claims against the state, out of the appropriation for the commission.

Sec. 5. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-104a, to read:

49-104a. POWERS AND DUTIES OF COMMISSION. The commission shall have full power and authority to:

1. Deal with crop pests and crop diseases, and with all plants which are infested or infected with any crop pests or diseases, or which are the host or the carrier or the means of propagating or disseminating any crop pest or disease.

2. Make and enforce rules, regulations and orders necessary to carry out the purposes of this article to prevent the introduction of any crop pest or disease into the state, and to prevent the propagation or dissemination of any crop pest or disease from one locality to another within the state, and to control, eradicate, or suppress any crop pest or disease.

3. Adopt and enforce all rules, regulations and orders recommended by the entomologist, which are within the authority granted by this article, and which: 3a. fix the terms and conditions upon which plants, or any other article or thing of any nature whatsoever, likely to be infested or infected with or to be the carrier of, or the means of propagating or disseminating any crop pest or disease, may be shipped or brought into the state or moved from one locality to another therein, or, 3b. prohibit from being shipped, or brought

into the state, or moved from one locality to another therein, any plants or things likely to be infected with, or the carrier of, or the means of spreading, propagating or disseminating any crop pest or disease.

4. Cooperate with the secretary of agriculture of the United States and his representatives in interstate matters pertaining to the objects of this article.

5. Proceed in accordance with law to abate any public nuisance prohibited by the provisions of this article.

Sec. 6. Sec. 49-112, Arizona Code of 1939, is amended to read:

49-112. INFECTED SHIPMENTS. (a) It is unlawful for a person knowingly to bring into the state any plant, plant product or other article that is infested by, or that harbors dangerously injurious insects or plant diseases.

(b) When any shipment of such plant or other article imported or brought into the state is found to be infested by, or to harbor insect or other pests dangerous to the interests of the state, the commission shall notify, in writing, the shipper, consignee, or owner, and shall require such person, at his option, immediately to reship from the state, or destroy, such plant or other article in whole or in part, as the commission deems necessary, at owner's expense. If the shipper, consignee, or owner neglects or refuses to reship from the state, or destroy, the infested shipment, the commission shall destroy such infested shipment.

Sec. 7. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-115, to read:

49-115. POWER OF DEPUTY, INSPECTOR OR AGENT. Whenever any power or authority is given by any provision of this article to any person, it may be exercised by any deputy, inspector or agent duly authorized by such person

Sec. 8. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-116, to read:

49-116. POWER OF PERSON IN WHOM ENFORCEMENT IS VESTED. Any person in whom the enforcement of any provision of this article is vested has the power of a peace officer as to such enforcement.

Sec. 9. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-117, to read:

49-117. FAILURE TO STOP AT INSPECTION STATION. It is unlawful for a person in possession or in control of a vehicle to fail to stop such vehicle at a properly signed inspection station, or upon demand of a plant quarantine officer, for the purpose of determining whether any quarantine established pursuant to the provisions of law is being violated.

Sec. 10. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-118, to read:

49-118. CONCEALMENT OF PLANTS OR AGRICULTURAL PRODUCTS. It is unlawful for a person to conceal from a quarantine officer any plant or plant product or to fail to present the same or any quarantined article for inspection at the request of such officer.

Sec. 11. Article 1, chapter 49, Arizona Code of 1939, is amended by adding section 49-119, to read:

49-119. SEVERABILITY. If any provision of this article be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this article are declared to be severable.

Sec. 12. REPEAL. Sections 49-105, 49-110 and 49-114, Arizona Code of 1939, are repealed.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 53

(Senate Bill No. 13)

AN ACT

MAKING AN APPROPRIATION FOR THE RELIEF OF IVA REEVES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of four hundred thirty dollars fifty-four cents ($430.54) is appropriated from chapter 11, Laws of 1954, state contribution fund of the Arizona state retirement system for the relief of Iva Reeves.

Sec. 2. BASIS OF CLAIM. Payment of the sum appropriated shall be in full satisfaction of travel claims of Iva Reeves for attending the board meetings of the board of trustees of the public employees' retirement fund of Arizona, in accordance with the public employees' retirement Act, initiative measure of 1948, for the period from June 5, 1949 to May 29, 1951.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 54

(Senate Bill No. 58)

AN ACT

RELATING TO HOUSING PROJECTS FOR WAR OR DEFENSE WORKERS, AND AMENDING SECTION 3, CHAPTER 64, LAWS OF 1953, REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 3, chapter 64, Laws of 1953, regular session, is amended to read:

Sec. 3. Section 4, chapter 48, Laws of 1943, is amended to read:

Section 4. TERMINATION OF ACT. The authority granted under this Act shall become inoperative on and after June 30, 1957.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 55

(Senate Bill No. 65)

AN ACT

RELATING TO MOTOR VEHICLE FUEL TAX; PROVIDING THAT APPLICATIONS FOR REFUND NEED NOT

BE MADE UNDER OATH, AND AMENDING SECTION 66-320, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 66-320, Arizona Code of 1939, is amended to read:

66-320. REFUND ON FUEL EXPORTED OR NOT USED IN VEHICLE. (a) When motor vehicle fuel is sold to a person who claims that he will be entitled to a refund of the tax hereunder, by reason of the fact that the motor vehicle fuel is not for use in a motor vehicle, the seller shall make out in triplicate, on a form prescribed by the superintendent, an invoice setting forth the name and address of the purchaser, the number of gallons of motor vehicle fuel so sold, and such other information as the superintendent shall require. When the claim that the tax is refundable is based upon the fact that the motor vehicle fuel was used in aircraft, that fact shall be stated on the invoice. The seller shall give the original of the invoice to the purchaser, at the time of sale, and shall mail the duplicate to the superintendent not later than Tuesday of the week next succeeding the sale. Any person entitled to a refund of the motor vehicle fuel tax shall be reimbursed under the following conditions:

1. Application for refund shall be filed with the superintendent within six months from the date of purchase or invoice of the motor vehicle fuel with respect to which refund is claimed, and not thereafter.

2. The application shall be in the form prescribed and furnished by the superintendent, and shall state the quantity of motor vehicle fuel with respect to which refund is claimed, the purpose for which used, the date of purchase, and from whom purchased, and shall contain such other information as the superintendent shall require. The original invoice or an acceptable duplicate showing the purchase shall accompany the application.

3. In the case of a claim for refund on account of motor vehicle fuel exported, the claimant shall make satisfactory proof of export to the superintendent and shall file the claim within three months from the date of export. The claim shall be in such form and contain such information as the superintendent may require. The original invoice or an acceptable duplicate shall accompany the claim.

4. Any person or distributor at the time he delivers motor vehicle fuel which will not be used on the highways, shall color such fuel so delivered with a coloring matter to be

prescribed and furnished by the superintendent in the manner prescribed by the superintendent. No charge shall be made for such coloring matter. The seller and buyer shall at the time of delivery of such fuel sign the invoice provided for in this Act certifying that the fuel covered by such invoice has been colored. Provided, however, the superintendent may in his discretion in writing exempt the coloring of any fuel which coloring may detract from its use and provided further that motor vehicle fuel to be exported shall be exempt from coloring. It shall be unlawful for any person to operate a motor vehicle on the highways using motor vehicle fuel which has been colored as provided and the superintendent or his authorized agents shall have the right to take samples of fuel from fuel tanks of motor vehicles in the enforcement of these provisions. Any person who violates any of these provisions, in addition to other penalties prescribed by law, shall not be allowed any refund on any motor vehicle fuel purchased during the six months succeeding the date the superintendent advises such person by mail of the superintendent's discovery of such offense. Any person whose right to refunds is so suspended may institute an action in the superior court of Maricopa County to set aside such suspension.

(b) The conditions set forth in subsection (a) having been fully complied with, the superintendent shall determine the amount of refund due and shall certify and refund that amount.

(c) In the case of sales of motor vehicle fuel upon invoices stating that such fuel was used in aircraft, if applications for refund of the taxes upon such sales be not filed within the time provided in this section, then the superintendent shall determine from the copies of the invoices received by him under the provisions of subsection (a) of this section the amount of such unclaimed and unrefunded taxes, and shall transmit such unclaimed and unrefunded taxes to the state treasurer, to be by him credited to the state aviation fund established by chapter 45, session laws of Arizona, 1950, first special session.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 56

(Senate Bill No. 67)

AN ACT

RELATING TO FISH AND GAME; AUTHORIZING SALE

OF SURPLUS PRODUCTS OF FEDERAL AID FISH AND WILDLIFE PROJECTS; PROVIDING FOR A SPECIAL FUND AND USE OF THE PROCEEDS, AND AMENDING ARTICLE 3, CHAPTER 57, ARIZONA CODE OF 1939, BY ADDING SECTION 57-306a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 3, chapter 57, Arizona Code of 1939, is amended by adding section 57-306a, to read:

57-306a. SALE OF SURPLUS PRODUCTS AND USE OF PROCEEDS. The Arizona game and fish commission is authorized to sell surplus products of federal aid fish and wildlife projects. The proceeds of such sales shall be placed in a special fund to be known as the federal aid fish and wildlife projects' maintenance fund and may be used by the commission for maintenance of federal aid fish and wildlife projects wherever located in the state.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 57

(Senate Bill No. 71)

AN ACT

RELATING TO AUTHORITY OF THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA CONCERNING CONSTRUCTION OF DORMITORIES, BORROWING MONEY AND ISSUANCE OF BONDS THEREFOR, AT THE UNIVERSITY OF ARIZONA, AND AMENDING SECTION 54-1641c, 1952 SUPPLEMENT TO ARIZONA CODE OF 1939; AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 54-1641c, Arizona Code of 1939, 1952 Supplement (this being section 3, chapter 139 Laws of the Twentieth Legislature, second regular session) is amended to read:

Sec. 54-1641c. ISSUANCE OF BONDS. The institution is authorized from time to time to issue negotiable bonds in various amounts, but not exceeding in the aggregate the sum

of one million four hundred thousand dollars, for the purpose of acquiring projects in the form of dormitory buildings and the equipment therefor. The bonds shall be authorized by resolution of the board. The bonds may be issued in one or more series, bear such date or dates, be in such denomination or denominations, mature at such time or times, not exceeding forty years from the respective dates thereof, mature in such amount or amounts, bear interest at such rate or rates not exceeding five per cent per annum, payable semi-annually, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such term of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds may be sold at not less than par. The bonds shall be fully negotiable within the meaning and for all the purposes of chapter 52, Arizona Code of 1939.

Section 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 58

(Senate Bill No. 72)

AN ACT

RELATING TO AUTHORITY OF THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA TO BORROW MONEY AND ISSUE BONDS FOR A STUDENT UNION BUILDING AT THE ARIZONA STATE COLLEGE AT TEMPE, EXTENDING THE TIME WITHIN WHICH THE BOARD MAY ACT, AND AMENDING SECTION 54-1352, 1952 SUPPLEMENT TO ARIZONA CODE OF 1939; AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 54-1352, Arizona Code of 1939, 1952 Supplement (this being section 11, chapter 35, Laws of the Nineteenth Legislature, regular session) is amended to read:

Sec. 54-1352. SUPPLEMENTAL NATURE OF ACT, CONSTRUCTION AND PURPOSE. The powers conferred by this Act shall be in addition to and supplemental to the powers conferred by any other law, general or special, and bonds may be issued hereunder notwithstanding the provisions of any other such law and without regard to the procedure required by any other such law. In so far as the provisions of the Act are inconsistent with the provisions of any other law, general or special, the provisions of this Act shall be controlling. Except in pursuance of any contract or agreement theretofore entered into by the board, the board shall not borrow any money or issue any bonds pursuant to the provisions of this Act after January 1, 1958.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 59

(Senate Bill No. 73)

AN ACT

RELATING TO AUTHORITY OF THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA CONCERNING CONSTRUCTION OF DORMITORIES, BORROWING MONEY AND ISSUANCE OF BONDS THEREFOR, AT THE ARIZONA STATE COLLEGE AT TEMPE, AND AMENDING SECTION 54-1363c, 1952 SUPPLEMENT TO ARIZONA CODE OF 1939; AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 54-1363c, Arizona code of 1939, 1952 supplement (this being section 3, chapter 140, Laws of the Twentieth Legislature, second regular session) is amended to read:

Sec. 54-1363c. ISSUANCE OF BONDS. The institution is authorized from time to time to issue negotiable bonds in various amounts, but not exceeding in the aggregate the sum of one million eight hundred thousand dollars, for the fol-

lowing purposes: one million four hundred thousand dollars for the purpose of acquiring projects in the form of dormitory buildings and the equipment therefor, and four hundred thousand dollars for the purpose of constructing, equipping and furnishing a women's quadrangle dormitory. The bonds shall be authorized by resolution of the board. The bonds may be issued in one or more series, bear such date or dates, be in such denomination or denominations, mature at such time or times, not exceeding forty years from the respective dates thereof, mature in such amount or amounts, bear interest at such rate or rates not exceeding five per cent per annum, payable semiannually, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such term of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds may be sold at not less than par. The bonds shall be fully negotiable within the meaning and for all the purposes of chapter 52, Arizona Code of 1939.

Section 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 60

(Senate Bill No. 83)

AN ACT

RELATING TO ELECTIONS; LIMITING CAMPAIGN EXPENDITURES AT PRIMARY ELECTIONS, AND AMENDING SECTION 55-1018, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 55-1018, Arizona Code of 1939, is amended to read:

55-1018. LIMITATION ON EXPENDITURES. Candidates for nomination at any primary election shall be limited in amount of expenditures for the said primary election to the following amounts respectively, exclusive of any sums of

money expended for stationery, postage, printing and advertisements in newspapers and picture shows, and radio and television broadcasts, and necessary personal, traveling or subsistence expenses: for United States senator, not exceeding thirty-five hundred dollars; for member of congress or governor, not exceeding twenty-five hundred dollars; for supreme court judge, not exceeding one thousand dollars; for any other office, for which the electors of the entire state shall vote, not exceeding fifteen hundred dollars; for superior court judge or state senator, not exceeding two hundred and fifty dollars; for any other office for which the electors of an entire county shall vote, not exceeding five hundred dollars; for state representative, not exceeding two hundred and fifty dollars, provided, that in counties electing more than one representative, each representative shall not expend more than one hundred and fifty dollars; for any office for which the electors of a district, or a subdivision of the county, shall vote, other than state representatives, not exceeding one hundred and fifty dollars; for mayor, in cities having a population of five thousand or over, not exceeding three hundred and fifty dollars; for any other office for which the electors of an entire city having a population of five thousand or over shall vote, not exceeding two hundred and fifty dollars; for any office for which the electors of a city ward, or subdivision of a city, shall vote, not exceeding two hundred dollars; for mayor, in cities having a population of less than five thousand, not exceeding two hundred and fifty dollars; for any other office for which the electors of an entire city having a population of less than five thousand shall vote, not exceeding two hundred dollars.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 61

(Senate Bill No. 86)

AN ACT

RELATING TO STATE-OWNED VEHICLES, AND REPEALING CHAPTER 136, LAWS OF 1951, FIRST REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. REPEAL. Chapter 136, Laws of 1951, first regular session, is repealed.

Sec. 2. PURPOSE. Chapter 136, Laws of 1951, first regular session, relating to state-owned motor vehicles and establishing a state motor vehicle pool, is inoperative because of its dependency for administration upon the provisions of the financial administration Act of 1953, being chapter 89, Laws of 1953, first regular session, which Act was declared by the Arizona supreme court in the case of C. A. Hudson v. J. W. Kelly, state treasurer, as being unconstitutional and void in its entirety. In order to aid the Arizona code commission in carrying out the powers and duties assigned to them it is deemed advisable, by this method of repeal, to grant the Arizona code commission express authority to remove from the statutory provisions of the new code the inoperative provisions of chapter 136, Laws of 1951, first regular session.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 62

(Senate Bill No. 119)

AN ACT

MAKING AN APPROPRIATION TO THE COMMISSION OF AGRICULTURE AND HORTICULTURE FOR CONSTRUCTION OF INSPECTION STATIONS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of thirty-three thousand six hundred thirty-six dollars eighty six cents is appropriated to the Arizona commission of agriculture and horticulture to be available during the present fiscal year and in the 43rd fiscal year for the purpose of paying the commission's share of the cost of construction of the following stations: San Simon inspection station, twenty-three thousand one hundred eighty-nine dollars thirty-six cents; Fredonia inspection station, ten thousand four hundred forty-seven dollars fifty cents.

Sec. 2. EXEMPTION. The appropriation granted by this Act shall be exempt from the provisions of section 10-930 relating to lapsing of appropriations, and section 10-925 providing for quarterly allotments.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately

operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

(Failed to pass the House with sufficient votes to carry the emergency clause.)

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 63

(House Bill No. 8)

AN ACT

RELATING TO TAXATION, AND PROVIDING FOR THE ALLOCATION OF REVENUE RECEIVED BY THE STATE FROM THE FEDERAL GOVERNMENT AS PAYMENTS IN LIEU OF TAXES ON PROPERTY LOCATED ON OR ALONG THE COLORADO RIVER.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. ALLOCATION OF FEDERAL LIEU PAYMENTS. (a) Whenever payments are made hereafter by the United States, its agencies or instrumentalities to the state of Arizona in lieu of taxes from the proceeds of any hydroelectric power development on the Colorado river, within the state or on the boundary thereof, pursuant to an act of congress accepted by the state or otherwise, such payments shall be distributed sixty-six and two-thirds per cent to the state and thirty-three and one-third per cent to the county in which the federal property to which the payment relates is located. If the property to which the lieu payment relates is located in more than one county, the allocation shall be made on the basis of the value of the federal property in each such county, to be determined by the state tax commission.

(b) Upon receipt of the lieu payment the state treasurer shall distribute two-thirds to the state general fund and the portion allocated to each county shall be placed in a special fund of such county to be used for recreational facilities access roads, and public works. Such special fund shall not be used to reduce the tax rate of such county.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become imme-

diately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 24, 1954.

CHAPTER 64

(Senate Bill No. 1)

AN ACT

RELATING TO INSURANCE; PROVIDING AN INSURANCE CODE FOR THE STATE OF ARIZONA; REGULATING INSURANCE COMPANIES, THE INSURANCE BUSINESS, AND THE SALE AND SOLICITATION OF INSURANCE; LEVYING CERTAIN TAXES ON INSURANCE BUSINESS AND PROVIDING FOR THE DISPOSITION OF THE PROCEEDS THEREOF; PRESCRIBING PENALTIES; AND REPEALING SECTIONS 1773 TO 1882, INCLUSIVE, REVISED CODE OF 1928, BEING CHAPTER 61, ARIZONA CODE OF 1939, CHAPTER 86, LAWS OF 1933, CHAPTER 68, LAWS OF 1939, CHAPTERS 93 AND 113, LAWS OF 1941, CHAPTERS 36, 70, 78 AND 95, LAWS OF 1943, CHAPTER 100, LAWS OF 1945, CHAPTER 13, LAWS OF 1945 (FIRST SPECIAL SESSION), CHAPTERS 124, 125, 126, 127 AND 138, LAWS OF 1947, CHAPTERS 16 AND 32, LAWS OF 1947 (SECOND SPECIAL SESSION), CHAPTERS 6 AND 7, LAWS OF 1948 (SEVENTH SPECIAL SESSION), CHAPTERS 116 AND 117, LAWS OF 1949, CHAPTERS 121 AND 146, LAWS OF 1951 (FIRST REGULAR SESSION), AND ALL AMENDMENTS TO SAID STATUTES.

NOTE — For complete text of Chapter 64 (Senate Bill No. 1) refer to Appendix A of this volume.

CHAPTER 65

(House Bill No. 1)

AN ACT

RELATING TO TAXATION AND THE RAISING OF REVENUE; PROVIDING FOR A GRADUATED TAX ON THE

NET INCOMES OF PERSONS AND CORPORATIONS; PRESCRIBING PENALTIES, AND REPEALING "THE INCOME TAX ACT OF 1933," BEING SECTIONS 73-1501 TO 73-1551, AS AMENDED, ARIZONA CODE OF 1939.

NOTE — For complete text of Chapter 65 (House Bill No. 1) refer to Appendix B of this volume.

CHAPTER 66

(House Bill No. 180)

AN ACT

RELATING TO PARTNERSHIPS, AND MAKING UNIFORM THE LAW WITH RESPECT THERETO.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. NAME OF ACT. This Act may be cited as "The Uniform Partnership Act".

Sec. 2. DEFINITION OF TERMS. In this Act, unless the context otherwise requires:

1. "Court" includes every court and judge having jurisdiction in the case;

2. "business" includes every trade, occupation, or profession;

3. "person" includes individuals, partnerships, corporations, and other associations;

4. "bankrupt" includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act;

5. "conveyance" includes every assignment, lease, mortgage, or encumbrance;

6. "real property" includes land and any interest or estate in land.

Sec. 3. INTERPRETATION OF KNOWLEDGE AND NOTICE. (a) A person has "knowledge" of a fact within the meaning of this Act not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(b) A person has "notice" of a fact within the meaning of this Act when the person who claims the benefit of the notice: 1. States the fact to such person, or, 2. delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence.

Sec. 4. RULES OF CONSTRUCTION. (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this Act.

(b) The law of estoppel shall apply under this Act.

(c) The law of agency shall apply under this Act.

(d) This Act shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(e) This Act shall not be construed so as to impair the obligations of any contract existing when the Act goes into effect, nor to affect any action or proceeding begun or right accrued before this Act takes effect.

Sec. 5. RULES FOR CASES NOT PROVIDED FOR IN THIS ACT. In any case not provided for in this Act the rules of law and equity, including the law merchant, shall govern.

Sec. 6. PARTNERSHIP DEFINED. (a) A partnership is an association of two or more persons to carry on as co-owners a business for profit; but any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under this Act, unless such association would have been a partnership in this state prior to the adoption of this Act.

(b) This Act shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith.

Sec. 7. RULES FOR DETERMINING THE EXISTENCE OF A PARTNERSHIP. In determining whether a partnership exists, these rules shall apply:

1. Except as provided by section 16, persons who are not partners as to each other are not partners as to third persons;

2. joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property;

Sec. 9. PARTNER AGENT OF PARTNERSHIP AS TO PARTNERSHIP BUSINESS. (a) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(b) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(c) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

3. the sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived;

4. the receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment: 4a. As a debt by installments or otherwise; 4b. as wages of an employee or rent to a landlord; 4c. as an annuity to a widow or representative of a deceased partner; 4d. as interest on a loan, though the amount of payment vary with the profits of the business, or, 4e. as the consideration for the sale of a good will of a business or other property by installments or otherwise.

Sec. 8. PARTNERSHIP PROPERTY. (a) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(b) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(c) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(d) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

1. Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership;

2. dispose of the good will of the business;

3. do any other act which would make it impossible to carry on the ordinary business of a partnership;

4. confess a judgment; or,

5. submit a partnership claim or liability to arbitration or reference.

(d) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction.

Sec. 10. CONVEYANCE OF REAL PROPERTY OF THE PARTNERSHIP. (a) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subsection (a), section 9, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(b) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (a), section 9.

(c) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subsection (a), section 9, unless the purchaser or his assignee is a holder for value without knowledge.

(d) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (a), section 9.

(e) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property.

Sec. 11. PARTNERSHIP BOUND BY ADMISSION OF PARTNER. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this Act is evidence against the partnership.

Sec. 12. PARTNERSHIP CHARGED WITH KNOWLEDGE OF OR NOTICE TO PARTNER. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

Sec. 13. PARTNERSHIP BOUND BY PARTNER'S WRONGFUL ACT. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

Sec. 14. PARTNERSHIP BOUND BY PARTNER'S BREACH OF TRUST. The partnership is bound to make good the loss:

1. Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it, and,

2. where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership.

Sec. 15. NATURE OF PARTNER'S LIABILITY. All partners are liable jointly and severally for everything chargeable to the partnership under sections 13 and 14, and for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

Sec. 16. PARTNER BY ESTOPPEL. (a) When a person, by

words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made. When a partnership liability results, he is liable as though he were an actual member of the partnership. When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(b) When a person has been represented, as, in subsection (a), to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

Sec. 17. LIABILITY OF INCOMING PARTNER. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of partnership property.

Sec. 18. RULES DETERMINING RIGHTS AND DUTIES OF PARTNERS. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

1. Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property, and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

2. The partnership must indemnify every partner in re-

spect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

3. A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

4. A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

5. All partners have equal rights in the management and conduct of the partnership business.

6. No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

7. No person can become a member of a partnership without the consent of all the partners.

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

Sec. 19. PARTNERSHIP BOOKS. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them.

Sec. 20. DUTY OF PARTNERS TO RENDER INFORMATION. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability.

Sec. 21. PARTNER ACCOUNTABLE AS A FIDUCIARY. (a) Every partner must account to the partnership for any benefit and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(b) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of

the partnership as the personal representatives of the last surviving partner.

Sec. 22. RIGHT TO AN ACCOUNT. Any partner shall have the right to a formal account as to partnership affairs:

1. If he is wrongfully excluded from the partnership business or possession of its property by his copartners;

2. if the right exists under the terms of any agreement;

3. as provided by section 21; or,

4. whenever other circumstances render it just and reasonable.

Sec. 23. CONTINUATION OF PARTNERSHIP BEYOND FIXED TERM. (a) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(b) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

Sec. 24. EXTENT OF PROPERTY RIGHTS OF A PARTNER. The property rights of a partner are:

1. His rights in specific partnership property;

2. his interest in the partnership; and,

3. his right to participate in the management.

Sec. 25. NATURE OF A PARTNER'S RIGHT IN SPECIFIC PARTNERSHIP PROPERTY. (a) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership, subject to the incidents of such tenancy as provided in this section.

(b) A partner, subject to the provisions of this Act and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(c) A partner's right in specific partnership property is not

assignable except in connection with the assignment of rights of all the partners in the same property.

(d) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(e) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(f) A partner's right in specific partnership property is not subject to dower, courtesy, or allowances to widows, heirs, or next of kin.

Sec. 26. NATURE OF PARTNER'S INTEREST IN THE PARTNERSHIP. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

Sec. 27. ASSIGNMENT OF PARTNER'S INTEREST. (a) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(b) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

Sec. 28. PARTNER'S INTEREST SUBJECT TO CHARGING ORDER. (a) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his

share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the cirmumstances of the case may require.

(b) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court, may be purchased without thereby causing a dissolution:

1. With separate property, by any one or more of the partners; or,

2. with partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(c) Nothing in this Act shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership.

Sec. 29. DISSOLUTION DEFINED. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from the winding up of the business.

Sec. 30. PARTNERSHIP NOT TERMINATED BY DISSOLUTION. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed.

Sec. 31. CAUSES OF DISSOLUTION. Dissolution is caused:

1. Without violation of the agreement between the partners: 1a. By the termination of the definite term or particular undertaking specified in the agreement; 1b. by the express will of any partner when no definite term or particular undertaking is specified; 1c. by the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking, or, 1d. by the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

2. in contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

3. by any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

4. by the death of any partner;

5. by the bankruptcy of any partner or the partnership; or,

6. by decree of court under section 32.

Sec. 32. DISSOLUTION BY DECREE OF COURT. (a) On application by or for a partner the court shall decree a dissolution whenever:

1. A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind;

2. a partner becomes in any other way incapable of performing his part of the partnership contract;

3. a partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business;

4. a partner willfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him;

5. the business of the partnership can only be carried on at a loss; or,

6. other circumstances render a dissolution equitable.

(b) The court shall decree a dissolution on the application of the purchaser of a partner's interest under sections 27 or 28:

1. After the termination of the specified term or particular undertaking; or,

2. at any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Sec. 33. GENERAL EFFECT OF DISSOLUTION ON AUTHORITY OF PARTNER. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution, with respect to the partners, terminates all authority of any partner to act for the partnership, when:

1. The dissolution is not by the act, bankruptcy or death of a partner; or,

2. the dissolution is by such act, bankruptcy or death of a partner, in cases where section 34 so requires; and with respect to persons not partners, as declared in section 35.

Sec. 34. RIGHT OF PARTNER TO CONTRIBUTION FROM COPARTNERS AFTER DISSOLUTION. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

1. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or,

2. the dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

Sec. 35. POWER OF PARTNER TO BIND PARTNERSHIP TO THIRD PERSONS AFTER DISSOLUTION. (a) After dissolution a partner can bind the partnership except as provided in subsection (c):

1. By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution; or,

2. by any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction: 2a. Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution, or, 2b. though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(b) The liability of a partner under item 2, subsection (a) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

1. Unknown as a partner to the person with whom the contract is made; and,

2. so far unknown and inactive in partnership affairs that

the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(c) The partnership is in no case bound by any act of a partner after dissolution:

1. Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs;

2. where the partner has become bankrupt; or,

3. where the partner has no authority to wind up partnership affairs, except by a transaction with one who: 3a. Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority, or, 3b. had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in item 2b, subsection (a).

(d) Nothing in this section shall affect the liability under section 16 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in carrying on business.

Sec. 36. EFFECT OF DISSOLUTION ON PARTNER'S EXISTING LIABILITY. (a) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(b) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(c) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(d) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts.

Sec. 37. RIGHT TO WIND UP. Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, has the right to wind up the partnership affairs; but any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

Sec. 38. RIGHTS OF PARTNERS TO APPLICATION OF PARTNERSHIP PROPERTY. (a) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement, and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under subsection (b), section 36, he shall receive in cash only the net amount due him from the partnership.

(b) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

1. Each partner who has not caused dissolution wrongfully shall have: 1a. All the rights specified in subsection (a), and, 1b. the right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

2. The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership, and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under item 1b, paragraph 1, subsection (b), and in like manner indemnify him against all present or future partnership liabilities.

3. A partner who has caused the dissolution wrongfully shall have: 3a. If the business is not continued under the provisions of paragraph 2, subsection (b), all the rights of a partner under subsection (a), subject to item 1b, paragraph 1, subsection (b), or, 3b. if the business is continued under paragraph 2, subsection (b), the right as against his copartners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partner-

ship, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest, the value of the good will of the business shall not be considered.

Sec. 39. RIGHTS WHERE PARTNERSHIP IS DISSOLVED FOR FRAUD OR MISREPRESENTATION. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled:

1. To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him;

2. to stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and,

3. to be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

Sec. 40. RULES FOR DISTRIBUTION. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

1. The assets of the partnership are: 1a. The partnership property, and, 1b. the contributions of the partners necessary for the payment of all the liabilities specified in paragraph 2.

2. The liabilities of the partnership shall rank in order of payment as follows: 2a. Those owing to creditors other than partners; 2b. those owing to partners other than for capital and profits; 2c. those owing to partners in respect to capital, and, 2d. those owing to partners in respect of profits.

3. The assets shall be applied in the order of their declaration in paragraph 1 of this section to the satisfaction of the liabilities.

4. The partners shall contribute, as provided in paragraph 1, section 18, the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other part-

ners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

5. An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in paragraph 4 of this section.

6. Any partner or his legal representative shall have the right to enforce the contributions specified in paragraph 4 of this section, to the extent of the amount which he has paid in excess of his share of the liability.

7. The individual property of a deceased partner shall be liable for the contributions specified in paragraph 4 of this section.

8. When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

9. Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order: 9a. Those owing to separate creditors; 9b. those owing to partnership creditors, and, 9c. those owing to partners by way of contribution.

Sec. 41. LIABILITY OF PERSONS CONTINUING THE BUSINESS IN CERTAIN CASES. (a) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(b) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(c) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in sub-

sections (a) and (b) of this section, with the consent of the retired partners or the representative of the deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(d) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(e) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of paragraph 2, subsection (b), section 38, either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(f) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(g) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(h) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(i) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(j) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual

property of the deceased partner liable for any debts contracted by such person or partnership.

Sec. 42. RIGHTS OF RETIRING OR ESTATE OF DECEASED PARTNER WHEN THE BUSINESS IS CONTINUED. When any partner retires or dies, and the business is continued under any of the conditions set forth in subsections (a), (b), (c), (e), and (f), section 41, or, paragraph 2, subsection (b), section 38, without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; but the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by subsection (h), section 41.

Sec. 43. ACCRUAL OF ACTIONS. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

Sec. 44. EFFECT ON MINING PARTNERSHIP. This Act shall apply to mining partnerships except insofar as its provisions are inconsistent with the nature of such partnerships.

Sec. 45. LEGISLATION REPEALED. All acts or parts of acts inconsistent with this Act are hereby repealed.

Approved by the Governor—March 25, 1954.

Filed in the Office of the Secretary of State—March 25, 1954.

CHAPTER 67

(House Bill No. 191)

AN ACT

RELATING TO MORTGAGES AND PLEDGES; PROVIDING FOR FORECLOSURE OF A MORTGAGE OF PER-

SONAL PROPERTY AND FORECLOSURE OF A PLEDGE OF PERSONAL PROPERTY BY NOTICE AND SALE; AND AMENDING SECTIONS 62-527 AND 62-530, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 62-527, Arizona Code of 1939, is amended to read:

62-527. FORECLOSURE OF MORTGAGE ON PERSONAL PROPERTY BY NOTICE AND SALE. (a) A mortgage of personal property, in which the time of payment is fixed, may be foreclosed in the county where (1) the mortgagor, or anyone of several mortgagors may reside, or (2) the mortgagor, or anyone of several mortgagors may be found, or (3) the property may be found, by notice and sale, unless in writing the contrary has been agreed upon, or by action in court. If foreclosed by notice and sale, the notice of sale shall contain a full description of the property mortgaged, together with the time, place and terms of sale, and shall, at least ten (10) days before the date set for sale, be served personally, except as hereinafter provided, on the mortgagor, on subsequent purchasers of whom the mortgagee has knowledge, and on all persons having junior recorded liens upon the property. When the person upon whom service of notice of sale is required is (a) a nonresident of the state, or (b) is absent from the state, or (c) is a transient person, or (d) conceals himself to avoid service, or (e) has an unknown residence, or (f) is a corporation incorporated under the laws of another state or foreign country and does business in this state and has property therein but has no legally appointed and constituted agent in this state, service may be made by mailing a copy of the notice of sale at least ten (10) days before the date set for the sale, by registered mail, postage prepaid, addressed to such person at his last known address. In all cases not less than ten (10) days prior to the date of sale, notice thereof shall be posted in three (3) public places in the county in which the sale is to be held, and published once in a paper of general circulation in the county. The property, or so much thereof as is necessary to pay the debt, interest and costs of sale, shall be sold at public auction to the highest bidder for cash, and the mortgagee may bid at the sale. The mortgagee or his or its agent may conduct the sale and the person conducting the sale shall execute to the purchaser a bill of sale of the property which shall carry the whole title and interest of the mortgagor.

(b) Sales made in accordance with the provisions of this section shall be valid if to a purchaser in good faith without regard to the equities between the mortgagor and the mort-

gagee. Any proceeds of a sale remaining after payment of the debt, interest and costs of sale, and any property remaining unsold shall be turned over to the mortgagor. In the event the proceeds of any sale are not sufficient to pay the debt, interest and costs of sale, the mortgagee may secure a judgment against the mortgagor for the unpaid balance.

Sec. 2. Section 62-530, Arizona Code of 1939, is amended to read:

62-530. FORECLOSURE OF PLEDGE OF CHATTELS BY NOTICE AND SALE.. (a) Chattels pledged as security for an indebtedness may be sold for the non-payment of the indebtedness in the county where (1) the pledgor, or anyone of several pledgors may reside, or (2) the pledgor, or anyone of several pledgors may be found, or (3) the property may be found, by notice and sale, unless in writing the contrary has been agreed upon, or by action in court. If foreclosed by notice and sale, the notice of sale shall contain a full description of the chattels pledged, together with the time, place and terms of sale, and shall, at least ten (10) days before the date set for sale, be served personally, except as hereinafter provided, on the pledgor, and on subsequent purchasers of whom the pledgee has knowledge. When the person upon whom service of notice of sale is required is (1) a non-resident of the state, or (2) is absent from the state, or (3) is a transient person, or (4) conceals himself to avoid service, or (5) has an unknown residence, or (6) is a corporation incorporated under the laws of another state or foreign country and does business in this state and has property therein but has no legally appointed and constituted agent in this state, service may be made by mailing a copy of the notice of sale at least ten (10) days before the date set for the sale, by registered mail, postage prepaid, addressed to such person at his last known address. In all cases not less than ten (10) days prior to the date of sale, notice thereof shall be posted in three (3) public places in the county in which the sale is to be held, and published once in a paper of general circulation in the county. If redemption is not made prior to the sale, the pledgee, or his or its agent, may sell at public auction, to the highest bidder for cash, the pledged chattels, or so much thereof as is necessary to pay the debt, interest and costs of sale, and the pledgee, or his or its agent, may conduct and bid at the sale. The person conducting the sale shall execute to the purchaser a bill of sale which shall carry the whole title and interest of the pledgor. The facts of the sale shall be evidenced in the manner provided by section 62-528, Arizona Code of 1939.

(b) Sales made in accordance with the provisions of this section shall be valid if made to a purchaser in good faith

without regard to the equities between the pledgor and the pledgee. Any proceeds of a sale remaining after payment of the debt, interest and costs of sale, and any property remaining unsold shall be delivered to the pledgor. In the event the proceeds of any sale are not sufficient to pay the debt, interest and costs of sale, the pledgee may secure a judgment against the pledgor for the unpaid balance.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 25, 1954.

Filed in the Office of the Secretary of State—March 25, 1954.

CHAPTER 68

(Senate Bill No. 104)

AN ACT

RELATING TO HOSPITAL DISTRICTS; DESIGNATING THE ADVISORY SURVEY AND CONSTRUCTION COUNCIL AS THE STATE AGENCY TO DETERMINE NEED; PROVIDING FOR THE ELECTION OF A BOARD OF DIRECTORS; PRESCRIBING PROVISIONS AND CONDITIONS IN BONDS, AND AMENDING SECTION 68-1403, 68-1407 AND 68-1410, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 68-1403, Arizona Code of 1939, is amended to read:

68-1403. PETITION PROPOSING DISTRICT. (a) In order to propose the formation of a hospital district, a petition shall be presented to the board of supervisors of the county within which such proposed district may lie, or the greater proportion thereof, signed by ten per cent of the electors residing within the area of the proposed district, which petition shall set forth and particularly describe the proposed boundaries of such district, and shall pray that the same be organized as a hospital district under the provisions of this Act. Such petition shall be presented at a regular or special meeting of the board of supervisors, and the board shall thereupon enter an order fixing a time, not less than

three nor more than five weeks from the date of such order, at which time a hearing on said petition shall be had by the said board, and directing that notice of said hearing be published not less than two consecutive weeks prior to the date of such hearing, in a newspaper published within such proposed district, if any be published, if not, in a newspaper published within the county. If any portion of the proposed district lies within another county or counties, then such order shall further direct that notice shall be likewise published in a newspaper to be designated in said order, printed and published in each of said counties. Hearings on such petition shall be at the office of the board of supervisors to whom such petition is granted, in either a regular or a special meeting, unless the board shall determine for the convenience of the parties to hold the hearing elsewhere. The petitioners shall give such security as the board of supervisors of the organizing county may require, conditioned upon the payment of all costs if for any reason the district should fail of organization. If the district is organized such costs shall be a proper charge against such district.

(b) No petition for the formation of a district shall be acted upon as herein provided, unless the area encompassed within such proposed district shall first have been approved by the advisory survey and construction council as an area needing additional hospital facilities, nor unless there shall be in existence a corporation not for pecuniary profit duly organized under the laws of the state of Arizona for the purpose of conducting a hospital which shall have offered to lease the proposed hospital for a period of not less than five years in accordance with the terms of subdivisions (e) and (f) of section 68-1408.

(c) In the event the advisory survey and construction council fails or refuses to act, or in the event such council determines the area encompassed within the proposed district is not an area needing additional hospital facilities, the petitioner may appeal to the state board of health, and the decision of the board shall be final.

Sec. 2. Sec. 68-1407, Arizona Code of 1939, is amended to read:

68-1407. BOARD OF DIRECTORS. The board of directors of the district shall be composed of five citizens, resident real property taxpayers within said district, none of whom shall be a practicing physician or an elective or appointive state, county or city official. At the election to determine whether a district shall be formed, as provided for in section 68-1405, the ballot shall contain the names of five or more persons to be voted for to fill the office of directors. Such persons may

be nominated in the petition praying for the formation of a district, or they may be nominated by fifty or more persons possessing the qualifications required of those eligible to vote in the election as provided for in said section 68-1405. The directors originally elected shall draw lots for terms of one, two, three, four and five years respectively. Annual elections shall be held on the second Wednesday of each year for the purpose of electing directors to fill vacancies resulting from expiration of term of members as herein provided. Vacancies resulting from any reason except expiration of term may be filled by the remaining directors. The board shall be a body corporate, under the name "board of directors for.....hospital", the name of the hospital being inserted in the blank. Not later than February first of each year the board shall meet and reorganize by electing from among its membership a chairman and a vice-chairman, in addition thereto, the board may appoint a secretary who shall not be a member of the board, who may receive such salary as may be fixed by the board of directors.

Sec. 3. Sec. 68-1410, Arizona Code of 1939, is amended to read:

68-1410. BONDS. (a) Bonds may be issued by the hospital district for the purpose of carrying out any of the provisions of this Act. In the event the board of directors determines that bonds should be issued, application shall be made to the board of supervisors by the said board of directors, and the board of supervisors shall submit to a vote of the real property tax-paying electors residing in the district such question in the manner as provided by law in chapter 10, article 6, Arizona Code of 1939, and if the majority vote of the electors voting on the issue shall approve, the bonds shall be issued as provided by law.

(b) Any bonds issued hereunder may contain a provision requiring the establishment of a reserve or reserves in an amount equal to the requirements of principal and interest payments for the two years during the life of said bonds requiring the largest amount of principal and interest payments and said district shall maintain such reserve during the life of said bond issue for the purpose of protecting against any deficiency in rental payments or tax collections and in the event it becomes necessary to withdraw funds from such reserve to protect against any deficiency said hospital district's board of directors shall levy a tax on all of the taxable property in said hospital district sufficient to maintain said reserve fund in a sum equal to the original amount thereof. In making the levy for the payment of principal and interest for the last year when such bonds shall mature, the board of directors shall take into consideration the amount of money

then in said reserve fund and shall levy an amount sufficient to pay the principal and interest on said bonds, less the amount then in said reserve fund.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 25, 1954.

Filed in the Office of the Secretary of State—March 25, 1954.

CHAPTER 69

(House Bill No. 85)

AN ACT

RELATING TO EMPLOYERS AND EMPLOYEES OF RAILROADS, AND PROVIDING FOR THE REGULATION OF HEALTH AND SAFETY CONDITIONS IN PLACES OF RAILROAD EMPLOYMENT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. DUTIES OF THE COMMISSION. For the purpose of protecting the health and safety of employees of railroads, the Arizona corporation commission, hereinafter called the commission, shall prescribe standards of safety and safety devices requiring:

1. The installation and maintenance by railroads of electric marker warning lights on the rear of all trains with sufficient candle power to be visible at a distance of three thousand feet under ordinary atmospheric conditions, and,

2. the installation and maintenance by railroads of adequate electrical lighting within cabooses for clerical work.

Sec. 2. COMPLIANCE. (a) It shall be the duty of all persons engaged in the operation of railroads to comply with any regulation or order of the commission issued under the provisions of this Act, and to furnish any information required by the commission for purposes of this Act.

(b) The commission or its authorized agent may, during reasonable hours, enter the place of operation of any person

engaged in the operation of railroads for the purpose of ascertaining whether the standards prescribed by authority of this Act are being complied with.

Sec. 3. HEARING UPON COMPLAINT. Whenever an employee shall file a complaint with the commission charging violation of the regulations of the commission, or the commission upon its own initiative issues a complaint, the person complained of shall be served with a copy thereof and shall, within twenty days, file a written answer with the commission. Within ten days after an answer is filed the commission shall set a date for a hearing of the complaint at a place convenient to both the complainant and the person complained of. The commission may, in its discretion, permit any interested person or organization to intervene. A party to the hearing may appear and be heard in person or by his representative, and may examine or cross-examine witnesses or present other evidence. On motion of a party, the commission may allow a continuance of not to exceed thirty days.

Sec. 4. ORDER. Within forty-five days after the conclusion of a hearing held under the provisions of this Act, the commission shall issue an order dismissing the complaint or requiring compliance with the regulation of the commission. The commission may, in its discretion, allow the employer not to exceed forty-five days within which to comply with an order. Upon petition any order of the commission shall be reviewed by the superior court of the county in which the place of employment is located, and in such action the chairman of the commission shall be the defendant. The decision of the superior court may be appealed to the supreme court.

Sec. 5. PENALTY. Any person failing to comply with an order or regulation of the commission authorized by this Act shall be liable to a penalty of twenty-five dollars for each day of noncompliance. The attorney general shall file suit on behalf of the state for any unpaid penalty within one year after the penalty accrues.

Sec. 6. EXTENSION OF TIME. Any common carrier railroad which is unable on or before the effective date of this Act to equip its cabooses as prescribed herein may apply to the Arizona corporation commission for extension of time. The commission may grant additional time, not to exceed six months from the effective date of this Act, and during such period the common carrier railroad shall not be subject to the fine prescribed by section 5.

Sec. 7. EFFECTIVE DATE. The effective date of this Act shall be January 1, 1956.

The Governor's Veto to the contrary notwithstanding. Passed the House March 25, 1954 by the following vote: 62 Ayes, 17 Nays, 1 Not Voting.

The Governor's Veto to the contrary notwithstanding. Passed the Senate March 26, 1954 by the following vote: 16 Ayes, 3 Nays, 0 Not Voting.

Disapproved by the Governor—March 24, 1954.

Filed in the Office of the Secretary of State—March 26, 1954.

CHAPTER 70

(Senate Bill No. 14)

AN ACT

RELATING TO THE REGULATION OF PUBLIC HIGHWAY TRANSPORTATION; PROVIDING CERTAIN EXEMPTIONS FROM THE LICENSE TAX IMPOSED ON GROSS RECEIPTS DERIVED FROM THE TRANSPORTATION OF PROPERTY AND PASSENGERS, BY COMMON MOTOR CARRIERS AND CONTRACT MOTOR CARRIERS, AND AMENDING SECTION 66-518, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-518, Arizona Code of 1939, is amended to read:

66-518. LICENSE TAX. (a) In addition to all other taxes and fees every common motor carrier of property and every contract motor carrier of property shall pay to the state, on or before the twentieth day of each month, a license tax of two and one-half per cent of the gross receipts from his operations within the state for the next preceding calendar month, excluding receipts from property transported under a star route contract with the federal government, as such carrier, and every common motor carrier of passengers and every contract motor carrier of passengers shall pay to the state, on or before the twentieth day of each month, a license tax of two and one-quarter per cent of the gross receipts from his operations within the state for the next preceding calendar month, as such carrier.

(b) When any carrier shall operate partly within and partly without the state, the gross receipts of such carrier within

the state shall be deemed to be all receipts of business beginning and ending within the state, and a proportion based upon the proportion of the mileage within the state to the entire mileage over which business is done, of receipts on all business passing through, into or out of the state. Upon receipts of such taxes the vehicle superintendent shall forthwith transmit the same to the state treasurer, who shall credit such taxes to the state highway fund.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 71

(Senate Bill No. 54)

AN ACT

RELATING TO IMPROVEMENT, SCHOOL AND OTHER PUBLIC DISTRICTS, AND FIXING TIME FOR NOTIFYING ASSESSORS OF CHANGE IN BOUNDARIES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. NOTICE OF CHANGE IN DISTRICT BOUNDARIES. The governing authorities of improvement, school, sanitary, and all other public districts organized under authority of law, shall file with the assessor's office not later than April 1 of each year information as to any change in the boundaries of their respective districts.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 72

(House Bill No. 102)

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF BARBER EXAMINERS FOR TRAVEL AND PRINTING COSTS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation made under the provisions of subdivision 17, chapter 132, Laws of 1953, there is hereby appropriated to the board of barber examiners from the board of barber examiners fund the sum of five hundred dollars and seventy-nine cents ($500.79) for the purpose of paying the following expenses: Travel in state, three hundred dollars ($300.00); printing of new barber code pamphlets, two hundred dollars seventy-nine cents ($200.79).

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 73

(House Bill No. 76)

AN ACT

RELATING TO TAXATION, AMENDING SECTION 73-701, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-701, Arizona Code of 1939, is amended to read:

73-701. NOTICE AND DEMAND TO TAXPAYERS BY TREASURER—PUBLICATION. The county treasurer shall be ex-officio tax collector. Immediately upon receipt of the tax roll the county treasurer shall publish an official notice, specifying that the assessment and tax roll of the county for the year is now in his possession for the collection of the taxes levied; that one-half of the taxes on all personal property secured by real property, and one-half of the taxes on all real property, will be due and payable on the first Monday in September and will be delinquent on the first Monday in November next thereafter at five o'clock p.m., and that unless paid prior thereto interest from the time of the delinquency at the rate of ten (10) per cent per annum pro-

rated monthly as of the first Monday of the month until paid, will be added thereto; that the remaining one-half of such taxes will be due and payable on and after the first Monday in March next and will be delinquent on the first Monday in May next, thereafter at five o'clock p.m., unless paid prior thereto, with a like interest; that all taxes may be paid at the time the first installment is due and payable, and stating when and where payment of taxes may be made. The notice shall be published once a week for four (4) consecutive weeks in some newspaper published in the county, or if none, it shall be posted in each voting precinct of the county. No other demand for taxes is necessary, but every person subject to taxation shall, at the office of the county treasurer, pay his taxes before the same become delinquent.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 74

(House Bill No. 193)

AN ACT

RELATING TO GARNISHMENT; AMENDING CHAPTER 25, ARTICLE 2, ARIZONA CODE OF 1939, BY ADDING A NEW SECTION THERETO TO BE NUMBERED SECTION 25-225.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Chapter 25, article 2, Arizona Code of 1939, is amended by adding section 25-225, to read:

25-225. GARNISHMENT OF BANK ACCOUNT IN NAMES OF TWO OR MORE PERSONS — BOND OF PLAINTIFF. A bank deposit made in the names of two or more persons shall be subject to garnishment and the answering garnishee shall, upon service of the writ, impound all funds then present in such bank account, and shall promptly notify each person, who appears from the business records of the garnishee to have an interest in such bank account in

addition to the defendant, that such account has been impounded, the name of the plaintiff and defendant and the court in which the action is pending as stated on the writ. Such notice may be made personally or by registered mail, postage prepaid, addressed to each such person at his last known address as reflected by the business records of the garnishee. The answer of the garnishee, in such case, shall state under oath the names of all persons who appear, from the business records of the garnishee, to have an interest in such bank account in addition to the defendant. Upon the filing of such answer the court shall join all persons who appear to have an interest in said bank account in addition to the defendant, as reflected by the answer of garnishee, and shall proceed to a determination of the interest of the defendant therein. Upon entry of order based upon such proceeding all impounded funds, except those of defendant, shall be released by the garnishee. The matter shall otherwise proceed as in any other garnishment action.

All persons whose funds are impounded hereunder shall, together with the defendant, be considered to be joint and several obligees of the bond provided under section 25-202, Arizona Code of 1939, provided that the liability of the sureties on such bond shall be limited to the amount of the penal sum named in the bond.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 75

(House Bill No. 195)

AN ACT

RELATING TO WRITS OF GARNISHMENT, AND AMENDING SECTION 25-206, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 25-206, Arizona Code of 1939, is amended to read:

25-206. WRIT TO BE TESTED AND DELIVERED — SERVICE AND EFFECT OF LEVY. The writ of garnishment shall be dated and tested as other writs and may be delivered to the sheriff or constable by the officer who issued it, or to the plaintiff for that purpose. The officer receiving the writ shall immediately serve the same by delivering a copy thereof to the garnishee, and shall make return thereof as of summons. Debts owing to a defendant by a banking corporation or association, savings bank, building and loan association, trust company, or title insurance company, maintaining branch offices, or credits or other effects belonging to a defendant and in the possession of or under the control of such banking corporation or association, savings bank, building and loan association, trust company, or title insurance company, may be levied upon by serving a copy of the writ of garnishment upon the manager or other officer of such banking corporation or association, savings bank, building and loan association, trust company or title insurance company, at any office or branch thereof located in the county where such service is made and no garnishment shall be effective as to any debt owing by such banking corporation or association, savings bank, building and loan association, trust company or title insurance company, if the account evidencing such indebtedness is carried at an office or branch thereof located in a county other than the county in which service is made or as to any credits or other effects in its possession or under its control at any office or branch thereof located in a county other than the county in which service is made.

The procedure provided in this Act for the service of a writ of garnishment upon any banking corporation or association, savings bank, building and loan association, trust company or title insurance company maintaining branch offices, shall be exclusive.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 76

(House Bill No. 63)

AN ACT

RELATING TO ELECTIONS; PERMITTING ABSENTEE VOTERS TO VOTE AT ALL PRIMARY, GENERAL OR

SPECIAL ELECTIONS, AND AMENDING SECTIONS 55-1301 AND 55-1302, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 55-1301, Arizona Code of 1939, is amended to read:

55-1301. ELECTORS ABSENT FROM COUNTY OR PHYSICALLY DISABLED MAY VOTE. A qualified and registered elector who is absent from the county of which he is an elector, or who expects to be absent from such county, at the time of holding any general or primary election, or a special election, called pursuant to section 1, article 21 of the Constitution, or who furnishes the county recorder with a doctor's certificate of physical inability to go to the polls, may vote at such election as hereinafter provided. A person who on account of the tenets of his religion cannot attend the polls on the day of a general, primary, or special election is deemed to be absent from the county and may vote at such election as hereinafter provided.

Sec. 2. Section 55-1302, Arizona Code of 1939, is amended to read:

55-1302. APPLICATION FOR BALLOT. (a) Within thirty days next preceding the Saturday before any primary or general election, or a special election called pursuant to section 1, article 21 of the Constitution, an elector may make request by telephone or mail to any registration officer in the state for an application for a ballot and an official absent or disabled voter's ballot, or, if absent from the state during the thirty days next preceding the election, may upon the application blank provided therefor apply for such ballot by appearing before a notary public or other officer qualified to administer oaths within the state of temporary residence, swearing and subscribing to the application and returning the original and duplicate to the recorder of the county in which the elector is registered. Upon receipt of such application, if in proper form, the recorder shall mail postage prepaid to the elector the ballot applied for, together with the envelope for its return. After making and subscribing the affidavit provided for upon the return envelope, the elector may mark the ballot and return it to the recorder of the county in which he is registered, or the recorder may, when deemed expedient, mail the application with the ballot and determine the sufficiency of the application upon receipt of the ballot and the application.

(b) To and including the last Monday before election the recorder may, in his discretion, direct the voting of an elector

who by reason of sudden illness is prevented from voting at the polls, if the illness was not anticipated in time to make application as provided by law, or direct the voting of a disabled elector when it appears that the request of the elector was received before five o'clock p.m., on the Friday preceding the election.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 77

(House Bill No. 109)

AN ACT

RELATING TO THE DEPARTMENT OF LAW; REALLOCATING FUNDS APPROPRIATED UNDER CHAPTER 30, LAWS OF 1953, AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. REALLOCATION OF FUNDS. (a) From the funds heretofore appropriated to the department of law for expenditure by the attorney general under the provisions of chapter 30, Laws of 1953, the sum of two thousand seven hundred eighteen dollars thirty cents is hereby reallocated for the purposes and in the amounts following:

1. For the cost of reporting services rendered in the Walters case, the sum of two hundred eight dollars;

2. For one IBM typewriter purchased in September, 1953, the sum of three hundred eighty-nine dollars fifty cents;

3. For three unpaid telephone bills incurred during the months of April, May and June, 1953, the sum of six hundred twenty dollars eighty cents;

4. For anticipated expenses relating to Indian litigation, including oral arguments in Circuit Court, the sum of one thousand five hundred dollars.

(b) After payment of the claims as provided in subsection (a), the balance remaining of the appropriation made under the provisions of chapter 30, Laws of 1953, shall revert to the general fund.

Sec. 2. EXEMPTIONS. The funds reallocated pursuant to the provisions hereof shall be exempt from the provisions of section 10-925, relating to quarterly allotments, and section 10-930, relating to lapsing appropriations, of the Arizona Code of 1939.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety, it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 78

(House Bill No. 41)

AN ACT

RELATING TO TAXATION AND THE RAISING OF REVENUE; PROVIDING FOR AN AMENDMENT OF THE TAX PROVISIONS RELATING TO BANKS, AND AMENDING SECTIONS 73-1702 AND 73-1704, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-1702, Arizona Code of 1939, is amended to read:

73-1702. PROVISIONS OF INCOME TAX ACT MADE APPLICABLE. All the provisions of the income tax act of 1954, not in conflict with any provision of this Act shall be applicable to the tax provided herein.

Sec. 2. Section 73-1704, Arizona Code of 1939, is amended to read:

73-1704. DISTRIBUTION OF INCOME TAX COLLECTED —BRANCH BANKS. The tax commission shall transmit promptly the taxes collected under this Act to the state treasurer who shall distribute fifty per cent of said amount to the general fund of the state, twenty-five per cent to the county or counties in which the main office or branches of any bank are located, twenty-five per cent to the incorporated city or town or cities or towns in which the main office or

branch offices of any bank are located. If a bank maintains branch offices in more than one city or town, the percentage above set forth as going to the cities and towns shall be prorated between said cities and towns in proportion to the ratio of the bank's deposits in said cities and towns to the total deposits of said bank. If the city or town is incorporated it share of said tax shall be paid to it; if the city is unincorporated the share apportioned to it shall be paid to the general fund of the county in which it is located.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 79

(House Bill No. 42)

AN ACT

RELATING TO TAXATION AND THE RAISING OF REVENUE; PROVIDING FOR AN AMENDMENT OF THE TAX PROVISIONS RELATING TO INVESTMENT COMPANIES, AND AMENDING SECTIONS 73-2101 AND 73-2102, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-2101, Arizona Code of 1939, is amended to read:

73-2101. TAX ON INVESTMENT COMPANIES. Every corporation and association primarily engaged in the business of using money wherewith to make money for the owners of the shares of such corporation or association located or doing business within the state shall annually pay a tax measured by its net income received after December 31, 1950, from all sources, including interest on bonds and other securities issued by or under authority of the United States, the state of Arizona or any political or other subdivision, or municipal or other public corporation thereof, computed at the rate of five per cent of the amount of such net income. The tax imposed by this section shall be in lieu of any tax on the shares of stock or on net income of any such corporation or association.

Sec. 2. Section 73-2102, Arizona Code of 1939, is amended to read:

73-2102. PROVISIONS OF INCOME TAX ACT MADE APPLICABLE. The provisions of the income tax act of 1954 not in conflict with this Act, shall be applicable to the tax prescribed in section 1.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 80

(House Bill No. 43)

AN ACT

RELATING TO TAXATION AND THE RAISING OF REVENUE; PROVIDING FOR AN AMENDMENT OF THE TAX PROVISIONS RELATING TO BUILDING AND LOAN AND SAVINGS AND LOAN ASSOCIATIONS, AND AMENDING SECTIONS 73-1901 AND 73-1902, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-1901, Arizona Code of 1939, is amended to read:

73-1901. TAX ON BUILDING AND LOAN AND SAVINGS AND LOAN ASSOCIATIONS. Every building and loan or savings and loan association located or doing business within the state, including federal savings and loan associations, shall annually pay a tax measured by its net income received after December 31, 1945, from all sources, including interest on bonds and other securities issued by or under authority of the United States, the state of Arizona or any political or other subdivision, or municipal or other public corporation thereof, computed at the rate of five per cent of the amount of such net income. The tax imposed by this section shall be in lieu of any tax on the shares of stock or on net income of any such association.

Sec. 2. Section 73-1902, Arizona Code of 1939, is amended to read:

73-1902. PROVISIONS OF INCOME TAX ACT MADE APPLICABLE. The provisions of the income tax act of 1954 not in conflict with this Act shall be applicable to the tax prescribed in section 1.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 81

(House Bill No. 119)

AN ACT

RELATING TO BANKS AND TO BANK DEPOSITS; PROVIDING FOR PAYMENTS TO SURVIVOR OR SURVIVORS, AND AMENDING SECTION 51-515, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 51-515, Arizona Code of 1939, is amended to read:

51-515. SURVIVING RELATIVE MAY COLLECT DEPOSIT. The surviving husband or wife of a deceased person, or if no husband or wife is living, then the children of such decedent, and if no children are living, then the father or mother of such decedent, and if no father or mother is living, then the brothers and sisters of such decedent may, without procuring letters of administration, collect of any bank any sum which said deceased may have left on deposit in such bank at the time of his or her death, provided such deposit shall not exceed the sum of one thousand dollars ($1,000.00). Any bank upon receiving a certified copy of the deceased person's death certificate together with an affidavit stating that said depositor is dead and that the affiant is the surviving husband or wife, or that the decedent left no husband or wife and that the affiants are the children or the father or mother or brothers and sisters, as the case may be, of said decedent and that the whole amount decedent left on deposit in any and all banks of deposit in this state does not exceed the sum of one thousand dollars ($1,000.00), may pay to the affiant any deposit of said decedent if the same does not exceed the sum of one thousand dollars ($1,000.00), and the receipt of such affiant is sufficient acquittance therefor.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 82

(House Bill No. 125)

AN ACT

RELATING TO THE STATE TAX COMMISSION; PROVIDING FOR MULTIPLE BONDING OF AGENTS PERFORMING DUTIES UNDER THE PROVISIONS OF THE EXCISE REVENUE ACT, AND AMENDING SECTION 73-1325, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-1325, Arizona Code of 1939, is amended to read:

73-1325. ADMINISTRATION OF ARTICLE VESTED IN TAX COMMISSION. The administration of this article is vested in and shall be exercised by the tax commission, except as herein otherwise provided, and all payments required hereunder shall be made to the tax commission. The enforcement of any of the provisions of this article in any of the courts of the state shall be under the exclusive jurisdiction of the tax commission and the attorney general. The tax commission shall appoint, as needed, such agents, clerks, and stenographers as authorized by law, who shall serve under it, shall perform such duties as may be required, not inconsistent with this article, and are hereby authorized to act for the commission, as it may prescribe and as provided herein. Each such agent shall execute a bond in the sum of five thousand dollars ($5,000.00) for the faithful discharge of his duties, but the commission may, in its discretion, bond all or any number of its agents by a multiple or joint bond. All such agents, clerks, and stenographers may be removed by the tax commission for cause, of which the commission shall be the final judge.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 83

(House Bill No. 133)

AN ACT

RELATING TO THE USE OF HIGHWAYS BY VEHICLES; PROVIDING FOR WRITTEN REPORTS OF ACCIDENTS

THEREON; AND AMENDING SECTION 66-135r, ARIZONA CODE OF 1939, AS AMENDED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-153r, Arizona Code of 1939, as amended, is amended to read:

66-153r. WRITTEN REPORTS OF ACCIDENTS. (a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of one hundred dollars ($100.00) or more shall within 5 days after such accident, forward a written report of such accident to the department.

(b) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of the department and may require witnesses of accidents to render reports to the department.

(c) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of such accident to the department.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 84

(House Bill No. 186)

AN ACT

RELATING TO THE STATE HOSPITAL FOR THE INSANE; CHANGING THE NAME THEREOF TO ARIZONA STATE HOSPITAL, AND AMENDING ARTICLE 2, CHAPTER 8, ARIZONA CODE OF 1939, BY ADDING SECTION 8-204a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 8, Arizona Code of 1939, is amended by adding section 8-204a, to read:

8-204a. NAME OF ARIZONA STATE HOSPITAL. From and after the effective date of this Act, the state hospital for the insane shall be officially referred to and known as the Arizona state hospital.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 85

(House Bill No. 188)

AN ACT

MAKING AN APPROPRIATION TO THE CONTRIBUTION FUND FOR REIMBURSEMENT OF COSTS INCURRED IN THE ADMINISTRATION OF CHAPTER 126, LAWS OF 1951, RELATING TO STATE EMPLOYEES' PARTICIPATION IN FEDERAL SOCIAL SECURITY INSURANCE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of two thousand four hundred twenty-eight dollars fourteen cents ($2,428.14) is appropriated to the contribution fund created by section 6, chapter 126, Laws of 1951.

Sec. 2. PURPOSE. The purpose of the appropriation made under the terms of section 1 is to reimburse the contribution fund for expenditures from the fund through June 30, 1953, by the employment security commission for the purpose of paying the cost incurred in the administration of chapter 126, Laws of 1951, as authorized by section 12-834 (c), as amended, Arizona Code, 1952 cumulative code supplement.

Sec. 3. EXEMPTION. The appropriation herein made is exempt from the provisions of section 10-930, Arizona Code of 1939, relating to lapsing of appropriations.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1954.

Filed in the Office of the Secretary of State—March 30, 1954.

CHAPTER 86

(House Bill No. 367)

AN ACT

RELATING TO UNDERGROUND WATER; CONTINUING THE LIFE OF THE UNDERGROUND WATER COMMISSION; AMENDING SECTIONS 75-2115 AND 75-2116, ARIZONA CODE OF 1939, AND REAPPROPRIATING FUNDS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 75-2115, Arizona Code of 1939, is amended to read:

75-2115. UNDERGROUND WATER COMMISSION. The life of the underground water commission of Arizona, created by chapter 49, Laws of 1952, twentieth legislature, second regular session, is continued until April 30, 1954, or until the effective date of permanent legislation relating to ground water if enacted prior to April 30, 1954. The conditions and restrictions contained in section 1, chapter 49, Laws of 1952, regarding qualifications, representation and tenure of the members of the commission shall remain in force and effect.

Sec. 2. Section 75-2116, Arizona Code of 1939, is amended to read:

75-2116. POWERS AND DUTIES. The underground water commission shall:

(a) Draft legislation designed to carry out substantially the recommendations of the commission as contained in its report entitled "The Underground Water Resources of Arizona" and submit the same to the legislature not later than April 30, 1954;

(b) employ personnel, including professional and scientific assistance, deemed necessary for the drafting of the legislation;

(c) cooperate with the United States and its departments and agencies for the purpose of bringing about cooperative agreements to secure maximum conservation of ground water;

(d) fix the compensation of its members, not to exceed fifteen dollars for each day actually spent in performing

necessary work authorized by the commission, plus actual and necessary traveling expenses.

Sec. 3. REAPPROPRIATION. (a) Any money remaining on March 31, 1954, of the appropriation made under the provisions of section 8, chapter 42, Laws of 1953, first regular session, is hereby reappropriated to the underground water commission for use in carrying out the duties imposed upon it by said chapter 42.

(b) The funds appropriated under the provisions of subsection (a) shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations, respectively. On April 30, 1954, any unencumbered money remaining of this appropriation shall lapse and be returned to the general fund.

Sec. 4. EXTENSION OF DRILLING RESTRICTION. The restriction against the drilling of new irrigation wells set forth in subsection (b) of section 2, chapter 42, Laws of 1953, first regular session, is hereby extended until March 31, 1955.

Sec. 5. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 31, 1954.

Filed in the Office of the Secretary of State—March 31, 1954.

OFFICE OF THE GOVERNOR

March 31, 1954

Hon. Wesley Bolin, Secretary of State
State Capitol Building
Phoenix, Arizona

Dear Mr. Secretary:

I have just signed and herewith transmit to you for filing House Bill 367, of the Second Regular Session, Twenty-first Legislature, entitled "An Act relating to underground water; continuing the life of the underground water commission; amending Sections 75-2115 and 75-2116, Arizona Code of 1939, and reappropriating funds".

It is only with the greatest reluctance and in the face of an extremely critical situation that this bill has been approved, so that, as an emergency measure, it may become immediately effective.

It falls far short of the minimum urgent need for legislation to meet an unbelievably hazardous circumstance that would have been created by the expiration at midnight tonight of the terms of Chapter 42 of the Session Laws of 1953 (the First Regular Session of the Twenty-first Legislature).

It doesn't begin to approach the legislation that is absolutely necessary if we are to cope with the eventualities implicit in the failure of successive Arizona legislatures to deal effectively for more than 20 years with our continuously diminishing supplies of underground water.

The people of Arizona are entitled to know why it is necessary to make the two foregoing declarations, and it is the purpose of this letter to set forth the facts for the record.

For two months the Twenty-first Legislature has had in its possession its own Underground Water Commission's recommendation for an underground water code. The senate riddled this code with disarming amendments, and the house has done nothing at all with it.

When, by this morning, it was quite obvious that no progress on the code was being made, and being cognizant that Chapter 42 would expire at midnight tonight, I addressed the following letter to President Hubert Merryweather of the Senate, and Speaker John C. Smith, Jr., of the House of Representatives:

"As you are undoubtedly aware, today, March 31st, officially closes the work of the Underground Water Commission.

"Continuing failure to reach agreement on an adequate Underground Water Code makes it absolutely imperative that the life of the Underground Water Commission be extended today until we find the answer to this vital problem.

"Under the circumstances, it would be suicide to allow the Commission's authority to maintain certain emergency controls to become inoperative for a single minute. The practical effect of letting the present Act expire at midnight tonight would be to permit the easy and almost automatic legalization of all illegal and wildcat wells now existing—and against which cases are pending or in preparation—and to permit legal starting of new wells against which actions could not be started under any delayed legislation.

"The general welfare demands that the state be protected against the threat of such abuses."

In response to this letter, the Rules Committee of the House of Representatives this afternoon drafted and introduced House Bill 367. In its original form this Act extended the powers and duties of the Underground Water Commission for one year, and could have served as a stop-gap (for still another time) until legislative passage of an effective Underground Water Code can be accomplished.

During its passage through the House, the bill was amended to give the Underground Water Commission an extension of life of just one month—until April 30, 1954. Thereupon, the House adjourned for the day so that the senate had no alternative but to pass the bill as it was received by the senate, and send it to my desk.

This is the measure I have signed, solely to temporarily avert disaster, and in the belief that the sound judgment of a sufficient majority of the membership of the Legislature will yet prevail, and approve the code recommendations of its own Underground Water Commission.

Just what is this code of which we speak, and what are its origin and history?

In March of 1952, the Second Regular Session of the 20th Legislature adopted and I approved, on March 17th, an Act creating the Underground Water Commission.

The Legislature directed that the commission be composed of 24 men with agricultural interests, representing all of the 14 counties, and that it thoroughly investigate the underground water situation and prepare recommendations for the 21st Legislature.

To this commission I appointed 24 men divided, by residence, as follows: From Maricopa County, 6; Pinal County, 4; Pima and Graham Counties, 2 each, and from each of the other 10 counties, 1 member.

With the exception of one member who was elevated to the Legislature, and was of necessity replaced, the membership has been intact from the inception of the commission.

They have held 30 meetings, some of them continuing for days, and conducted 16 full days of hearings in 13 communities, situated mostly in the critical water shortage areas of the state.

They employed the best experts they could find to make both technical and economic studies.

In their hearings they received, and tape-recorded, testimony from 230 witnesses; the hearings were attended by more than 1,000 vitally interested persons.

Testimony of the witnesses who appeared before the commission fills 71 hours of tape recordings, on which are carefully preserved the words of all those who asked to give their views to the commission.

To obtain these views, and to give the public generally every opportunity to be heard on this vital question, the commission traveled 1,300 miles to communities within Arizona.

To illustrate the care which was exercised, the commission held three full days of hearings in Pinal County, where the first critical groundwater area was declared under the 1948 Underground Water Code.

Fifty-five Pinal County residents were heard — 18 in Coolidge, 21 in Eloy, and 16 in Casa Grande, and their spoken words fill 14 hours of tape recordings.

Simultaneously, the commission was obtaining, at a cost of $11,500, a 62-year summary of the work in Arizona of the United States Geological Survey, a compilation of data never before available, for study in connection with the commission's own technical findings.

On January 1, 1953, the Underground Water Commission submitted to the 21st Legislature a 174-page printed summary of its work, its findings, and its recommendations, and the First Regular Session of this Legislature, by Chapter 42 of its laws, extended the life of the commission and directed it to prepare a code of laws, in accordance with its recommendations, for the consideration of the Second Regular session, now in progress.

The most careful kind of work went into the preparation of this code, which was seen and studied in advance of its presentation by attorneys representing every known type of water user in Arizona.

It was presented to the Legislature on February 1st after 10 months of study and drafting, which thus are added to the 9½ months used in the preparations of the study and recommendations upon which the code was based.

As presented, it represented an investment by the taxpayers of Arizona, at the direct order of the Legislature of Arizona, of $128,000. Of this total, it is interesting to note that technical advice and reports have cost $37,600; legal

services have cost $25,000; and the U. S. G. S. and other cooperating agencies, including the University of Arizona, have received $15,500.

By contrast, and illustrating better than anything the type of service given by the 24 members of the Commission, the aggregate "salary checks" drawn by them, for far more than 1,000 man-days of work, have to this moment totalled up to only $1,995, instead of the more than $15,000 they could have drawn under the law.

It is of more than passing interest that the report to this Legislature's First Regular Session was unanimously approved by every member of this Commission, and the Code presented to the Second Regular Session was likewise approved by every member of the Commission, representing every county in the state.

This was a code designed to give the land-owner of the state the full control of his own destiny, and at the same time make it possible for our now vanishing underground water supplies to be soundly conserved.

After some period of study in the senate, the code was immediately subjected to crippling amendments.

Certain city officials screamed that the code would destroy vast community investments intended for developing water supplies for domestic use—although, as nearly as anyone can ascertain, the developments so far consist of spending a few hundred dollars to obtain right of way leases on state lands in the middle of an agricultural development, to be followed by a proposal to convert them to well sites.

This was a shock to the Commission, because testimony taken at a formal hearing, was to the contrary.

The Commission's report of January 1, 1953, on Page 128, quotes Phil J. Martin, Jr., Tucson City Water Superintendent, as saying:

"Our water table has dropped considerably in the last 10 years and is continuing to drop. We think there should be some restrictions made. The area should be declared critical to prevent further marginal land being brought in. I know that the recharge must equal the withdrawal or somebody's going to be out of water."

Leigh Gardner, a Phoenix civil engineer who is employed by the City of Tucson, on Page 129 testified:

"The Engineering Association believes strongly in and have recommended a strong groundwater law x x x. It's to the

city's interest that a strong law be established as much as possible like surface waters with prior appropriation and beneficial use as the primary consideration. The municipalities will then be able to deal with individuals who have established rights, in purchasing additional rights as they need them."

Then, in the senate, a demand was raised that industry, meaning largely the mines, be exempted from all control whatever, and the senate promptly bowed. Yet it is in the same record of the Underground Water Commission (Pages 24 and 25) that there is reproduced a letter from William A. Evans, of the firm of Evans, Hull, Kitchel & Jenckes, attorneys for the Phelps Dodge Corporation (and "explaining the position of the mining industry") which includes this remarkable statement:

"It is not suggested that a new industrial extraction should be permitted in a critical area without there having first been eliminated an existing right to the ground water supply substantially equivalent in annual quantity to the new industrial use."

This is remarkable because it is exactly the reverse of the position the senate has taken in one of its amendments, which leads inevitably to the question of whether the senate knew what it was doing, or whether the mining industry knows its own mind.

Certainly it was unanimous in its opinion when the Underground Water Commission devoted one full day's session to hearing representatives of all the mining companies in Arizona. W. P. Goss, then General Manager of the Magma and San Manuel Copper Corporations, told the Commission that Mr. Evans' letter was "a very clear presentation of the needs of the industry."

He went further to say, "We believe that any legislation set up to regulate the use of water should consider the fact that our intended use is bona fide and it should have an equal right with any industry that is using water at the time the regulation is made."

Here was not the faintest suggestion that the mining companies or any industry should have superior rights . . and it is noteworthy that the Code written by the Commission took cognizance of and incorporated every circumstance set forth by the mining companies.

Then Pinal County had to have special treatment, although it is notoriously the most beleagured area in the state with respect to underground water depletion, and every news-

paper in an agricultural area of that county already had urged passage of the code as it was written.

In the Commission's summary of testimony (page 141) there is testimony by Earl Thode, a Casa Grande rancher and farmer, which reads in part:

"Localities should form their own districts and get together on controls x x Administration should be by a local group. Believes water situation is serious, but should not be given so much publicity. Does not believe legislation would work, but says, "If you could regulate all, I'd be in favor of it."

Immediately after him, on the same page, M. H. Montgomery of Stanfield is quoted:

"Might not oppose cutbacks if not too drastic. There should be no new land put in. Stop drilling on state land x x x administration should be by local representation."

These are precisely the types of demands that are met by the provisions of the Code handed by the Commission to this Legislature on February 1st.

Use of the above quotations does not mean to imply that all of the 230 individuals who testified were of identically the same opinion. But, the Commission says, the majority were, and the quotations used are from authoritative voices speaking diametrically opposite to what the Legislature currently is trying to do to its own Commission's code.

The full story of all the testimony is in those 71 hours of tape recordings. The full summary is in the Commission's report to the First Regular Session of the 21st Legislature.

It is tragic for the State of Arizona that the small handful of individuals currently blocking the will and the efforts of a vast majority include among their number individuals who boast that, although they are lawmakers elected to represent the people, they have never read either the Commission's report or the proposed Code, and have no intention of doing either.

It is not the purpose of this letter of transmittal for House Bill 367 to be personal in any way, or argumentative for argument's sake, Mr. Secretary.

The foregoing simply sets forth facts to which the people of Arizona are entitled . . facts about which there can be no argument.

The facts tell their own story of a truly horrible miscarriage of justice for the people of our State. These facts need to be

on the record, for once again they literally compel us to ask: When are we going to measure up and be equal to the responsibilities delegated to us when the people of Arizona elected us to be their representatives?

Too, we well may ask here: How does it happen that the welfare of all the people takes last place in the consideration of some legislators, once they are elected? They have had no difficulty sending to my desk legislation wanted by this particular group or that—some of which I have been compelled to veto; but where is the Legislation for the welfare of the majority of the people of Arizona and the great agricultural empire that leads our whole economy?

Isn't it all too obvious now that a virtual handful of greedy, selfish, self-centered individuals are, by their fearfully strategic positions, successfully impairing if not entirely blocking the whole future of the Legislature in this category?

Isn't it all to obvious that a few rail-perched lobbyists on the third floor of the capitol are far more effective in wrecking useful legislation than the 99 members of the 21st Legislature are in passing it?

I have only one more thought: There is yet time!

This Legislature has had the Underground Water Code for as much time as an ordinary Legislative session consumes. There is still time to pass it, and it is my earnest hope that sufficient members will become aware of their obligations to the people of Arizona to get about the business of legislating, in this connection, for the general welfare.

It is my earnest hope that this may come to pass . . now.

Sincerely,

/s/ HOWARD PYLE
GOVERNOR

HP/fjp

CHAPTER 87

(House Bill No. 107)

AN ACT

RELATING TO DUTIES OF SUPPORT; PRESCRIBING THE PROCEDURE FOR THE ENFORCEMENT THERE-

OF; MAKING UNIFORM THE LAW RELATING THERETO, AND AMENDING SECTIONS 27-822 AND 27-832, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 27-822, Arizona Code of 1939, is amended to read:

27-822. INTERSTATE RENDITION. (a) The governor of this state may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

(b) When the extradition of an obligor in this state has been demanded by the governor of any other state, the said obligor may be relieved of extradition to such other state if he submits himself to the jurisdiction of the court of this state and complies with the court's order of support. In order to submit himself to the jurisdiction of the court of this state, such obligor shall file with the court a verified petition containing the following information:

1. His name and permanent address;

2. the names, addresses and ages of his obligees in the demanding state;

3. his financial circumstances;

4. that he is willing to submit himself to the jurisdiction of the court of this state and to comply with its order of support, and

5. such other information as he believes to be pertinent and material.

(c) The court shall make a temporary order of support and shall continue the matter pending the receipt of such further information as the court may deem necessary or advisable. Two certified copies of the temporary order of support shall be delivered to the office of the governor and one plain copy shall be delivered to the county attorney. Upon receipt of the certified copies of the order of support, the governor may in his discretion suspend extradition proceedings so long as the obligor complies with the temporary order of support and with any other orders of support which may thereafter be entered.

Sec. 2. Section 27-832, Arizona Code of 1939, is amended to read:

27-832. COSTS AND FEES. A court of this state acting either as an initiating or responding state may in its discretion waive the payment of any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and respondent, or either. Where the action is brought by or through the state or any agency thereof, there shall be no filing fee.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 88

(House Bill No. 117)

AN ACT

RELATING TO DECEDENTS' ESTATES; AMENDING SECTIONS 38-502, 38-802, 38-1701, 38-1702, 38-1704, 38-1705, 38-1706, AND 38-1707, ARIZONA CODE OF 1939; AMENDING CHAPTER 38, ARTICLES 5, 8, AND 17, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 38-502, Arizona Code of 1939, is amended to read:

38-502. BOND. Every person to whom letters testamentary or of administration are directed to issue shall, before receiving them, execute a bond to the state to be approved by

the court or a judge thereof. The bond shall be conditioned that he will faithfully execute the duties of the trust according to law, and shall be in an amount not less than the value of the personal property and the probable value of the annual rents, profits, and issues of the real property belonging to the estate, to be ascertained by the court, provided the court may, by its order, impound in the court or retain in the possession of any bank or licensed financial institution any stocks, bonds, or other securities belonging to the estate, and the value thereof need not be taken into consideration in fixing the amount of the bond. No bond shall be required of a title insurance company qualified to do business under the laws of the state of Arizona and which maintains the required deposit with the state treasurer of Arizona, a national banking association or a state bank licensed by the state of Arizona. In estates of less than three thousand five hundred dollars ($3,500.00) in value, where the whole of the estate is to be assigned to the surviving spouse under section 38-905 (section 3977, Revised Code of 1928), and where the surviving spouse, or his or her nominee, is applying for letters of administration, the court may, at its discretion upon proper showing made as to the value of the estate, order that letters of administration issue to the surviving spouse, or such nominee, without being required to give bond.

Sec. 2. Section 38-802, Arizona Code of 1939, is amended to read:

38-802. APPRAISERS. The court, or the judge thereof, shall appoint three (3) disinterested persons, any two (2) of whom may act, who shall receive compensation of not less than five dollars ($5.00) per day or fraction thereof to be allowed by the court. The appraisers shall file a verified account of their services and disbursements with the inventory. If part of the estate is in another county, the appraisers thereof may be appointed, either by the court or judge of such other county, on request of the judge having such jurisdiction.

Sec. 3. Section 38-1701, Arizona Code of 1939, is amended to read:

38-1701. WHEN ESTATE PROPERTY MAY BE MORTGAGED OR LEASED. Whenever, in any estate being administered, it shall appear to the court to be for the advantage of the estate to raise money, upon a note secured by a mortgage of property of the estate, or to make a lease thereof, the court may, on a petition, notice, and hearing as herein provided empower and direct the executor, administrator or guardian, to mortgage such property, or a part thereof, and to execute a note to be secured by such mortgage, or to

lease the same for such periods of time and with such conditions and provisions as the court may allow.

Sec. 4. Section 38-1702, Arizona Code of 1939, is amended to read:

38-1702. PETITION TO OBTAIN ORDER TO MORTGAGE. To obtain an order to mortgage property the executor, administrator or guardian or any person interested in the estate, may file a verified petition, showing: The purpose for which it is proposed to make the mortgage, which must be either to pay debts, legacies or charges of administration, or to pay, reduce, extend or renew some existing lien on said property; a statement of the debts, legacies, charges of administration, or liens to be paid, reduced, extended or renewed; the advantage that may accrue to the estate from making the proposed mortgage; the amount to be raised, and a description of the property to be mortgaged; and the names of the legatees and devisees, and heirs of the deceased, so far as known to the petitioner, or of the ward.

Sec. 5. Section 38-1704, Arizona Code of 1939, is amended to read:

38-1704. HEARING - ORDER. At the time and at the place appointed in the order, or at such time to which the hearing may be postponed, proof of service or publication of the order to show cause having been made, the court shall hear the petition, and any objections filed thereto, and witnesses as in other cases. If the court finds that it will be for the advantage of the estate to mortgage the whole or any portion of the property, an order shall be made empowering and directing the executor, administrator or guardian to execute such mortgage and a promissory note or notes to the lender, for the amount authorized. The order may prescribe the maximum rate of interest and period of the loan, and require that the interest and the whole or any part of the principal be paid, from time to time, out of the whole estate, or any part thereof, and that any building on the premises to be mortgaged shall be insured for further security of the lender, and the premiums paid from such income.

Sec. 6. Section 38-1705, Arizona Code of 1939, is amended to read:

38-1705. EXECUTION OF MORTGAGE AND NOTES — RECITAL OF ORDER. After the making of the order to mortgage, the executor, administrator, or guardian, shall execute and deliver a promissory note or notes for the amount and period specified in the order, and a mortgage of the

property securing the payment of the note or notes, stating in the mortgage that it is made by authority of the order, and giving the date of such order. The note or notes and mortgage shall be signed by the executor, administrator, or guardian as such, and shall create no personal liability against the person so signing.

Sec. 7. Section 38-1706, Arizona Code of 1939, is amended to read:

38-1706. TITLE AFFECTED BY MORTGAGE. The mortgage so made mortgages and hypothecates all the right, title and estate which the decedent or ward had in the property described therein at the time of the death of such decedent, or at the time of the appointment of the guardian, and any right, title or interest acquired by the estate of such decedent or ward since the time of the death of such decedent, or since the appointment of the guardian.

Sec. 8. Section 38-1707, Arizona Code of 1939, is amended to read:

38-1707. MORTGAGE NOT IMPAIRED BY IRREGULARITIES — DEFICIENCY ON FORECLOSURE. Jurisdiction of the court to administer the estate of such decedent or ward shall vest such court with jurisdiction to make the order for the note or notes and mortgage, and such jurisdiction shall conclusively inure to the benefit of the mortgagee named in the mortgage, his heirs and assigns. No irregularity in the proceedings shall impair or invalidate the same, or the note or notes and mortgage given in pursuance thereof, and the mortgagee has the same rights and remedies on the note or notes and mortgage as if made by the decedent prior to his death, or by the minor after reaching the age of maturity, or by the incompetent person when legally competent; provided, however, that upon a foreclosure, if the proceeds of the property are insufficient to pay the note or notes and mortgage, no judgment, or claim for any deficiency of such proceeds to satisfy the note or notes and mortgage, or the costs or expenses of sale, shall be had or allowed, except when the note or notes and mortgage were given to pay, reduce, extend, or renew a lien or mortgage subsisting on the property or some part thereof, at the time of the death of the decedent, and the indebtedness secured by such lien or mortgage was an allowed and approved claim against his estate, or a lien upon the interest of the minor in said property at the time it vested in him, or upon the estate of the incompetent at the time the incompetency of such person was so declared by the court.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 89

(House Bill No. 250)

AN ACT

RELATING TO THE DISCHARGE AND RESTORATION TO COMPETENCY OF PERSONS COMMITTED TO THE STATE HOSPITAL FOR THE INSANE, AND AMENDING ARTICLE 2, CHAPTER 8, ARIZONA CODE OF 1939, BY ADDING SECTION 8-208a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 8, Arizona Code of 1939, is amended by adding section 8-208a, to read:

8-208a. ORDER OF RESTORATION TO FULL COMPETENCY. Any person receiving a final discharge from the state hospital, who, in the opinion of the superintendent of the state hospital has been restored to competency and able to manage his own affairs, shall be furnished by the board with a certificate stating that said person has been given a final discharge from the hospital and is competent to manage his own affairs. A certified copy of this certificate shall be sent by the hospital to the superior court originally committing him to the hospital, whereupon the court may enter an order that such person has been restored to full competency and to full civil rights. The person may present such certificate to any superior court and the court may enter an order that such person has been restored to full competency and to full civil rights.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 90

(House Bill No. 347)

AN ACT

RELATING TO THE STATE HIGHWAY DEPARTMENT AND PROVIDING FOR THE REALLOCATION OF FUNDS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. REALLOCATION. From the appropriation made under chapter 132, subdivision 72, Laws of 1953, first regular session, to state highway motor vehicle division, personal services for the 42nd fiscal year, the amount of twenty-three thousand two hundred thirty-two dollars forty cents ($23,232.40), is reallocated to current expenditures — other.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 91

(House Bill No. 348)

AN ACT

AUTHORIZING THE STATE AUDITOR TO PAY FROM THE HIGHWAY FUND CERTAIN CLAIMS PRESENTED BY THE STATE ENGINEER AFTER THE EXPIRATION OF THE TIME LIMITATION FOR REGULAR PAYMENT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION AND AUTHORIZATION. The state auditor is hereby authorized to pay thirteen (13) claims, in the total amount of one thousand nine hundred ninety dollars one cent ($1,990.01), on file in his office, which were presented to him after the time limitation for the regular payment of claims. These claims have been approved by the state engineer and audited by the state auditor, and have been determined to be legitimate claims against the state highway fund.

Sec. 2. PURPOSE. The state auditor is authorized to draw his warrants on the state highway fund in payment of the following claims:

Arizona Public Service	41.61
Arizona Public Service	6.22
Continental Divide Electric	90.47
Mountain States Telephone & Telegraph Co.	3.90
Northern Arizona Light & Power Co.	6.30
Radio Corporation of America	23.58
Southern Pacific Co.	3.47
Aire Engineering Co.	5.00
Boulder Dam Line	35.48
Complete Auto & Home Supply	31.85

William E. Keegan to Secretary State Highway Commission Revolving	150.75
Navopache Electric Cooperative	25.30
Northwestern University Traffic Institute	1,566.08

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 92

(Senate Bill No. 127)

AN ACT

RELATING TO INMATES OF THE STATE PRISON SELECTED FOR TRANSFER TO THE EDUCATIONAL REHABILITATION SYSTEM, AND AMENDING SECTION 47-502, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 47-502, Arizona Code of 1939, is amended to read:

47-502. GOVERNMENT OF SYSTEM. (a) Government of the state educational rehabilitation system shall vest in the state board of educational rehabilitation.

(b) The board shall: 1. supervise the administration and operation of the state educational rehabilitation institutions; 2. appoint the superintendent or chief administrative officer of each such institution and fix his salary, unless the same is prescribed by law; 3. establish and inaugurate the operation of any penal, corrective, or educational institution for which provision may be made by law; 4. prescribe rules and regulations for the government of the board and the administration of institutions under its control; 5. employ and fix the compensation of assistants, teachers and other employees required for the administration of the institutions or of this Act, and, 6. do all things necessary to carry out the provisions of this Act.

(c) Authority to determine which of the inmates of the state prison are to be transferred to the institute of educa-

tional rehabilitation is vested solely in the superintendent of the state prison.

Approved by the Governor—April 2, 1954.

Filed in the Office of the Secretary of State—April 2, 1954.

CHAPTER 93

(Senate Bill No. 2)

AN ACT

RELATING TO ELECTION CONTESTS; PRESCRIBING THE TIME WITHIN WHICH A CONTEST OF ELECTION SHALL BE BROUGHT AND JUDGMENT RENDERED THEREON, AND AMENDING SECTION 55-1505, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 55-1505, Arizona Code of 1939, is amended to read:

55-1505. TIME FOR HEARING, FINDINGS AND DECISION; JUDGMENT. (a) In any contest brought under the provisions of Section 55-1501, upon the filing of the answer, or if no answer is filed, upon the expiration of the time specified in the summons, the court shall set a time for the hearing of the contest, which may be continued for good cause shown.

(b) In any contest brought under the provisions of Section 55-1504, where the number of ballots cast for the contested office or measure exceeds thirty-five thousand, the time set for the hearing shall be the same as in paragraph (a).

(c) In any contest brought under the provisions of Section 55-1504, where the number of ballots cast for the contested office or measure was fewer than thirty-five thousand, upon the filing of the answer, or if no answer is filed, upon the expiration of the time specified in the summons, the court shall set a time, not later than twenty days after the expiration of the time allowed for filing statements of contest, for the hearing of the contest, which may be continued for not to exceed ten additional days for good cause shown.

(d) The court shall continue in session to hear and determine all issues arising in contested elections. After hearing

the proofs and allegations of the parties and within ten days after the submission thereof the court shall file its findings and immediately thereafter shall pronounce judgment, either confirming or annulling and setting aside the election.

(e) If in any election contest it appears that another person than the contestee has the highest number of legal votes, the court shall declare that person elected, and that the certificate of election of the person whose office is contested is of no further legal force or effect.

Sec. 2. LIMITATION OF ACT. Nothing in this Act shall be deemed to amend, repeal, or affect in any manner whatsoever the procedure prescribed by article 2, chapter 2, Arizona Code of 1939, relating to contesting the election of a member of the legislature.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 94

(Senate Bill No. 19)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE HOSPITAL FOR THE INSANE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to all other appropriations, the sum of forty-five thousand dollars ($45,000.00) is appropriated to the state hospital for the insane, to be available during the remainder of the forty-second fiscal year for the purpose of paying salaries of additional employees.

Sec. 2. EXEMPTION. The appropriation granted in section 1 shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to lapsing appropriations and quarterly allotments.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 95

(Senate Bill No. 21)

AN ACT

RELATING TO REVOLVING FUNDS FOR STATE BUDGET UNITS; AUTHORIZING REVOLVING FUNDS FOR STATE AGENCIES REQUIRING IMMEDIATE CASH OUTLAYS; AMENDING SECTION 10-932, ARIZONA CODE OF 1939; AND REPEALING SECTION 10-217, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 10-932, Arizona Code of 1939, is amended to read:

10-932. REVOLVING FUNDS AUTHORIZED. The head official of any budget unit, the activities of which require immediate cash outlays for postage, C.O.D. packages, travel or other minor disbursements which are proper as ultimate claims for payment from state funds, may apply to the state auditor to provide a revolving fund in any amount not to exceed one thousand dollars for any department excepting the university of Arizona, which shall not exceed ten thousand dollars; the Arizona state fair commission, which shall not exceed fifteen thousand dollars; and the state tax commission, the Arizona state college at Tempe, the Arizona state college at Flagstaff, the Arizona game and fish commission, and the Arizona state hospital for the insane, each of which shall not exceed two thousand five hundred dollars. Such application shall state the purposes for which required, the amount deemed necessary and the particular person who shall have custody of and be charged with the handling and accounting for the fund. The state auditor shall allow such application, draw a warrant to the order of the applicant officer, and charge the amount thereof against the appropriation made to that budget unit; provided, that no such revolving fund shall be established unless the applicant therefor is bonded for an amount equal to twice the amount of such revolving fund. The manner of accounting of a revolving fund shall be determined by the state auditor and the applicant officer shall return the full amount of the revolving fund to the state treasurer on or before the close of the fiscal year in which the said fund was established. Any time during the fiscal year, at the request of the state auditor, the applicant shall return to the state treasurer the full amount of the revolving fund or amount requested and no claims for services of the applicant officer or the head of the budget

unit shall be audited until such request has been complied with.

Sec. 2. REPEAL. Sec. 10-217, Arizona Code of 1939, is repealed.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 96

(Senate Bill No. 48)

AN ACT

RELATING TO PUBLIC IMPROVEMENT BY SPECIAL ASSESSMENT, AND AMENDING SECTION 16-2325, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Sec. 16-2325, Arizona Code of 1939, is amended to read:

16-2325. ISSUANCE OF BONDS; RESOLUTION TO RECITE TERMS. (a) After the full expiration of the prescribed time from the date of the warrant, and after the superintendent shall have recorded the return, he shall make and certify to the clerk a complete list of all assessments unpaid, which amount to twenty-five dollars or over, upon any assessment. If any person before the certification of said list to the clerk shall present to the superintendent his affidavit that he is the owner of a lot in said list, accompanied by the certificate of a searcher of records that he is such owner of record, and notifies said superintendent in writing that he desires no bond to be issued for the assessment upon said lot, then said assessment shall not be included in said list, and remain collectible as herein provided. Omission to file such notice shall bar any defense against said bonds except that the legislative body did not have jurisdiction to issue the same.

(b) The clerk shall present said list to the legislative body at its next meeting, and the legislative body shall thereupon, by resolution, direct improvement bonds to be issued to the contractor for the amount of the assessments remaining unpaid, prescribing the number and denomination of said bonds, and the times when payable, which shall be so fixed that an

approximately equal amount of the total sum shall be paid each year until the whole amount is paid, not exceeding ten years and three months from the date of the bonds, provided however, any fractional amounts may be added to the amount due in any year, so that the amounts due in all other years shall be in equal multiples of one hundred dollars each. Except for a bond to represent any odd amount due in any year, the denominations of said bonds shall be fixed at one hundred dollars or some multiple thereof, not exceeding one thousand dollars. Said resolution shall also fix the place, if any, other than the office of the treasurer, at which said bonds and the interest thereon shall be payable. The bonds shall be issued as of the date of the warrant, and shall bear interest from said date at the rate specified in the resolution of intention, not exceeding eight per cent per annum. They shall have semiannual interest coupons thereto attached, the first of which shall be payable on the first day of January or July, as the case may be, occurring ninety days after the date of the bond, and shall be for the interest accrued at that time. The due date of all of said bonds shall be the first day of January, in the years in which they respectively become due.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 97

(Senate Bill No. 68)

AN ACT

RELATING TO REAL ESTATE; PROVIDING QUALIFICATIONS FOR BROKERS AND SALESMEN, AND AMENDING SECTIONS 67-1702, AND 67-1714, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 67-1702, Arizona Code of 1939, is amended to read:

67-1702. DEFINITIONS. In this article, unless the context otherwise requires:

1. "Department" means state real estate department;

2. "commissioner" means state real estate commissioner;

3. "real estate broker" or "broker" means a person, other than a salesman who, for another, for compensation or other valuable consideration, or with the intent, in the expectation, or upon the promise of receiving or collecting compensation or other valuable consideration:

(a) Lists for sale, sells, buys, exchanges, rents, or leases, or offers, attempts, or agrees to negotiate a sale, exchange, purchase, or rental of any estate or interest in real estate;

(b) collects, or offers, attempts, or agrees to collect, rent for the use of real estate;

(c) negotiates, or offers, attempts, or agrees to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate;

(d) auctions, or offers, attempts, or agrees to auction, any real estate;

(e) advertises or holds himself out as engaged in the business of selling, exchanging, buying, renting, or leasing real estate;

(f) assists in or directs the procuring of prospects or the negotiation or closing of any transaction which results or is calculated to result in the sale, exchange, leasing or renting of any real estate;

(g) buys, offers to buy, sells, offers to sell, or otherwise deals in options in real estate or improvements thereon; and the term includes:

(h) Any person employed by or on behalf of the owner of any real estate, at a stated salary, upon a commission, upon a salary and commission, or otherwise, to sell the real estate or any part thereof, in lots or other parcels, and who sells or exchanges, or offers, attempts, or agrees to negotiate the sale or exchange of, any such lot or parcel of real estate, but if the owner of real estate is engaged in the business of buying, selling, exchanging, leasing, or renting real estate and holds himself out as a full or part-time dealer in real estate, then a person employed by that owner may be licensed as a salesman if the owner is licensed as a broker; and,

(i) any person engaged in the business of buying, selling, exchanging, leasing, or renting of real estate on his own account and holding himself out as a full or part-time dealer in real estate;

4. "real estate salesman" or "salesman" means a person engaged by or on behalf of a licensed real estate broker to

perform any act or transaction included in the definition of real estate broker;

5. "lease" or "leasing" includes any lease, whether it be the sole, the principal, or an incidental part of a transaction;

6. "person" includes corporation, partnership, company, and any other form of multiple organization for the carrying on of business;

7. "licensee" means a person to whom a license as real estate broker or salesman has been granted;

8. "subdivided lands" or "subdivision" means land subdivided or prepared to be subdivided for the purpose of sale or lease, whether immediate or future, into five or more lots or parcels.

Sec. 2. Section 67-1714, Arizona Code of 1939, is amended to read:

67-1714. QUALIFICATIONS OF LICENSEES. (a) Except as otherwise provided in this article, the commissioner shall require such proof as he may deem advisable of the honesty, truthfulness, and good reputation of the applicant, and shall require that the applicant, if for a broker's license, shall have at least a high school education or in lieu thereof not less than two years' experience in the real estate field, shall have at least one year's residence in Arizona, and shall have attained the age of twenty-one years, or, if for a salesman's license, shall have attained the age of twenty-one years. The commissioner shall ascertain by written examination held in the presence of the commissioner or his deputy that the applicant has:

1. A fair understanding of the rudimentary principles of real estate conveyancing, and

2. sufficient understanding of the obligations between principal and agent, of the principles of real estate practice and the canons of businesss ethics pertaining thereto, of the provisions of the real estate laws of this state, and of such other regulations as the commissioner may deem necessary.

(b) The commissioner shall waive the examination of:

1. Any applicant for a broker's license who held an unrevoked and unsuspended broker's license on December 31, of the preceeding year;

2. any applicant for a salesman's license who held an unrevoked and unsuspended broker's or salesman's license on December 31, of the preceding year, or,

3. any applicant for a broker's or salesman's license holding an honorable discharge from the armed forces of the United States who, at the time of entering such services held an unrevoked and unsuspended license of the kind applied for.

(c) Before granting a broker's license the commissioner shall require of the applicant a corporate surety bond, to be approved by him, in the sum of two thousand five hundred dollars ($2,500.00). The bond shall be conditioned upon the faithful compliance of the broker so licensed with the provisions of this Act, and that he will conduct the business of real estate broker in a reliable and dependable manner. The bond shall run to the state, for the benefit of any person injured by the wrongful act, default, fraud, or misrepresentation of the broker in his capacity as such, and any person so injured may bring suit on the bond in his own name. No additional bond shall be required from officers of a corporation or members of a partnership licensed to act as broker while in the employment of the corporation or partnership.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 98

(House Bill No. 13)

AN ACT

RELATING TO LIVESTOCK; EXEMPTING PERSONS FEEDING FEWER THAN FIFTY SWINE FROM THE PROHIBITION AGAINST FEEDING UNTREATED GARBAGE TO SWINE; REQUIRING A PERMIT FOR REMOVAL OF SAID SWINE FROM THE PREMISES; AMENDING SECTION 2, CHAPTER 104, LAWS OF 1953, FIRST REGULAR SESSION; AMENDING CHAPTER 104, LAWS OF 1953, BY ADDING SECTION 2a; REPEALING SECTION 10, CHAPTER 104, LAWS OF 1953, FIRST REGULAR SESSION; AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 2, chapter 104, Laws of 1953, first regular session, is amended to read:

Section 2. PERMIT FOR FEEDING GARBAGE TO SWINE; EXEMPTIONS. (a) No person shall feed garbage to swine without first obtaining a permit from the Arizona livestock sanitary board. All permits shall be renewed during January of each year.

(b) Chapter 104, Laws of 1953, shall not apply to any person who feeds only his own household garbage to swine which are raised for his own use.

(c) Chapter 104, Laws of 1953, shall not apply to those persons who feed garbage to fewer than fifty swine without cooking said garbage. However, such persons other than those who feed only their own household garbage to swine which are raised for their own use, shall register with the state veterinarian their intention to feed garbage to swine and shall secure a permit from the state veterinarian before removal of any swine from their premises.

Sec. 2. Chapter 104, Laws of 1953, is amended by adding section 2a, to read:

Section 2a. PERMIT TO REMOVE SWINE FROM PREMISES; EXEMPTIONS. (a) Any person who feeds garbage to fewer than fifty swine shall be exempt from cooking said garbage, provided that he shall, before he removes any swine from his premises, except dead swine which are to be processed by rendering, 1. give notice to the state veterinarian at least twenty-one days before the removal date of his intention to so remove, and 2. obtain a removal permit from the state veterinarian.

(b) The state veterinarian or his authorized representative shall issue a removal permit at the end of said twenty-one day period, provided no garbage has been fed to the swine intended to be removed, and all garbage-fed swine are kept separated from said swine by a distance of at least one hundred yards and by a hog-proof fence during the twenty-one days immediately prior to the removal date, and provided said swine show no symptoms of vesicular exanthema.

(c) A written statement by the applicant, under oath, that no garbage has been fed to said swine during said twenty-one day period shall be sufficient proof of that fact for issuance of a removal permit.

Sec. 3. REPEAL. Section 10, chapter 104, Laws of 1953, first regular session is repealed.

Sec. 4. APPROPRIATION. The sum of four thousand ninety-five dollars is appropriated to the livestock sanitary board for the remainder of the forty-second fiscal year for the purposes and in the amounts following, in order to carry out the provisions of this Act:

1. For payment of salaries of inspectors for the period April 1 to June 30, 1954, three thousand one hundred fifty dollars.

2. For travel in state for the period April 1 to June 30, 1954, nine hundred forty-five dollars.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 99

(House Bill No. 61)

AN ACT

RELATING TO FINANCIAL LIABILITY FOR MINOR DRIVERS; PROVIDING THAT CAR OWNERS ARE RESPONSIBLE FOR NEGLIGENCE OF MINORS OPERATING A CAR WITHOUT A DRIVER'S LICENSE, AND AMENDING ARTICLE 2, CHAPTER 66, ARIZONA CODE OF 1939, BY ADDING SECTION 66-269d.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 2, chapter 66, Arizona Code of 1939, is amended by adding section 66-269d, to read:

66-269d. LIABILITY OF OWNER OR DONOR FOR NEGLIGENCE OR WILLFUL MISCONDUCT OF UNLICENSED MINOR UNDER EIGHTEEN. Every owner of a motor vehicle causing or knowingly permitting an unlicensed minor under the age of eighteen years to drive such vehicle upon a highway, and any person giving or furnishing a motor vehicle to such unlicensed minor, shall be jointly and severally liable with such minor for any damages caused by the negligence or willful misconduct of such minor in driving such vehicle.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become im-

mediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 100

(House Bill No. 135)

AN ACT

RELATING TO THE MOTOR VEHICLE SAFETY RESPONSIBILITY ACT; AND AMENDING SECTION 66-1306, ARIZONA CODE OF 1939, AS AMENDED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-1306, Arizona Code of 1939, as amended, is amended to read:

66-1306. EXCEPTIONS TO REQUIREMENT OF SECURITY. (a) The requirements as to security and suspension in section 66-1305 shall not apply:

1. To the operator or the owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such operator or owner;

2. to the operator or the owner of a motor vehicle if at the time of the accident the vehicle was stopped, standing, or parked, whether attended or unattended, except that the requirements of this Act shall apply in the event the superintendent determines that any such stopping, standing or parking of the vehicle was illegal or that the vehicle was not equipped with lighted lamps or illuminating devices when and as required by the laws of this state and that any such violation contributed to the accident;

3. to the owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating such motor vehicle without such permission;

4. if, prior to the date that the superintendent would otherwise suspend license and registration or nonresident's operating privilege under section 66-1305, there shall be filed with

the superintendent evidence satisfactory to him that the person who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a warrant for confession of judgment, payable when and in such installments as the parties have agreed to, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident;

5. in the event the driver at the time of an accident was driving a motor vehicle owned, operated or leased by the employer of such driver and with the permission of the employer then the security provisions of this chapter shall apply to the employer and the suspension provisions of this chapter shall apply to the registration of all vehicles not covered by insurance, bond or self-insurance certificate at the time of the accident which vehicles were owned, operated or leased by the employer and shall not apply to such driver.

(b) The superintendent may accept evidence of payment by a person or his insurer to a driver or owner as compensation for property damage or bodily injury as evidence sufficient to relieve said driver or owner from the security and suspension provisions of this Act with respect to any property or bodily injury claim which might be made by the person on whose behalf such payment is made.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 101

(House Bill No. 159)

AN ACT

RELATING TO CERTAIN ADMINISTRATIVE AGENCIES AND PROVIDING FOR JUDICIAL REVIEW OF THEIR DECISIONS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. SHORT TITLE. This Act may be cited as the administrative review act.

Sec. 2. DEFINITIONS. In this Act, unless the context otherwise requires:

"Agency" or "administrative agency" means every agency, board, commission, department or officer authorized by law to exercise rule-making powers or to adjudicate contested cases, whether created by constitutional provision or legislative enactment but does not include an agency in the judicial or legislative departments of the state government, and does not include any political subdivision, municipal corporation, or agency thereof;

"administrative decision" or "decision" means any decision, order or determination of an administrative agency rendered in a case which affects the legal rights, duties or privileges of persons and which terminates the proceeding before the administrative agency. In all cases in which a statute or a rule of the administrative agency requires or permits an application for a rehearing or other method of administrative review, and an application for a rehearing or review is made, no administrative decision of such agency shall be final as to the party applying therefor until the rehearing or review is denied, or the decision on rehearing or review is rendered;

"administrative decision" or "decision" does not mean or include rules, regulations, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it unless the rule, regulation, standard or statement of policy is involved in a proceeding before the agency and its applicability or validity is in issue in such proceeding, nor does it mean or include regulations concerning the internal management of the agency not affecting private rights or interests.

Sec. 3. SCOPE OF ACT. (a) This Act shall apply to and govern every action to review judicially a final decision of an administrative agency except where the act creating or conferring power on such agency or a separate act provides for judicial review of the agency decisions and prescribes a definite procedure for such review.

(b) Unless review is sought of an administrative decision within the time and in the manner herein provided, the parties to the proceeding before the administrative agency shall be barred from obtaining judicial review of such decision. If under the terms of the law governing procedure before an agency an administrative decision has become final because of failure to file any document in the nature of an objection, protest, petition

for hearing or application for administrative review within the time allowed by such law, the decision shall not be subject to judicial review hereunder except for the purpose of questioning the jurisdiction of the administrative agency over the person or subject matter.

Sec. 4. POWER TO MAKE RULES. The supreme court shall have power to make rules of pleading, practice and procedure supplementary to but not inconsistent with the provisions of this Act, and to amend the same, for the purpose of making this Act effective for the convenient administration of justice, and simplifying procedure so far as it affects the judicial review of administrative decisions.

Sec. 5. COMMENCEMENT OF ACTION. Any action to review a final administrative decision shall be commenced by the filing of a complaint within thirty-five days from the date of service upon the party affected of a copy of the decision sought to be reviewed. The method of service of the decision shall be as provided by law governing procedure before the administrative agency, or by a rule or regulation of the agency made pursuant to law, but if no method is provided a decision shall be deemed to have been served when personally delivered or mailed to the party affected at his last known residence or place of business by registered mail.

Sec. 6. JURISDICTION AND VENUE. Jurisdiction to review final administrative decisions is vested in the superior court. If the venue of the action to review a final administrative decision is expressly prescribed in the statute under authority of which the decision was made, such venue shall control, but if the venue is not prescribed an action to review a final administrative decision may be commenced in the superior court of any county in which: 1. Any part of the hearing or proceeding culminating in the decision of the administrative agency was held; 2. any part of the subject matter involved is situated, or, 3. any part of the transaction giving rise to the proceedings before the agency occurred.

Sec. 7. SERVICE OF PROCESS. In an action to review the decision of an administrative agency, a copy of the summons and complaint shall be served as in civil actions and as provided by the rules of civil procedure, upon the agency at its principal office and upon all other defendants.

Sec. 8. APPEARANCE OF DEFENDANTS. Within twenty days after service of the summons and complaint,

the defendant agency and all other defendants shall answer the complaint.

Sec. 9. PARTIES. In an action to review a final decision of an administrative agency, the agency and all persons, other than the plaintiff, who are parties of record in the proceedings shall be made defendants.

Sec. 10. PLEADINGS AND RECORD ON REVIEW. (a) The complaint shall contain a statement of the findings and decision or part thereof sought to be reviewed, and shall clearly specify the grounds upon which review is sought. It shall also state what portion of the record and transcript, if any, shall be filed by the agency as part of the record on review.

(b) Except as otherwise provided, the administrative agency shall file an answer which shall contain the original or a certified copy of the portion of the record designated in the complaint, and which may also contain such other portions of the record as the agency may deem material. By order of the court or by stipulation of all parties to the action, the record may be shortened or supplemented.

(c) If the cause is remanded to the administrative agency and a review thereafter be sought of the administrative decision, the original and supplemental record, or so much thereof as shall be determined by court order or stipulation of all the parties, shall constitute the record on review.

Sec. 11. SCOPE OF REVIEW. An action to review a final administrative decision shall be heard and determined with convenient speed. The hearing and determination shall extend to all questions of law and fact presented by the entire record before the court. No new or additional evidence in support of or in opposition to a finding, order, determination or decision of the administrative agency shall be heard by the court, except in the event of a trial de novo or in cases where in the discretion of the court justice demands the admission of such evidence. The trial shall be de novo if trial de novo be demanded in the complaint or answer of a defendant other than the agency and if: 1. No hearing was held by the agency; or, 2. the proceedings before the agency were not stenographically reported so that a transcript can be made. Trial de novo with a jury may be had upon the demand of any party.

Sec. 12. POWERS OF TRIAL COURT. (a) The

superior court shall have power: 1. With or without bond, unless required by the statute under authority of which the administrative decision was entered, and befor or after answer, to stay the decision in whole or in part pending final disposition of the case, after notice to the agency and for good cause shown; 2. to make any order that it deems proper for the amendment, completion or filing of the record of the proceedings of the administrative agency; 3. to allow substitution of parties by reason of marriage, death, bankruptcy, assignment or other cause; 4. to dismiss parties or to realign parties plaintiff and defendants; 5. to modify, affirm or reverse the decision in whole or in part; 6. to specify questions or matters requiring further hearing or proceedings and to give other proper instructions; 7. where a hearing has been held by the agency, to remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it shall appear that such action is just; 8. in the case of affirmance or partial affirmance of an administrative decision requiring the payment of money, to enter judgment for the amount justified by the record and for costs, upon which execution may issue.

(b) Technical errors in the proceedings before the administrative agency or its failure to observe technical rules of evidence shall not constitute grounds for reversal of the decision, unless it appears to the trial court that the error or failure affected the rights of a party and resulted in injustice to him.

(c) On motion of a party before the rendition of judgment, the trial court shall make findings of fact and state conclusions of law upon which its judgment is based.

Sec. 13. COSTS. Costs may be awarded the defendant agency in the event a judgment adverse to the plaintiff is rendered. Such costs may be awarded in an amount deemed reasonable by the trial court, based upon the expense the defendant agency has incurred in preparing the record of the proceedings before trial.

Sec. 14. APPELLATE REVIEW. The final decision order, judgment or decree of the superior court entered in an action to review a decision of an administrative agency may be appealed to the supreme court.

Sec. 15. RULES OF CIVIL PROCEDURE. Where

applicable, the rules of civil procedure in superior courts, including rules relating to appeals to the supreme court, shall apply to all proceedings except as otherwise provided in this Act.

Sec. 16. EFFECTIVE DATE. The provisions of this Act shall apply only to judicial review proceedings commenced after the effective date of this Act.

Sec. 17. SEVERABILITY. If any provision or provisions of this Act are determined to be invalid by any court of competent jurisdiction, such determination shall not affect the validity of the remaining provisions of this Act.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 102

(House Bill No. 211)

AN ACT

RELATING TO WORKSHOPS AND OTHER INDUSTRIES FOR THE BLIND; FOR MARKETING OF THE PRODUCTS THEREOF; FOR ASSISTING BLIND PERSONS TO BECOME SELF-SUPPORTING; FOR USE OF PROCEEDS FROM SALES FOR CONTINUATION OF PROGRAM, REGULATING SALES, INCREASING THE REVOLVING FUND, AND AMENDING SECTION 70-331, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 70-331, Arizona Code of 1939, is amended to read:

70-331. The state department of public welfare may establish and maintain a program of industries for the blind and for that purpose may equip and operate one or more training centers, one or more workshops, a business enterprise program, and a home industries program for the training and employment of suitable blind persons, and is hereby authorized and empowered to devise ways and means for the sale, distribution, and market-

ing of the products of the training centers, workshops, and home industries. The department may pay blind and other workers suitable compensation for their work in such training centers, workshops, and home industries, providing, however, that a minimum of 75% of such workers in each of the training centers, workshops, and home industries be legally blind, as defined in section 70-302, paragraph 1, Arizona Code of 1939. All activities herein provided for shall be known as "Arizona industries for the blind". The department may also, whenever it deems proper, aid individual blind persons or groups of such persons to become self-supporting by supplying materials, equipment, or machinery to them, and also may assist them in the sale and distribution of their products. Whenever any of the products of Arizona industries for the blind, produced under the supervision and direction of the department, meet the requirements of any state department or institution as to quality, quantity, and price, such products shall have preference, and said state departments and institutions hereby are directed to purchase from the department such products as may be required.

Proceeds from the sales of such products shall be paid into a non-reverting revolving account, said account being known as the non-reverting revolving account for industries for the blind, from which fund expenditures may be made for wages and salaries of production workers, inspectors, and other employees necessary to the operation of the above training centers, workshops, or home industries, and for supplies, materials, equipment, equipment repair, overhead costs, and all other costs incidental to the conduct of the program. The department may in addition provide subsidy funds as necessary to meet the above costs from other funds made available to the department for rehabilitative purposes.

Those persons participating in activities authorized by this section, and determined by the department to be blind or otherwise handicapped persons shall be deemed state employees but shall not be eligible for participation in the state retirement system or entitled to the benefits of the merit system procedures pertaining to the recruitment and retention of regular administrative employees of the department.

No person, group of persons, or organization of any description whatsoever may sell, market, or otherwise dispose of by whatever means, to the public, any goods or articles labeled as made by the blind or sold as products of the blind, either of this state or any other state,

without a permit in writing from the state department of public welfare upon such form as may be prescribed by the department. Issuance of such permits will be at the discretion of and subject to rules of the department. Violation of this provision shall be a misdemeanor, and shall be punishable upon conviction by a maximum of 30 days imprisonment, or a maximum fine of two hundred dollars ($200.00), for each violation, or both.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State——April 3, 1954.

CHAPTER 103

(House Bill No. 231)

AN ACT

RELATING TO UNIFORM STANDARDS OF FORM AND CONTENT OF ANY PROSPECTUS INCLUDING ANY OFFERING CIRCULAR TO BE USED IN CONNECTION WITH THE REGISTRATION AND OFFERING OF SECURITIES; PROVIDING FOR THE CORRELATION OF STANDARDS PRESCRIBED BY THE SECURITIES ACT OF ARIZONA TO THOSE PRESCRIBED BY THE SECURITIES ACT OF 1933, AS DEFINED IN SECTION 53-1402, ARIZONA CODE OF 1939 AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER, AND AMENDING CHAPTER 53, ARTICLE 14, BY ADDING SECTION 53-1426, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 14, chapter 53, Arizona Code of 1939, is amended by adding section 53-1426, to read:

53-1426. UNIFORM STANDARDS OF FORM OR CONTENTS OF A PROSPECTUS OR OFFERING CIRCULAR. A prospectus or an offering circular, the standards of form or content of which are prescribed by any provision of the securities Act of 1933, or rules and

regulations promulgated thereunder, may be accepted as a prospectus in lieu of that which is prescribed in section 53-1407 (A) (3) in connection with an application for registration, the registration or the renewal of registration of securities by qualification; provided, however, that the director shall determine the nature and scope of the information, as disclosed in respect to any issuer, is substantially equivalent in informative value to that prescribed under section 53-1407 (A) (3).

Sec. 2. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 104

(House Bill No. 324)

AN ACT

RELATING TO DAIRY AND DAIRY PRODUCTS; REGULATING THE SALE OF CHEESE, AND AMENDING SECTION 50-973, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 50-973, Arizona Code of 1939, is amended to read:

50-973. SALE OF CHEESE. (a) Cheese manufactured in the state for sale shall be made from pasteurized milk, skim milk, cream, goat milk or sheep milk, conforming to the requirements prescribed by this Act. All cheese sold shall be labeled to indicate the variety and grade thereof. Pasteurized cheese or pasteurized-blended cheese bearing a varietal name shall be made from cheese of the variety indicated and conforming to the requirements for fat and moisture prescribed for cheese of such variety. The standards of composition for pasteurized cheese, pasteurized-blended cheese, emulsified cheese and process cheese shall be fixed by the commissioner and shall conform to those prescribed by the secretary of the United States department of agriculture. Cheese

manufactured in the state shall be labeled at the factory with a manufacturer's factory number assigned annually by the commissioner. If made outside the state, cheese shall bear a label stating the name and address of the manufacturer or distributor.

(b) It is unlawful to expose for sale any part-skim cheese or skim cheese unless there is attached to the outside of every vessel, can, package, or cheese exposed or sold, a tag legibly bearing in black letters at least one inch in height the words "part-skim cheese No. 1", "part-skim cheese No. 2", or "skim cheese", as the case may be. All part-skim or skim cheddar or granular cheese shall be labeled to indicate the grade on its entire outer edge in a manner specified by the commissioner. All other varieties of part-skim or skim cheese shall be labeled to indicate the grade in such manner as the commissioner may prescribe.

(c) Nothing in this section shall be deemed to apply to cottage cheese. The addition of cream, milk or other fluids to uncreamed or creamed cottage cheese shall take place only in a milk distributing plant, or a manufacturing milk plant licensed under the provisions of this Act.

(d) Nothing in this section shall apply to any cheese commonly referred to as "hard cheese", which is manufactured from un-pasteurized milk products and which is aged for a period of at least one year from the date of its moulding as evidenced by the date of moulding stamped on the cheese at the time of manufacturing.

Sec. 2. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 105

(Senate Bill No. 107)

AN ACT

RELATING TO MUNICIPAL CORPORATIONS ENGAG-

ING IN BUSINESS AS PUBLIC UTILITIES; DECLARING A PUBLIC POLICY, AND AMENDING ARTICLE 6, CHAPTER 16, ARIZONA CODE OF 1939, BY ADDING SECTIONS 16-604b AND 16-604c.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 6, chapter 16, Arizona Code of 1939, is amended by adding section 16-604b, to read:

16-604b. PUBLIC POLICY. It is declared to be public policy of this state that where adequate public utility service under authority of law is being rendered in an area, within or without the boundaries of a city or town, a competing service and installation shall not be authorized, instituted, made or carried on by a city or town unless or until that portion of the plant, system and business of the utility used and useful in rendering such service in the area in which the city or town seeks to serve, has been acquired.

Sec. 2. Article 6, chapter 16, Arizona Code of 1939, is amended by adding section 16-604c, to read:

16-604c. EMINENT DOMAIN. The city or town which seeks to acquire the facilities of a public service corporation shall have the right to do so under eminent domain. Such action shall be brought and prosecuted in the same manner as other civil actions.

Sec. 3. SEVERABILITY. If any provision of this Act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 3, 1954.

Filed in the Office of the Secretary of State—April 3, 1954.

CHAPTER 106

(Senate Bill No. 106)

AN ACT

RELATING TO COUNTY, CITY AND TOWN BUDGETS AND TAX LEVIES, AND EXCLUDING RETIREMENT SYSTEM COSTS FROM BUDGET AND TAX LEVY LIMITATIONS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. EXCLUSION OF RETIREMENT SYSTEM COSTS FROM BUDGET AND TAX LEVY LIMITATIONS. Amounts required to be paid by a county, city or town as employer contributions or administrative costs under the state employees' retirement system or the federal old age and survivors' insurance system, shall be excluded from the budget adopted for the previous fiscal year and from the estimated budget and the adopted budget for the current fiscal year for the purpose of computing the limitations under sections 73-502, 73-503 and 73-505, Arizona Code of 1939, on the amounts proposed for expenditure or to be raised by direct taxation in the estimated budget or the adopted budget of such county, city or town for each fiscal year.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 107

(House Bill No. 215)

AN ACT

RELATING TO EDUCATION; AND AMENDING SECTIONS 54-414 AND 54-419, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 54-414, Arizona Code of 1939, is amended to read:

54-414. QUALIFICATIONS OF VOTERS AND TRUSTEES. No person unless he is a registered voter of the state of Arizona and has been a resident of the school district for not less than six months immediately preceding the election, is a qualified elector at any school election for trustee of the school district in which he resides. Any person offering to vote shall sign an

affidavit stating his address and swearing he is a qualified voter and has not voted at the election being held. Any person offering to vote may be challenged, and the election officers shall thereupon have the powers and duties of general election officers. The forms for the affidavit, poll and tally list shall be furnished by the state superintendent of public instruction, and such affidavits, poll and tally lists must be completed and returned to the board of trustees to be kept by them for a period of not less than five years.

No person, unless he is a registered voter of the state of Arizona and has been a resident of the district for one year immediately preceding the day of election, shall be eligible for election to the office of trustee.

Sec. 2. Section 54-419, Arizona Code of 1939, is amended to read:

54-419. SPECIAL ELECTIONS ON BOND ISSUES AND SCHOOL PROPERTY. (a) The board of trustees of any school district may, and upon petition of fifteen per cent of the school electors, as shown by the poll list at the last preceding annual school election, shall call an election for the following purposes: 1. To locate or change the location of school houses; 2. to purchase or sell school sites or houses, or the building of school houses; 3. to decide whether the bonds of the district shall be issued and sold for the purpose of raising money for purchasing or leasing school lots, for building school houses, and supplying the same with furniture and apparatus, and improving grounds, or, 4. for the liquidating of any indebtedness already incurred for such purposes.

(b) When the election is called to decide upon the locating or relocating of school buildings, or the purchase or sale of school sites or school buildings, the election shall be called and conducted as regular school elections, except as to the time of holding the election and the board of trustees shall be governed by the vote of the majority on all questions submitted. When the electon is called to determine whether or not the bonds of the district shall be issued and sold for the purposes enumerated in the call for the election, the question shall be submitted to the vote of the qualified electors of the district.

(c) In any election held under the authority of this section, only those electors who are real property taxpayers in the district affected are qualified to participate.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 108

(House Bill No. 224)

AN ACT

RELATING TO THE SALE OF STATE LANDS; WHAT LANDS MAY BE PURCHASED; WHO MAY PURCHASE; MINERAL AND OTHER RESERVATIONS TO BE CONTAINED IN SALES, GRANTS, DEEDS OR PATENTS; PROVIDING FOR COMPENSATION AND DAMAGES TO THE OWNER OF THE SURFACE; AMENDING SECTION 11-401, ARIZONA CODE OF 1939, AND REPEALING INCONSISTENT LAWS AND PARTS OF LAWS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 11-401, Arizona Code of 1939, is amended to read:

11-401. LANDS SUBJECT TO SALE; WHO MAY PURCHASE; RESERVATIONS. All state lands, except land granted for the purpose of building and maintaining a state hospital for disabled miners, and as otherwise provided for herein, including all improvements made or placed thereon, or connected therewith, shall be subject to appraisement and sale as herein provided. Any person over eighteen years of age, who is a citizen of the United States, or has declared his intention to become such, is entitled to purchase any of the lands of the state.

Provided, however, that all sales, grants, deeds or patents to any state lands shall be subject to and shall contain a reservation to the state of an undivided one-sixteenth of all oil, gases and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, together with all uranium, thorium, or any other material which is or may be determined by the laws of the United States, the state of Arizona or decisions of courts to be peculiarly essential to the production of fissionable materials, whether or not of commercial value. For the purpose, however, of promoting the sale of state land, and the more active

cooperation of the owner of the soil, and to facilitate the development of its mineral resources, the state hereby constitutes the purchaser of the soil, its agent for the purposes herein named and in consideration hereof, relinquishes to and vests in the purchaser of the state land an undivided fifteen-sixteenth of all oil, gas and the value of the same that may be upon or within any state land purchased after the passage of this Act. The purchaser of the soil is hereby authorized to sell or lease to any person, firm or corporation the oil and gas and other minerals that may be thereon or therein upon such terms and conditions as such purchaser and the owner may deem best, subject, however, to the provisions of this Act and the reservations herein contained; and provided, further, that the lessee or purchaser shall in every case pay to the state an undivided one-sixteenth of the mineral produced or the value thereof at the well or mine as may be determined by the state land department; provided further, however, that upon the discovery of oil and gas in paying quantities on land adjoining the land so purchased, the purchaser or his lessee shall drill and produce all wells necessary to protect the land purchased hereunder from drainage by wells on lands in which the state has no royalty interest, or has a lesser royalty interest. Should the purchaser, or his lessee, fail to protect against such drainage, the state of Arizona, acting through the state land department and three months after demand therefor in writing by the state land commissioner to said purchaser and his lessee, may enter upon said lands and drill all wells necessary to protect against such drainage.

State lands known to contain oil, gases, and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer of every name and description, in paying quantities, or uranium, thorium, or any other material which is or may be determined by the laws of the United States, the state of Arizona or decisions of court to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, and state lands adjoining lands upon which there are producing mines, oil wells or gas wells, or which adjoining lands are known to contain any of such substances, minerals or metals in paying quantities, or uranium, thorium, or any other material peculiarly essential to the production of fissionable materials, whether or not of commercial value, and lands chiefly valuable for the production of saw timber, shall not be sold.

The interest reserved by the state of Arizona in any state lands sold may be committed to a drilling unit or

cooperative or unit plans of development and operation of oil and gas pools with the United States, its agencies, and its and their lessees and permittees, and with private owners and persons holding oil and gas leases on private lands or on state lands. The state land department may, insofar as the said interest of the state may be affected thereby, join in and consent to any such plan on behalf of the state. Such agreements shall provide for the equitable division on an agreed basis of the oil and gas produced from the unit; provided no such agreement shall relieve any operator from the obligation to develop reasonably the lands and leases as a whole committed thereto. The royalties to which the state of Arizona is entitled on production from land purchased hereunder shall be computed only on that part of the production allocated to such tract. When such agreements provide for the return of gas to a formation underlying the unit, it may provide that no royalties are required to be paid on the gas so returned.

Sec. 2. REPEAL. All laws or parts of laws inconsistent with the provisions of this Act are repealed.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 109

(House Bill No. 259)

AN ACT

RELATING TO TEACHERS, ESTABLISHING A TEACHERS' LIEU PENSION SYSTEM, AMENDING CHAPTER 137, LAWS OF 1953, BY ADDING SECTIONS 3a, 3b, AND 3c, AND AMENDING SECTIONS 4 AND 5 THEREOF.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Chapter 137, Laws of 1953, is amended by adding section 3a, to read:

3a. TEACHERS' LIEU PENSION. There is hereby established a teachers' lieu pension system to be administered by the Arizona state retirement system board.

Sec. 2. Chapter 137, Laws of 1953, is amended by adding section 3b, to read:

3b. ELIGIBILITY. (a) All members of the Arizona teachers' retirement system who (1) for not less than ten years have been certificated employees of Arizona public school districts, the school for the deaf and blind, or the state department of education on the date modification of the agreement is entered into with the social security administration extending the benefits of old-age and survivors insurance to Arizona certificated school employees, (2) as a result of such coverage have become members of the state employees' retirement system as provided in chapter 137, Laws of 1953, (3) retire from state service at or after age sixty-five before having established minimum eligibility for old-age and survivors insurance benefits, and (4) have contributed to the state employees' retirement system during all employment as members of such system subsequent to coverage by the old-age and survivors insurance program, shall receive, upon application, in addition to benefits from the state employees' retirement system to which they are eligible, a lieu pension for life, except as hereinafter provided, payable monthly as follows: Fifty-five per cent of the first one hundred dollars ($100.00) of his average monthly wage plus fifteen per cent of the next two hundred dollars ($200.00). The average monthly wage shall be one-twelfth of the average annual wage, which shall be computed upon all wages for employment upon which he contributed to the teachers' retirement system and the state employees' retirement system for the last five years of employment preceding his retirement, but in no event shall the average annual wage exceed thirty-six hundred dollars ($3,600.00).

(b) For active members of the Arizona teachers' retirement system on the date of extension of coverage under the old-age and survivors insurance system, whose death occurs from any cause other than from the result of accidental injuries arising out of and in the course of employment prior to the completion of minimum coverage for eligibility for old-age and survivors insurance benefits there shall be paid as a monthly pension for life to the surviving spouse an amount equal to seventy-five per cent of the teachers' lieu pension the deceased spouse would have been entitled to receive under subsection (a) if he met the conditions of eligibility provided therein except retirement at or after age 65, provided the surviving spouse was living with the deceased at the time of the death and thereafter remains unmarried and makes application for survivors benefits with the Arizona state

retirement system board prior to a date two years subsequent to coverage of active members of the Arizona teachers' retirement system under the old-age and survivors insurance system. The pension herein provided shall commence the first day of the month following the death of a member, or when the surviving spouse attains age sixty-five, whichever is later.

(c) If such deceased member also left surviving, minor children dependent upon him, then the surviving spouse shall receive, upon application, within the period prescribed in subsection (b), in addition to a pension of seventy-five per cent of the teacher's lieu pension provided in subsection (a), fifty per cent of the lieu pension for one child and fifteen per cent of the lieu pension for each additional child until such minor children attain eighteen years. No pension shall be received thereafter until the surviving spouse shall meet the conditions of eligibility provided in subsection (b) at which time the surviving spouse shall be entitled to a pension as provided in subsection (b). In no event shall the survivor's pension exceed one hundred fifty dollars ($150.00) per month.

(d) The teacher's lieu pension or survivor's pension provided in this section shall be reduced by the amount of benefits the recipient may be entitled to receive under the federal old-age and survivors insurance system or any other retirement system established by the United States congress. If a recipient entitled thereto does not qualify for or loses primary social security benefits or benefits under any other retirement system established by the United States congress because of his failure to make application therefor, because of his entry into covered employment and receipt of disqualifying earnings, or otherwise, such recipient, nevertheless, shall be considered as entitled to social security or other federally authorized retirement system benefits and benefits provided under this section shall be reduced accordingly.

Sec. 3. Chapter 137, Laws of 1953, is amended by adding section 3c, to read:

3c. TEACHERS' LIEU PENSION FUND. There is hereby established in the state treasury a special fund to be known as the teachers' lieu pension fund, to be administered by the state retirement system board. The moneys in this fund shall be used exclusively for the payment of teachers' lieu pensions and survivors' benefits as provided by this Act. The investment and management of the fund shall be in accordance with the laws and

regulations governing the investment and management of other funds of the state employees' retirement system.

Sec. 4. Section 4, chapter 137, Laws of 1953, is amended to read:

4. TERMINATION OF ARIZONA TEACHERS' RETIREMENT SYSTEM. Effective with the day upon which a plan and contract for the coverage of the employees herein designated is approved and entered into by the state agency and the state board of education, pursuant to article 8, chapter 12, Arizona Code of 1939, the membership of employees in the Arizona teachers' retirement system included in such contract shall be terminated and all rights of such employees and their employer under such teachers' retirement system and all of their liabilities other than for contributions then due and payable under article 17, chapter 54, Arizona Code of 1939, shall wholly cease. The governor thereupon shall submit to the federal security administrator a request for modification of the contract heretofore entered into between the state and the social security administrator extending old-age and survivors insurance benefits to state employees. The modification shall provide for the inclusion in the state-federal agreement of the state board of education, a state instrumentality, as employer, and its employees designated herein. Upon and after approval of such modification by the federal security administrator, the employees so included within the old-age and survivors insurance system shall become members of the state employees' retirement system and shall be subject to all rights and obligations of members of such retirement system. Provided, however, none of the provisions of this Act shall become operative unless and until the governor shall find and give notice to the state board of education and the employment security commission that section 218, of the federal social security act as now in effect, or hereafter amended, is so interpreted by the federal security administrator, as to authorize a modification of the agreement between this state and the federal security administrator, extending the insurance system established by title 2 of the social security act to the services of the certificated teachers referred to in section 2, chapter 137, Laws of 1953. In the event that section 218 of the federal social security act, as amended, requires an election of members of an existing retirement system before coverage under the old-age and survivors insurance system is authorized, such election and resulting approval of coverage shall be in conformity with the requirements of the social security act, as amended.

Sec. 5. Section 5, chapter 137, Laws of 1953, is

amended to read:

5. TRANSFER OF CREDITS. (a) Upon the termination of membership in the Arizona teachers' retirement system and the acquisition of membership by such employees in the state employees' retirement system, the board of trustees of the Arizona teachers' retirement system shall transfer the accumulated contributions standing to the credit of individual accounts in the annuity savings fund to the public employees' retirement system for crediting to individual employee contributions accounts pursuant to the state retirement system act. Such transfers shall be of funds and securities having equal value to the credits to which they apply. Amounts accumulated in the normal pension fund of the Arizona teachers' retirement system from contributions required by section 54-1715, Arizona Code of 1939, after making the deduction hereinafter provided, shall be transferred by the board of trustees of the Arizona teachers' retirement system into the general fund of the state; provided no transfer shall be made for members of the Arizona teachers' retirement system not eligible for membership in the public employees' retirement system.

(b) Before transfer of said funds, the board of trustees of the Arizona teachers' retirement system shall deduct from the credits so transferred to individual retirement accounts and shall pay from the funds so transferred the amounts necessary to meet the obligation of the state for any retroactive coverage acquired under the federal old-age and survivors insurance system for members having credits transferred. The employee share of the state's retroactive coverage obligation shall be deducted from individual credits transferred from his account in the annuity savings fund provided by section 54-1714, Arizona Code of 1939. The employer share of the state's retroactive coverage obligation shall be deducted from the normal pension fund provided by section 54-1715, Arizona Code of 1939. The retroactive coverage funds so deducted shall be paid by the board of trustees of the Arizona teachers' retirement system into the contribution fund for payment to the federal government pursuant to article 8, chapter 12, Arizona Code of 1939. The amount of deductions for the employee and employer shares of the state's obligation for retroactive coverage shall be determined from quarterly wage reports for the retroactive period prepared by each county school superintendent for members employed in school districts in his county and by the state auditor for all other members. It shall be the responsibility of the board of trustees of the Arizona teachers' retirement system to

transmit such wage reports to the employment security commission together with copies of pay-in vouchers for payments for retroactive coverage. In addition to, or in lieu of, or both, the other transfers and payments provided for herein, there shall be transferred from the normal pension fund an amount equal to two per cent of the total annual wages paid on which employer contributions to the teachers' retirement system were made for the preceding fiscal year to the teachers' lieu pension fund established herein. After the period of eligibility for application for teachers' lieu pensions, an actuarial determination of the total amount required for teachers' lieu pensions shall be made by the board and any excess funds in the teachers' lieu pension fund shall be credited pro-rata to the employer contributions to individual retirement accounts. Any deficiency shall be met by transfer on a pro-rata basis to the teachers' lieu pension fund from the employer contribution credited to teacher retirement accounts.

(c) The board of trustees of the teachers' retirement system shall report to the Arizona state retirement system board the number of years of prior service credit heretofore certified to each member pursuant to section 54-1705, Arizona Code of 1939. The number of years so certified, not exceeding thirty, shall be used as the multiple of one-half of one per cent of average annual wages not exceeding three thousand six hundred dollars ($3,600.00) per year for the five years immediately preceding July 1, 1953, for determining the amount of the prior service credit pension members described herein shall be eligible to receive pursuant to the state employees' retirement system act.

(d) Members of the Arizona teachers' retirement system who are on leave, other than official leave, from such system and who do not become members of the state employees' retirement system as provided herein shall have the credits standing to their accounts in the Arizona teachers' retirement system retained by the trustees of the system until such time as they may become members of the state employees' retirement system, at which time their credits shall be transferred as herein provided. The rights of such employees whose credits are retained by the trustees shall be determined by the teachers' retirement act until membership in the teachers' retirement system terminates.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State —April 7, 1954.

CHAPTER 110

(House Bill No. 289)

AN ACT

MAKING AN APPROPRIATION TO THE ARIZONA GAME AND FISH COMMISSION TO REIMBURSE DEALERS FOR OVERPAYMENTS ON LICENSE SALES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of nine hundred two dollars ninety-eight cents ($902.98) is appropriated to the Arizona game and fish commission out of the state game and fish fund.

Sec. 2. PURPOSE AND AUTHORITY TO PAY. The purpose for which this appropriation is made is to provide funds to reimburse license dealers for overpayments on license sales made during the period 1944 - 1953. The game and fish commission is authorized and directed to make the reimbursements in the amounts shown on its records to be due and unpaid.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 111

(House Bill No. 312)

AN ACT

RELATING TO THE ARIZONA CHILDEN'S COLONY BOARD, AND PROVIDING FOR THE REALLOCATION OF FUNDS.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. REALLOCATION. From any balances remaining in the appropriation made under the provisions of subdivision 30, section 1, chapter 132, Laws of 1953, first regular session, to the Arizona children's colony board and allocated to "Other Current Expenditures", the sum of seven thousand five hundred dollars ($7,500.00) is reallocated to "Personal Services".

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 112

(House Bill No. 363)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE TAX COMMISSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to the appropriation made under the provisions of subsection 10, section 1, chapter 132, Laws of 1953, first regular session, the sum of twenty-one thousand two hundred thirty-six dollars eighty cents ($21,236.80) is appropriated from the general fund to the state tax commission, in the amounts and for the purposes following:

Personal Services	
Salaries	$ 1,980.00
Employers' contribution for old age and survivors' insurance and state retirement	109.00
Total personal services	$ 2,089.00
State Travel	1,800.00
Out-of-State Travel	1,800.00
Printing	6,950.00
Postage	2,600.00
Other Current Expenditures	1,600.00
Capital Outlay	4,397.80
Total	$21,236.80

Sec. 2. APPROPRIATION FOR PROFESSIONAL SERVICES. (a) In addition to the appropriation made

under the terms of section 1, the sum of ten thousand dollars ($10,000.00) is appropriated to the state tax commission.

(b) The appropriation made by subsection (a) is to provide expert legal consultants and services to the Arizona state tax commission in connection with the formulation and adoption by the tax commission of the rules and regulations authorized by and needed to implement and make effective the income tax act of 1954, provided, however, that the state tax commission shall not employ any such expert legal consultants without the advice and consent of the attorney general, nor shall any claim for such services be approved for payment by the state auditor unless first approved by both the state tax commission and the attorney general.

Sec. 3. EXEMPTION. The appropriations made by this Act are exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 113

(House Bill No. 22)

AN ACT

RELATING TO TOURIST AND INDUSTRY DEVELOPMENT; ESTABLISHING AN ARIZONA DEVELOPMENT BOARD HAVING AS ITS PURPOSE THE DEVELOPMENT OF TOURIST BUSINESS AND THE BRINGING OF NEW INDUSTRY TO ARIZONA, PRESCRIBING THE DUTIES, POWERS AND PURPOSES OF THE BOARD, AND MAKING AN APPROPRIATION THEREFOR.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. CREATION AND NAME. There is hereby created a state agency to be named the Arizona development board.

Sec. 2. ORGANIZATION. Such board shall consist of fourteen members, each of whom shall be a bona fide resident of a different county in Arizona, appointed by the governor, from a list of three nominees furnished by the board of supervisors of each respective county, with the advice and consent of the senate. Their terms of office shall ultimately be five years each. The initial appointments only shall be four for two years, four for three years, four for four years and two for five years, the respective terms of such initial appointments to be determined by lot. Any vacancy occurring during a term of office shall be filled in the same manner and from the same county as the original appointment, but shall be only for the balance of the unexpired term. Members of the board shall serve without compensation; but for attendance at meetings, which shall be not less than three nor more than six each year, shall be allowed their actual costs of transportation plus fifteen dollars per day in lieu of subsistence. A majority of the membership of the board shall constitute a quorum for the transaction of business. Members who fail to attend three consecutive meetings shall be deemed to have resigned from the board, but the board may for good cause grant leaves of absence to its members. Members of the board shall select one of themselves its chairman for such term as they determine, and may apoint from within or without their membership such other officers, except a secretary, and for such terms as they deem necessary or desirable. The board shall employ, fix the salary at not to exceed seven thousand two hundred dollars per annum, and prescribe the duties of a full-time manager who shall not be one of its members, who shall be qualified by successful experience in publicity, advertising and industry promotion work for the responsibilities of the office, who shall act as ex officio secretary of the board, and who shall serve at the pleasure of the board. No man who has held an elective state or county political office in the five-year period prior to his selection as manager, including the legislature, shall be employed as such manager.

Sec. 3. PURPOSES. The purposes and objectives of the board shall be to attract tourists, new residents and new commercial industries to Arizona, and generally to promote such tourist, population and industry development of the state; to advertise and further the development and use of the resort and recreational advantages and facilities of all areas of Arizona on a year-round basis; to explore and publicize Arizona's facilities, resources and possibilities in order to attract new capital and new industries to the state.

Sec. 4. DUTIES. It shall be the duty and obligation of the board:

1. To formulate policies, plans and programs designed to effectuate its aforesaid purposes;

2. to plan and conduct a program of collecting and disseminating information relating to the state and its resort, recreational, scenic, historical, residential, educational, transportation, aviation, business, commercial, industrial, agricultural, mining and forestry facilities, advantages, products and attractions;

3. to encourage the traveling public to visit Arizona;

4. to stimulate and encourage all local, state, regional and federal governmental agencies, and all private persons and enterprises, that have similar and related objectives and purposes, and to cooperate with such agencies, persons and enterprises, and to correlate its plans, programs and operations with theirs;

5. to conduct studies on its own initiative or at the request of the governor, the state legislature or state or local agencies, pertaining to any of its objectives;

6. to provide information and advice on request by local, state and federal agencies and by private citizens and business enterprises on matters within the scope of its activities;

7. to advise with and make recommendations to the governor and the legislature on all matters concerning its objectives; and

8. to make annual reports to the governor and the legislature on its activities, its finances and the scope of its operations.

Sec. 5. POWERS. The board is hereby authorized and empowered:

1. To employ, fix the salaries, determine the conditions of employment and specify the duties of such administrative, secretarial and clerical assistants, and to contract for the services of such outside advisors, consultants and aides, as are reasonably necessary or desirable to enable it adequately to perform its duties;

2. to make such contracts, and to incur such obligations, as are reasonably necessary or desirable within

the general scope of its activities and operations to enable it adequately to perform its duties;

3. to utilize any and all media of communication, publication and exhibition in the dissemination of information, advertising and publicity in any field of its purposes, objectives or duties;

4. to adopt such rules and regulations as its deems necessary or desirable to govern its procedures and business; and

5. to accept gifts, donations, grants, funds, property or services for use in accomplishing its objectives or performing its duties, but such moneys shall not be used for paid advertising unless the legislature so directs.

Sec. 6. APPROPRIATION. There is hereby appropriated to the Arizona development board the sum of fifty thousand dollars from the general fund of the state to be used by the Arizona development board for the purposes set forth in this Act and in the exercise of the powers and authority granted to the board. This appropriation shall be credited by the state treasurer to a special fund to be known as the "Arizona development fund". All expenditures from the fund shall be made upon claims duly itemized, verified and approved by the Arizona development board, which claims shall be presented to and filed with the state auditor, who shall draw his warrant therefor on the state treasurer and the state treasurer shall pay the same out of said fund. No part of this appropriation shall be used for paid advertising. This Act shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing appropriations.

Sec. 7. ANNUAL AUDIT AND REPORT. Within one hundred days after the close of each fiscal year the board shall deliver to the governor, the state auditor and the legislature a complete report of its finances for such fiscal year, authenticated by the state auditor, showing a detailed account of all receipts and disbursements during such fiscal year.

Approved by the Governor—April 7, 1954 .

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 114

(House Bill No. 139)

AN ACT

RELATING TO MILITARY LEAVE; GRANTING LEAVE WITH PAY TO MEMBERS OF THE ARMED SERVICES RESERVES WHILE ABSENT FROM ELECTIVE OFFICES, OR OTHER EMPLOYMENT OF THE STATE AND ANY POLITICAL SUBDIVISION THEREOF, AND AMENDING SECTION 12-425, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 12-425, Arizona Code of 1939, is amended to read:

12-425. LEAVE OF ABSENCE FOR TRAINING DUTY. All officers and employees of the state, or of any county, city or town, or of any agency or political subdivision thereof, shall be granted leave of absence from their duties without loss of time, pay or efficiency rating, on all days during which they are employed, under orders, on training duty with any branch of the armed forces of the United States, for a period of not to exceed fifteen days in any one calendar year. Such period of time spent in training duty under orders shall not be deducted from the vacation period with pay to which any officer or employee may otherwise be entitled.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 115

(House Bill No. 136)

AN ACT

RELATING TO MOTOR VEHICLE SAFETY RESPONSIBILITY; PROVIDING FOR SECURITY REQUIREMENTS; AND PROVIDING FOR PROCEDURES TO BE FOLLOWED FOLLOWING AN ACCIDENT; AND AMENDING SECTION 66-1305, ARIZONA CODE OF 1939, AS AMENDED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-1305, Arizona Code of 1939, as amended, is amended to read:

66-1305. SECURITY REQUIRED FOLLOWING ACCIDENT—EXCEPTIONS. (a) The superintendent shall, within sixty days after the receipt of a report of a motor vehicle accident within this state which has resulted in bodily injury or death or damage to the property of any one person in excess of one hundred dollars, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in a sum which shall be sufficient in the judgment of the superintendent to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against such operator or owner; provided notice of such suspension shall be sent by the superintendent to such operator and owner not less than ten days prior to the effective date of such suspension and shall state the amount required as security.

(b) This section shall not apply under the conditions stated in section 66-1306 or to any of the following:

1. To such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

2. to such operator, if not the owner of such motor vehicle if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. to such operator or owner if the liability of such operator or owner for damages resulting from such accident, is, in the judgment of the superintendent, covered by any other form of liability insurance policy or bond; or

4. to any person qualifying as a self-insurer under section 66-1334.

(c) No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state,

except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company if not authorized to do business in this state shall execute a power of attorney authorizing the superintendent to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, however, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs of not less than five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ten thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than one thousand dollars because of injury to or destruction of property of others in any one accident.

Upon receipt of notice of such accident, the insurance company or surety company which issued such policy or bond shall furnish for filing with the superintendent a written notice that such policy or bond was not in effect at the time of such accident, if such was the case. If no such notice is received, such policy or bond shall be deemed to be in effect for the purposes of this article.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 116

(House Bill No. 183)

AN ACT

RELATING TO THE STATE EMPLOYEES' RETIREMENT SYSTEM; AND AMENDING SECTIONS 3, 4, 5, 7, 8, 9, 11, 15, 16, 18, AND 25, CHAPTER 128, LAWS OF 1953.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 3, chapter 128, Laws of 1953, is amended to read:

Section 3. DEFINITIONS. In this Act, unless the context otherwise requires:

"Employee contributions" means all sums paid into the retirement fund by a member as compensation deductions, lump sum payments, or otherwise, and credited to his individual account;

"employer contributions" means all sums paid into the retirement fund to the credit of a member's retirement account by the state, any department thereof, any instrumentality of the state, any political subdivision or instrumentality thereof, employing a member;

"retirement account" means the combined employee and employer contributions credited to the member;

"creditable service" means prior service, membership service, and service after April 8, 1953, in a position not subject to chapter 128, Laws of 1953;

"prior service" means service for the state or a political subdivision prior to membership in the retirement system;

"prior service credits" means the sum allowed for services prior to membership in the retirement system, payable as a pension upon retirement at age sixty-five or thereafter;

"life annuity" means equal monthly installments payable during the member's lifetime after retirement;

"limited annuity" means equal monthly installments, payable for a limited period commencing at the member's retirement and ending with the installment next preceding the date of the member's death or attainment of age sixty-five, whichever is earlier;

"pension" means equal monthly installments derived from member's prior service credits payable during his lifetime after retirement on attaining age sixty-five or thereafter;

"lieu pension" means the monthly payments to certain retired state employees or to the dependents of certain deceased state employees;

"department" means any department, office, board, commission, instrumentality, or other agency of the state;

"service" means any compensated employment by the state or any instrumentality thereof and shall include periods of non-paid leave including military leave, provided the relationship of employer-employee has not been terminated at the commencement of the leave period, and employment which is hereafter declared by the legislature to be state service for retirement purposes, or service for any county, municipality, or political subdivision establishing a retirement system administered by the board pursuant to the provisions of chapter 128, Laws of 1953.

"political subdivision" means any political subdivision of the state of Arizona, including, but not limited to, cities and towns.

Sec. 2. Section 4, chapter 128, Laws of 1953, is amended to read:

Section 4. MEMBERSHIP. (a) All employees and officers of the state and instrumentalities of the state and all officers and employees of political subdivisions establishing a retirement system administered by the board pursuant to the provisions of chapter 128, Laws of 1953, except elected officers of the state, who as a result of state service or service for the political subdivision are included in agreements providing for their coverage under the federal old-age and survivors insurance system, shall be subject to the provisions of chapter 128, Laws of 1953, and shall be members of the retirement system. All employees and officers of political subdivisions and instrumentalities of political subdivisions whose compensation is provided, in whole or in part, from state funds, who hereafter are declared to be state employees and officers by the legislature for retirement purposes shall, upon such legislative enactment, be subject to the provisions of chapter 128, Laws of 1953, and shall be members of the retirement system. Any member whose service has terminated other than by death shall be deemed to be a member of this retirement system until his contributions made hereunder have been refunded.

(b) A temporary employee whose employment is for a term of not more than three months may have the option of signing a waiver of membership and no contributions shall be deducted from his wages or paid in his behalf by his employer for such period of temporary employment. But if such employment continues beyond the

period of three successive months his retirement account shall be established as of the beginning of the next succeeding payroll period following completion of such three-month period.

(c) Employees and officers shall not become members of the state employees' retirement system and, if members immediately prior thereto, shall have their membership status suspended while employed by state departments paying salaries of their officers and employees, in whole or in part, from funds received from other sources than appropriations from the general fund for the period or periods payment of the employer contribution is not made by or on behalf of such departments.

Sec. 3. Section 5, chapter 128, Laws of 1953, is amended to read:

Section 5. TERMINATION OF MEMBERSHIP BEFORE RETIREMENT. (a) A member who terminates employment, other than by death, with not less than ten years' creditable service preceding termination and before age sixty shall be paid in a lump sum upon application the amount of employee contributions with interest at two per cent compounded annually. Payment shall be in accordance with board regulations. If such former member re-enters service in a position subject to chapter 128, Laws of 1953, his membership shall commence in the same manner as any other new member, except that previous service shall be included in creditable service, and he shall not be entitled to a pension for prior service credits upon retirement.

(b) A member who terminates service before attaining age sixty, who has not less than ten years' creditable service, may elect at termination, in lieu of return of his own contributions as provided in the preceding subsection 5 (a), (1) a life annuity, or a limited annuity, or both, derived from his retirement account with interest or earnings thereon, commencing at age sixty, or (2) a life annuity, derived from his retirement account with interest or earnings thereon, commencing at age sixty-five, and (3) his prior service pension, if any, commencing at age sixty-five.

Life and/or limited annuities shall be determined in accordance with subsection 8 (a). If the member returns to service after exercising this option, his membership shall be reinstated and the employee and employer contributions commencing upon reinstatement shall be paid into the suspense account and credited to him for the first

twelve months of continuous service after reinstatement. At the end of such twelve-month period the member's retirement account shall be credited with the amount held in the suspense account to his credit and contributions thereafter shall be credited to his retirement account. If he terminates service during this twelve-month period the amount credited to him in the suspense account shall be disbursed as provided in chapter 128, Laws of 1953.

(c) Upon death of a member prior to retirement the designated beneficiary or the estate of the deceased member shall be entitled to a cash refund of the employee contributions, together with interest at two per cent per annum compounded annually.

(d) If a member's employment is terminated prior to the completion of ten years of creditable service, such member shall, upon request, have paid to him the amount of his contribution to the retirement fund together with interest thereon at two per cent compounded annually in accordance with board regulations and he will cease to be a member. If such member upon termination of employment with less than ten years' creditable service does not terminate his membership and re-enters service within twenty-four months following termination of his employment, all membership rights shall be restored to him, including prior service credits, if any, in any event, a member whose employment is terminated with less than ten years' creditable service shall cease to be a member, and his contributions with interest at two per cent compounded annually shall be refunded to him if in any period of six consecutive years after last becoming a member he is absent from service for more than five years, except in military service of the United States.

Sec. 4. Section 7, chapter 128, Laws of 1953, is amended to read:

Section 7. PRIOR SERVICE CREDIT. (a) Each member having state service immediately preceding July 1, 1953, or service for a political subdivision on and preceding the date such employer begins participation in the retirement system, shall be given prior service credits for such employment. Prior service credits obtained by a member for employment on and prior to the date of commencement of his employer's retirement system in accordance with the provisions of this section shall be paid annually in monthly installments as a pension for life upon retirement on and after age sixty-five or upon attaining age sixty-five after retirement. If such member has obtained prior service credits in accordance with this

section for employment by more than one employer, payment shall be from funds derived from each such employer.

(b) The amount of the annual prior service credit shall be determined by one-half of one per cent of average annual wages, not exceeding thirty-six hundred dollars per year, for the five years immediately preceding July 1, 1953, multiplied by the number of years, not exceeding thirty, of state employment prior to July 1, 1953. For members who were members of the Arizona teachers' retirement system prior to their membership in the state system, the years, not exceeding thirty, of service as a teacher, as that term is defined by chapter 61, Laws of 1943, for the state, a political subdivision or any instrumentality, shall be prior to July 1, 1943, for the purposes of determining the number of years for which prior service credit is granted.

(c) For members who were employed in Arizona by the United States employment service or by the United States war manpower commission, or both, between July 21, 1941 and November 16, 1946, such employment, immediately preceded by or immediately followed by state service, shall be included in determining the number of years for which prior service credit is granted, provided the federal government through the employment security commission pays into the prior service credits fund, an amount determined by the retirement board as being sufficient to provide retirement benefits derived from prior service credit earned during such period of employment.

(d) Each member shall file with the board a detailed statement of service for which he claims prior service credit. The board shall certify to each member the amount of prior service credit allowed and such certificates shall be conclusive for the purposes of chapter 128, Laws of 1953, except that any member within ninety days from issuance of such certificate may request modification or correction of same.

(e) In computation of prior service under chapter 128, Laws of 1953, the following schedule shall govern: Nine months or more of service during any fiscal year shall constitute a year of service; not less than six but less than nine months of service in any fiscal year shall constitute three-fourths of a year of service; not less than three but less than six months of service during any fiscal year shall constitute one-half year of service; less than three months' service in any fiscal year shall not be considered.

(f) Prior service credit shall be cancelled upon termination of employment by a member prior to accumulation of ten years' creditable service except as provided in section 5 (d) or upon termination of membership prior to age sixty except as provided in section 5 (b).

Sec. 5. Section 8, chapter 128, Laws of 1953, is amended to read:

Section 8. RETIREMENT FOR SERVICE. (a) A member upon attaining age sixty-five with creditable service of not less than ten years may retire from state service and upon application shall receive a life pension payable in equal monthly installments derived from his prior service credit, if any, together with an annuity for life derived from his retirement account with interest or earnings thereon. The annuity shall be payable in equal monthly installments, the amount of which installments shall be determined by the interest and life expectancy tables applicable at the date of commencement of retirement and based upon the attained age of the annuitant at the commencement of retirement.

(b) A member who has attained age sixty with creditable service of not less than ten years may retire from state service and upon application upon his election receive: (1) A life annuity derived from his retirement account with interest or earnings thereon; and commencing at age sixty-five he shall receive in addition a pension derived from prior service credits, if any, or (2) a limited annuity derived from all or part of his retirement account with interest or earnings thereon, together with a life annuity derived from the balance, if any; and commencing at age sixty-five he shall receive in addition a pension derived from prior service credits, if any. The pension and annuity shall be determined and paid in the manner set forth in paragraph (a) of this section.

(c) A member who terminates service after attaining age sixty-five, who has less than ten years' creditable service and who commenced employment with the state after attaining age fifty-five, may elect at termination to receive a life annuity derived from his retirement account with interest or earnings thereon, together with prior service pension, if any, or a refund of his contributions together with interest thereon at two per cent compounded annually.

(d) A member who has retired and has become eligible for benefits under chapter 128, Laws of 1953, whose death occurs prior to receipt of annuity payments equal

to his own contributions to the retirement fund, together with interest at two per cent compounded annually accruing prior to retirement on such employee contributions, shall have paid in a lump sum to his designated beneficiary or estate, the difference between the amount he received and the amount of his employee contributions and accruals as provided herein.

(e) All state officers and employees and officers and employees who are declared to be subject to chapter 128, Laws of 1953, by the legislature, except elected officials or officers designated by law for an indefinite term and appointive members of boards and commissions, who shall have attained or exceeded the age of seventy years on and after July 1, 1954, shall be compulsorily retired and shall not be compensated for state service nor be paid retirement benefits of any kind except as provided by chapter 128, Laws of 1953.

(f) Employees of the institutions under the control of the board of regents of the university and state colleges of Arizona who reach the age of seventy, so long as they continue to render valuable service to the institution employing them, may continue to be employed at the discretion of the board of regents. Any other employee, except an employee of a political subdivision whose compensation is provided in whole or in part from state funds who hereafter is declared to be a state employee by the legislature for retirement purposes, who has attained age seventy and who is certified by his appointing authority, as specially fitted by reason of long experience to perform the duties of his position, may, if he so desires, upon request of his appointing authority and approval of the Governor, be continued in service for such period or periods as may be approved by the retirement board, but not more than two years after each such extension in any event, provided, however, that in all such cases of extended employment beyond the age of seventy no further contributions shall be made either by the employer or the employee, nor shall any such continuing employee be entitled to any change in the benefits as computed at the age of seventy, except in respect of that portion of the benefit derived from his own contributions with interest thereon.

Sec. 6. Section 9, chapter 128, Laws of 1953, is amended to read:

Section 9. RETIREMENT FOR DISABILITY. (a) A member with not less than ten years of creditable service and who has not attained his sixty-fifth birthday, may

be retired by the board upon his or his employer's application therefor, and after recommendation by two or more physicians appointed by the board to conduct a personal examination of the member, that the member is physically or mentally incapacitated for the further performance of duties required by his last or comparable employment in service, that such incapacity is likely to be permanent, and that the member should be retired. In event of approval by the board of such application, the member shall be entitled to a life annuity, or limited annuity, or both, derived from his retirement account with interest or earnings thereon, and commencing at age sixty-five he shall receive in addition a pension derived from prior service credits, if any.

(b) If a member retired for disability resumes membership employment, disability payments shall terminate with the payment immediately preceding the date of resumption of membership employment, and his account shall be reopened as if he were a new member, the balance in such account being credited to the new account.

Sec. 7. Section 11, chapter 128, Laws of 1953, is amended to read:

Section 11. CONTRIBUTIONS BY MEMBERS. (a) All members shall have deducted from each wage payment three-and-one-half per cent of total wages, which amount shall be paid to the board for deposit in the retirement fund and credited to the retirement account of the member who made the contribution.

(b) Subject to regulation prescribed by the board any member may elect to make pay period contributions in units of one-half of one per cent of total wages not exceeding three-and-one-half per cent of total wages in excess of the required contribution for the purpose of providing greater annuity benefits. Such contributions in excess of the required contribution may begin, be terminated, or changed in amount only as of the first day of any fiscal year.

(c) Subject to regulation prescribed by the board any member may elect to make lump sum contributions in an amount not exceeding the amount the member has been required to contribute to his retirement account at the time of the lump sum payment. Lump sum contributions may be made at any time preceding one year prior to retirement.

(d) Excess contributions, either pay period or lump

sum, shall be commingled and become a part of the member's retirement account and shall be treated in the same manner as required contributions, except that the employer of the member shall not contribute matching amounts to the retirement account for such excess contributions.

(e) Each state department in accordance with board regulations shall certify on each payroll the amount to be contributed by its employees and shall remit such amount or claim for such amount to the board for deposit in the retirement fund and credit to membership retirement accounts.

(f) Payment of salaries or wages less such contributions as provided in this section shall be in full discharge of all claims and demands whatsoever for the service rendered by the employee during the period covered by such payment, except for the benefits afforded by chapter 128, Laws of 1953.

(g) Any member entitled to a refund from the public employees' retirement fund of Arizona may assign such refund to the board for deposit in the retirement fund and credit to his account for the purpose of providing greater annuity benefits.

Sec. 8. Section 15, chapter 128, Laws of 1953, is amended to read:

Section 15. RETIREMENT BOARD. (a) There is hereby created an Arizona state retirement system board of five members appointed by the Governor with the advice and consent of the Senate. The members of the board shall be appointed for the following terms:

One member for a term ending January 1, 1955;
one member for a term ending January 1, 1956;
one member for a term ending January 1, 1957;
one member for a term ending January 1, 1958;
one member for a term ending January 1, 1959.

Upon the expiration of any term a successor shall be appointed for a full term of five years. Appointment to fill a vacancy resulting otherwise than from expiration of term shall be for the unexpired portion of the term only.

(b) The members of the board shall be appointed and qualified as follows: (1) One shall be a member of the retirement system, with not less than five years of credit-

able service; (2) one shall be a department head or a member of a board of trustees; (3) one shall be a member of the state bar of Arizona; (4) one shall be a person with not less than five years' experience in a position involving responsibility for the selection of securities and other instruments for the investment of funds; and, (5) one shall be a person with not less than five years' experience in a responsible capacity in the life insurance and annuities field.

(c) Each member shall receive twenty-five dollars per day while the board is in session or otherwise engaged in work authorized by the board, plus necessary traveling expenses and subsistence, as provided by law, while away from home on business of the board. In no event shall any member be paid per diem for more than twenty days in any fiscal year after the second fiscal year of operation of the state retirement system, and if a member is also a state employee, he shall not receive per diem but subsistence and traveling expenses only.

(d) The board shall have the powers and privileges of a corporation, shall have an official seal, and shall in the name "Arizona state retirement system board" transact all business, enter into contracts, invest all funds, transfer or assign such funds as herein authorized, purchase annuities, and hold in trust for the purposes for which received all cash, securities, and other properties of the system, and in that name it may sue and be sued. The general administration and responsibility for the proper operation of chapter 128, Laws of 1953, shall be vested in the board, which shall have power to delegate duties and responsibilities to such employees or to such state departments as it deems feasible and desirable to carry out the provisions of chapter 128, Laws of 1953.

(e) The board may adopt, amend, or rescind regulations for the administration of chapter 128, Laws of 1953. It may hold hearings for the purpose of determining any question involving any right, benefit, or obligation of an employee under chapter 128, Laws of 1953. It may hire and fix the compensation of such employees as it deems necessary and it may contract for special actuarial and insurance counseling on a fee basis. It shall bond itself and its employees in such amounts as it shall fix. It shall submit to the Governor and legislature for each fiscal year a report of its operations and the condition of its funds, and in such report it shall make recommendations for amendments to chapter 128, Laws of 1953, it deems desirable.

(f) A board member or employee of the board shall

not, directly or indirectly: (1) Have any interest in the making of any investment or the purchase of any annuities from any private insurer or in the gains or profits accruing therefrom; (2) for himself or as agent or partner of others borrow money, funds, or deposits of this system, nor use such funds or deposits in any manner except as directed by the board under authority of chapter 128, Laws of 1953; and, (3) become an endorser or surety or obligor on investments by the board.

Sec. 9. Section 16, chapter 128, Laws of 1953, is amended to read:

Section 16. INVESTMENTS. The board shall, after investigation and study, determine the method of financing the retirement system established by chapter 128, Laws of 1953, to insure the greatest return commensurate with sound financing adequately safeguarded. The board shall have the power to invest and reinvest the money in its funds in bonds of the United States of America; federal housing insured mortgage bonds of the United States of America; federal land bank bonds; general obligation bonds of the state of Arizona or of the counties, incorporated cities or towns, or school districts thereof; revenue bonds of the incorporated cities or towns of the state of Arizona and of the board of regents of the university and state colleges of Arizona; or bonds of agricultural improvement districts and agricultural improvement and power districts organized under the laws of Arizona, when issued or guaranteed, with the approval of the secretary of the interior, by corporations operating a United States reclamation project within the state of Arizona; or bonds of incorporated cities or towns of the state of Arizona issued under the provisions of chapter 144 of the Laws of 1919 of the legislature of the state of Arizona as now or hereafter amended; and shall have the power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the moneys of its funds are invested, and upon such sale the proceeds thereof shall be redeposited in the respective fund from which the investment was derived, subject to reinvestment and payment therefrom by order of the board. The board shall have the power to commingle securities and moneys subject to the crediting of receipts and charging of payments to the appropriate funds established by chapter 128, Laws of 1953. After three years of operation the board is further authorized to contract with a private legal reserve insurance carrier licensed to do business in the state of Arizona to provide the benefits provided in chapter 128, Laws of 1953, and provided further, that such insurance

carrier shall have been a legal reserve company in conformance with the laws of Arizona for a period of at least ten years prior to April 8, 1953. However, such contracts shall be made only on bids the board determines will provide the highest and best annuity benefit with due and prudent consideration given to the financial stability of the carrier and basis of the acceptance by such carrier of such securities as may be transferred as part of the consideration of such contract. Provided, however, that the contract shall be approved and authorized by a majority vote of the Governor, state auditor, and attorney general.

Sec. 10. Section 18, chapter 128, Laws of 1953, is amended to read:

Section 18. RETIREMENT FUND. (a) There is hereby established a state employees' retirement fund separate and apart from all public moneys or funds of this state, which shall be administered by the board exclusively for the purposes of chapter 128, Laws of 1953. This fund shall consist of all employee contributions collected pursuant to chapter 128, Laws of 1953, and credited to members' retirement accounts, all appropriations made by the legislature for employer contributions credited to members' retirement accounts, all payments of the state's share of contributions made by those departments obligated to pay the state's proportionate share for employees of such departments from funds other than those appropriated by the legislature, all funds or securities in lieu thereof transferred to the state system from the teachers' retirement system to be credited to individual retirement accounts, all employer contributions by political subdivisions and instrumentalities thereof credited to members' retirement accounts, all gifts, donations, fund transfers pursuant to chapter 128, Laws of 1953, or other law, and all interest or earnings of such funds. All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury, except that moneys in this fund shall not be commingled with other state funds, but shall be maintained in a separate account on the books of the depository. Such moneys shall be secured by the depository in which they are held to the same extent and in the same manner as required by the general depository law of the state. Any balance in this fund shall not lapse at any time but shall be continuously available to the board for expenditure consistent with chapter 128, Laws of 1953. The board also consistent with the provisions of chapter 128, Laws of 1953, may transfer and assign the

assets of this fund and the moneys and securities due or to become due thereto as payment of consideration for any contract it may enter into with a private insurer to pay the annuities provided for herein.

(b) A suspense account shall be maintained as a part of the retirement fund to which there shall be transferred the employer contributions credited to the accounts of members, with interest or earnings thereon, whose membership is terminated, other than by death, before such members have accumulated ten years of creditable service, and who are not entitled to retirement benefits under section 8, chapter 128, Laws of 1953. The employer contributions, with interest or earnings thereon, credited to the accounts of members whose service is terminated, other than by death, after completion of ten or more years of creditable service shall also be transferred to the suspense account if such member elects the refund of his contributions rather than the retirement benefit provided by section 8, chapter 128, Laws of 1953. On August 1, of each fiscal year there shall be transferred from this suspense account to the state general fund the amount sufficient to reimburse the general fund for the total expenditures made from the general fund appropriation to provide all administrative and operational expenses of the state employees' retirement system for the fiscal year ended on the previous June 30. The balance remaining in the suspense account at the end of each fiscal year after the above committed transfers shall be transferred to the contingency reserve fund.

(c) The contingency reserve fund shall be maintained as a part of the retirement fund for the purpose of maintaining benefits payable to retired members. The contingency reserve fund shall consist of transfers from the suspense account, the employer's contributions with interest or earnings thereon credited to a member whose death occurs prior to retirement, the balance remaining of the employer's share of contributions with interest or earnings thereon credited to a member whose death occurs after retirement, interest earned by the retirement fund in excess of the annual rate of interest adopted by the board, and such other funds as may be available under provisions of chapter 128, Laws of 1953. The actuary employed by the board shall determine the amount required to maintain benefits payable to retired members. When such actuary shall have determined that adequate reserves have been accumulated for all anticipated and accrued liabilities, other than liabilities for prior service, the board may allocate any surplus over and above such reserves to increase retirement benefits for those em-

ployees retiring thereafter. Such allocations shall be credited as an employer contribution to an individual's retirement account in the ratio employer contributions to an individual account bear at the time of distribution to total employer contributions. Such increased amount of retirement benefits may be reduced or eliminated if subsequent experience determines that the fund is inadequate to maintain necessary reserves and to pay such benefits.

Sec. 11. Section 25, chapter 128, Laws of 1953, is amended to read:

Section 25. POLITICAL SUBDIVISION SYSTEMS. (a) The governing body of any political subdivision is authorized to adopt, by appropriate legislation, a supplemental retirement system for officers and employees of the political subdivision who are included within agreements entered into between such governing body and the employment security commission of Arizona providing for extension of federal old-age and survivors insurance benefits to such officers and employees. Such supplemental retirement system shall provide the same retirement benefits and require the same obligations for entitlement as is provided for members under chapter 128, Laws of 1953, except that such supplemental retirement system shall specify the date of commencement of such system as the first day of any fiscal year including July 1, 1953, and fiscal years thereafter, and that employer and employee obligations shall be paid to the state board in accordance with such date. The supplemental system of the political subdivision shall be administered by the state retirement system board. The employer's share of contributions and payments for prior service shall be paid from funds of the political subdivision.

(b) The governing body of the political subdivision, upon establishment of the supplemental retirement system, shall deduct employee contributions in the same amounts and in the same manner as provided in chapter 128, Laws of 1953, for state employees, and said governing body is further authorized and directed to pay such contributions, together with the employer contributions for the political subdivision, to the state board for deposit in the retirement fund and credit to individual accounts. Such payments shall be made in the manner directed by the state board. The governing body of the political subdivision likewise shall reimburse the state board for its pro rata share of administrative costs attributable to coverage of officers and employees of the political subdivision.

(c) The governing body of the political subdivision

upon establishment of the supplemental retirement system is further authorized and directed to pay to the state board for deposit in the prior service credit fund the amounts determined by the board actuary, with approval of the board, required to fund payment of prior service credit pensions for members of such supplemental system. The board may authorize payments to be made at such times as the board may require and in lesser amounts than the amount required for fully funding prior service credit pensions.

(d) Payments provided under chapter 128, Laws of 1953, for state departments and payments due from any county, municipality, or political subdivision, establishing a retirement system administered by the board pursuant to the provisions of chapter 128, Laws of 1953, shall become delinquent after the due date fixed by board regulation and shall thereafter be increased by interest at the rate of six per cent per annum from and after such date until payment is received by the board.

(e) The liability of officers and employees of the political subdivision providing a supplemental retirement plan within the state system shall arise in consideration of the officer's or employee's retention in or entrance upon service for the political subdivision.

(f) Members who terminate employment for one employer without terminating membership in the plan and become employed by another employer within the plan shall have their account reactivated and upon retirement such member shall receive benefits derived from service for all employers by whom employed under the retirement system. Prior service pensions, if any, shall be paid only by the employer from whom the retiring member obtained entitlement to such pension.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 117

(House Bill No. 216)

AN ACT

RELATING TO EDUCATION; PROVIDING FOR A BOARD OF TRUSTEES IN SCHOOL DISTRICTS;

PRESCRIBING THE POWERS AND DUTIES THEREOF, AND AMENDING SECTIONS 54-409, 54-416 AND 54-905, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 54-409, Arizona Code of 1939, is amended to read:

54-409. ELECTION OF TRUSTEES. The governing body of a school district shall be a board of trustees. In school districts having for the previous year an average daily attendance of less than four thousand pupils, there shall be three trustees; in districts having for the previous year an average daily attendance of four thousand or more pupils, there may be submitted to the electors at the next ensuing school district election or at a special election called for that purpose the question of whether such school district shall have five trustees. The ballots shall contain the words: "Five Trustees, Yes; Five Trustees, No.". The board of trustees may call a special election to determine such question. Public notices of such special election shall be posted in not less than three public places in such district at least ten days prior to said election. Such election shall be held in the same manner and the electors shall possess the qualifications prescribed for the election of trustees. If the majority of the electors voting on such question vote in the affirmative, such district shall thereafter elect five trustees; if the majority of the electors voting on such question vote in the negative, such question shall not again be placed upon the ballot of an election in said district until such time as the three acting trustees unanimously vote to place it thereon. In single districts operating both elementary and high schools, the pupils of both schools shall be combined to figure the average daily attendance. An election shall be held in each school district on the first Tuesday in October of each year. In districts having three trustees, one shall be elected each year and shall hold office for a term of three years from the first day of January next following his election; in districts having five trustees, one shall be elected each year and shall hold office for a term of five years from the first day of January next following his election, except at the first election in a newly formed district or when a district is increasing the number of its board of trustees to five members. At the first regular election held in a newly formed district three trustees shall be elected, the candidate receiving the highest number of votes shall be elected to a three year term, the candidate having the second highest number of votes shall be elected to a two year term, the candidate receiving the third highest

number of votes shall be elected to a one year term. A district increasing the number of its board of trustees to five members as prescribed in this section shall at the next regular election elect three trustees, the candidate receiving the highest number of votes shall be elected to a five year term, the candidate receiving the second highest number of votes shall be elected to a four year term, and the candidate receiving the third highest number of votes shall be elected to a three year term. For the purpose of any such election, the board of trustees may divide the school district into voting precincts and shall designate the polling place. The district schoolhouse, if there be one, shall be designated as a polling place.

Sec. 2. Section 54-416, Arizona Code of 1939, is amended to read:

54-416. POWERS AND DUTIES OF TRUSTEES. The powers and duties of the board of trustees of school districts are as follows:

1. The trustees, a majority of whom shall constitute a quorum for the transaction of business, shall meet at the most convenient place in the district, not earlier than the second day, nor later than the second Saturday of January next following the election and organize, electing one of their number president and one of their number clerk, and on the same day, notify the county school superintendent thereof; provided, that no meeting for organization shall be held unless each member has received three days' written notice of the same, such notice to be signed by any two members of the board.

2. The board shall prescribe and enforce rules not inconsistent with law or those prescribed by the state board of education for their own government and the government of the schools. They may segregate groups of pupils.

3. The board shall manage and control the school property within their districts; purchase school furniture, apparatus, equipment, library books, and supplies for the use of the schools; rent, furnish, repair and insure the school property of the district; when directed to do so by vote of the district, construct school buildings, or purchase or sell school sites; make, in the name of the district, conveyances of all property belonging to the district and sold by them, and employ under written contract, all employees of the schools. The board may, at any time after the annual election and qualification of the new members, enter into contracts with teachers, principals, janitors, attendance officers, school physician, school

dentist, nurses, and other employees necessary for the suceeding year, and fix their salaries. No relative by affinity or consanguinity within the second degree of any trustee, or the husband or wife of a trustee, shall be employed in the district where he is trustee, except by the unanimous consent of the board, nor shall any teacher be employed who has not received a certificate of qualification therefor, granted by the proper authorities. Boards of trustees of districts having an average daily attendance of three hundred or more may employ a certificated superintendent or principal; two or more districts having an average daily attendance of three hundred or more may jointly employ a principal or superintendent whose salary shall be prorated among the districts employing him in accordance with the number of children enrolled in each district, and reasonable travel expenses may be paid to such superintendent or principal when traveling on school business upon order of a majority of the board. The employment of superintendents of schools or principals may be for any term not exceeding four years. Special teachers in drawing, music, domestic science, manual training, kindergarten, commercial work, agriculture and other special subjects may be employed.

4. The board may expel pupils for misconduct and exclude from the primary grades children under six years of age; shall enforce in school the course of study and the use of textbooks prescribed and adopted by the state board; may appoint district librarians and enforce the rules prescribed for the government of school libraries and shall exclude from schools and school libraries all books, publications or papers of a sectarian, partisan or denominational character.

5. The board of trustees may admit pupils from any other district upon a certificate of educational convenience issued by the county school superintendent. Such attendance, when certified to the county superintendent by the official in charge of the school attended shall be deemed, for the purpose of determining average daily attendance, to be attendance in the common or high school of the county or district of the student's residence. In the event tuition is charged for nonresidence attendance by the school attended, the county school superintendent shall draw his warrant on the county treasurer in favor of such school for the amount so charged, but not to exceed the average per capita cost of the common or high school of the county in which the pupil attends, whether from within or without the state, plus an amount for capital outlay, not exceeding one hundred dollars per pupil per year, to be determined by the school attended,

and shall charge the amount against the fund of the district or county in which the student resides.

6. The board shall make an annual report on or before the first day of July to the county school superintendent, in the manner and form, and on the blanks prescribed by the state or county superintendent; make a report whenever required, directly to the superintendent of public instruction, or to the county school superintendent; visit every school in the district, and examine carefully into its management, condition and needs, and provide transportation for any child or children when they deem it for the best interest of the district, whether within or without the district, county or state.

7. Boards of trustees may call meetings of the qualified school electors of the district for consultation in regard to any litigation in which the district may be engaged or likely to become engaged, or in regard to any other affairs of the district not otherwise provided for, and upon a petition of fifteen per cent of the qualified electors of their district, as shown by the last annual school election, must call such meeting.

8. Boards of trustees may establish kindergartens when, in their opinion, such kindergartens will not interfere with the work of, or maintenance of the efficiency of the grades; and, in the event of the establishment of any such kindergartens, may secure funds for their maintenance as other school funds are secured.

9. The board may establish departments of manual training and household economics; organize, by and with the consent of the county superintendent, intermediate schools composed of the seventh, eighth, and ninth grades of the schools under their jurisdiction; or in union high school districts, organize the seventh and eighth grades as such intermediate schools; and in the event of the organization of any such intermediate schools, shall secure and receive all funds necessary for the maintenance thereof, in the manner provided by law.

10. The board may include in their annual budget items for the purchase of sites or for erecting or purchasing school buildings, which items the county superintendent shall include in his estimate to the board of supervisors, and the board of supervisors may, in its discretion, make a sufficient levy on the property of said district to produce the amount asked for; provided, that said levy for such purpose shall not exceed ten cents on each one hundred dollars of valuation of such property.

11. The board may permit the use, under its direction, and subject to such conditions, rules and regulations as it may prescribe, of the schoolhouse or houses within the district as a civic center for such district, where the citizens, parent teachers' association, camp fire girls, boy scout troops, clubs and associations formed for recreational, educational, political, economic, artistic or moral activities of the district may engage in supervised recreational activities and where they may meet and discuss, from time to time, as they may desire, any and all subjects and questions which, in their judgment, may appertain to the educational, political, economic, artistic and moral interests of the citizens of the respective communities in which they reside; provided that such use of said public schoolhouses and grounds for said meetings shall in no wise interfere with such use and occupancy of said public schoolhouse and grounds, as is now, or hereafter may be, required for the purpose of said public schools in the state of Arizona.

12. The board may employ such professional personnel as may be deemed necessary for the purpose of making surveys of and recommendations relating to the curricula, physical plant and other requirements of the district.

Sec. 3. Section 54-905, Arizona Code of 1939, is amended to read:

54-905. HIGH SCHOOL BOARD OF EDUCATION. A high school shall be governed by a board of education composed of the school trustees of the district, if of a single district; of five members, if a union district. The members of the board of education of a union district shall be qualified school electors of the district, three shall be residents of the school district wherein the high school is situated, and two of the remaining territory, a trustee of a component school district shall not be eligible. They shall be elected, except the first board, at the time and in the manner, as near as practicable as school trustees are elected. The election officers shall certify the returns to the union high school board of education, which shall canvass the returns and issue the certificate of election.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 118

(House Bill No. 118)

AN ACT

RELATING TO GUARDIAN AND WARD; AMENDING CHAPTER 42, ARTICLE 1, BY AMENDING SECTIONS 42-114, 42-119, 42-120, AND 42-125; REPEALING SECTIONS 42-126, 42-127, 42-128; AMENDING SECTION 42-129; AND REPEALING SECTIONS 42-130 AND 42-143, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 42-114, Arizona Code of 1939, is amended to read:

42-114. DUTIES OF GUARDIAN—CARE OF PROPERTY. A guardian of the person is charged with the custody of the ward, and shall look to his support, health and education. He may fix the residence of the ward at any place within the state, but not elsewhere without the permission of the court. A guardian of the property shall keep safely the property of his ward. He must not permit any unnecessary waste or destruction of the real property, but shall, so far as it is in his power, maintain the same out of the income or other property of the estate, and deliver it to the ward, at the close of his guardianship, in as good condition as he received it. The real or personal property of a ward, or any part thereof, may be sold, mortgaged or leased by the guardian of the estate in the manner provided by law relating to estates of decedents.

Sec. 2. Section 42-119, Arizona Code of 1939, is amended to read:

42-119. PAYMENT OF DEBTS—SALE OF REAL PROPERTY — COLLECTION OF ACCOUNTS — ACTIONS. A guardian appointed under the provisions hereof, whether for a minor or other person, may pay all just debts due from the ward, out of his personal estate and income of his real property, if sufficient; if not, then out of his real property, after disposing of the same in the manner provided for the sale of real property of decedents. He shall settle all accounts of the ward, and demand, sue for and receive all debts due to him, or may with the approval of the court, compound for the same and he shall appear for and represent his ward in all

actions and proceedings unless another person is appointed for that purpose.

Sec. 3. Section 42-120, Arizona Code of 1939, is amended to read:

42-120. INCOME APPLIED TO SUPPORT. The guardian shall manage the estate of his ward frugally and without waste, and apply the income and profits thereof, as far as necessary, for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if such income and profits be insufficient for that purpose, the guardian may sell the real or personal property, and apply the proceeds of such sale to that purpose.

Sec. 4. Section 42-125, Arizona Code of 1939, is amended to read:

42-125. SALE OF REAL PROPERTY—USE OF PROCEEDS. When it appears to the guardian, that for the benefit of his ward, his real property or some part thereof should be sold, and the proceeds thereof put out at interest, or invested in some productive stock, or in the improvement or security of other real property of the ward, his guardian may sell the same for such purpose. The guardian shall apply the proceeds of the sale to such purposes, and place the residue, if any, on interest, or invest it in the best manner in his power, until the capital is wanted for the maintenance of the ward and his family, or the education of his children, or for the education of the ward when a minor, in which case the capital may be used for that purpose, as far as may be necessary, in like manner as the personal property of the ward. If the estate is sold for the purpose of investing the proceeds, the guardian shall make the investment according to his best judgment, or in pursuance to the order of the court.

Sec. 5. Section 42-129, Arizona Code of 1939, is amended to read:

42-129. LAWS RELATING TO ESTATES OF DECEDENTS APPLIES. All proceedings of guardians, and the administration of estates of minors and incompetent persons, shall be had in accordance with, and shall be governed by, the laws relating to estates of decedents, except as otherwise provided by law.

Sec. 6. REPEAL. Sections 42-126, 42-127, 42-128, 42-130 and 42-143 are repealed. This section does not

negative an implied repeal of any statute which conflicts with this Act.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 119

(House Bill No. 238)

AN ACT

RELATING TO EMPLOYMENT SECURITY, AND AMENDING SECTION 56-1008, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 56-1008, Arizona Code of 1939, as amended, is amended to read:

56-1008. PERIOD, ELECTION, AND TERMINATION OF EMPLOYER COVERAGE. (a) Except as provided in subsection (c) of this section, any employing unit which is or becomes an employer subject to article 10, chapter 56, Arizona Code of 1939, as amended, within any calendar year shall be deemed to be an employer during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to article 10, chapter 56, Arizona Code of 1939, as amended:

(1) As of the first day of January of any calendar year: (A) If the commission finds such employing unit ceased all operations for a period of thirty-five (35) weeks in the preceding calendar year, or (B) if the employing unit files with the commission during January of such year, a written application for termination of coverage, and the commission finds that there were not twenty different days, each day being a different calendar week within the preceding calendar year, within which such employing unit employed three or more individuals in employment subject to article 10, chapter 56, Arizona Code of 1939, as amended;

(2) on the transfer date of an employer experience rating account resulting from transfer by an employing unit of its organization, trade, or business, or substantially all the assets thereof, to a successor.

For the purposes of this subsection, the two or more employing units mentioned in paragraphs (b) or (c) or (d) of section 56-1002g, Arizona Code of 1939, as amended, shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to article 10, chapter 56, Arizona Code of 1939, as amended, which files with the commission its written election to become an employer subject thereto for not less than two calendar years, shall, with the written approval of such election by the commission, become an employer subject thereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if during January of such year it has filed with the commission a written notice to that effect.

(2) Any employing unit, for which services that do not constitute employment as defined in article 10, chapter 56, Arizona Code of 1939, as amended, are performed, may file with the commission a written election that all such services, with respect to which payments are not required under an employment security law of any other state or of the federal government and which are performed by individuals in its employ in one or more distinct establishments or places of business, shall be deemed to constitute employment by an employer for all the purposes of article 10, chapter 56, Arizona Code of 1939, as amended, for not less than two calendar years. Upon the written approval of such election by the commission, such services shall be deemed to constitute employment subject to article 10, chapter 56, Arizona Code of 1939, as amended, from and after the date stated in such approval. Such services shall cease to be deemed employment subject thereto as of January 1 of any calendar year subsequent to such two calendar years, only if during January of such year such employing unit has filed with the commission a written notice to that effect.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 120

(House Bill No. 239)

AN ACT

RELATING TO EMPLOYMENT SECURITY, AND AMENDING SECTION 56-1007d, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 56-1007d, Arizona Code of 1939, as amended, is amended to read:

56-1007d. VARIATION OF CONTRIBUTION RATES. Variations from the standard rate of contribution shall be determined in accordance with the following requirements:

(a) If the total of all an employer's contributions, paid on or before July 31, of the preceding calendar year with respect to wages paid by him prior to the first of July of such preceding calendar year, exceeds the total benefits which were chargeable to his account and were paid prior to the first day of July of such preceding calendar year, with respect to weeks of unemployment beginning prior to such first day of July, his contribution rate for the ensuing calendar year, subject to the adjustments hereinafter provided, shall be:

(1) Two and seven-tenths per centum if such excess is less than three per centum of his average annual payroll;

(2) two and one-half per centum if such excess equals or exceeds three but is less than four per centum of his average annual payroll;

(3) two and one-fourth per centum if such excess equals or exceeds four but is less than five per centum of his average annual payroll;

(4) two per centum if such excess equals or exceeds five but is less than six per centum of his average annual payroll;

(5) one and three-fourths per centum if such excess equals or exceeds six but is less than seven per centum of his average annual payroll;

(6) one and one-half per centum if such excess equals or exceeds seven but is less than eight per centum of his average annual payroll;

(7) one and one-fourth per centum if such excess equals or exceeds eight but is less than nine per centum of his average annual payroll;

(8) one per centum if such excess equals or exceeds nine but is less than ten per centum of his average annual payroll;

(9) three-fourths per centum if such excess equals or exceeds ten but is less than eleven per centum of his average annual payroll;

(10) one-half per centum if such excess equals or exceeds eleven per centum of his average annual payroll.

(b) If on July 31, of any year the total assets of the fund, excluding contributions not yet paid on July 31, of such year, constitute the following percentage ratios to total taxable payrolls for the fiscal year ending June 30, of such year, all employers eligible for a rate of less than 2.7 per centum under subsection (a) of this section shall have the rate to which they are entitled adjusted proportionately to provide an approximate average tax yield from all employers for the ensuing calendar year in amounts based upon per centum of assets in the fund to total taxable payrolls as follows:

(1) For assets equal to or in excess of thirteen per centum of total taxable payrolls for the preceding fiscal year an average rate of 1.1 per centum;

(2) for assets equal to or in excess of eight per centum but less than thirteen per centum of the total taxable payrolls for the preceding fiscal year an average rate of 1.3 per centum;

(3) for assets equal to or in excess of six per centum but less than eight per centum of the total taxable payrolls for the preceding fiscal year an average of one and one-half per centum;

(4) for assets equal to or in excess of four per centum but less than six per centum of the total taxable payrolls for the preceding fiscal year the minimum rate paid by each employer shall be two per centum;

(5) for assets less than four per centum of the total

taxable payrolls for the preceding fiscal year no employer's rate shall be less than 2.7 per centum.

(c) In computing an employer's adjusted rate to provide the percentage of average tax yield as aforesaid, such adjusted rate shall be calculated to the nearest five-hundredths per centum. In no event shall an employer's adjusted rate be less than one-fourth per centum.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 121

(House Bill No. 240)

AN ACT

RELATING TO EMPLOYMENT SECURITY, AND AMENDING SECTION 56-1007c, ARIZONA CODE OF 1939, AS AMENDED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 56-1007c, Arizona Code of 1939, as amended, is amended to read:

56-1007c. TRANSFER OF EMPLOYER EXPERIENCE RATING ACCOUNTS. (a) Whenever any employing unit in any manner succeeds to or acquires the organization, trade, or business, or substantially all of the assets thereof, excepting any assets retained by such employer incident to the liquidation of his obligations (whether or not such acquiring employing unit was an employing unit within the meaning of section 56-1002f, Arizona Code of 1939, prior to such acquisition) and continues such organization, trade, or business, the account of such predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of rate determination.

(b) Whenever any employing unit succeeds to or acquires a distinct and severable portion of an organization, trade, or business, the account for such portion, if separately identifiable, shall be transferred to the successor upon the mutual consent of the predecessor and the successor, the approval of the commission in con-

formity with commission regulation, and if after the transfer the successor continues to operate the transferred portion, application for transfer shall be made within sixty days after the commission notifies the successor of his right to request such transfer, otherwise, the effective date of the transfer shall be the first day of the calendar quarter in which such application is filed.

(c) If the successor employer was an employer subject to this Act prior to the date of acquisition, his rate of contributions for the remainder of the calendar year shall be his rate with respect to the period immediately preceding the date of acquisition. If the successor was not an employer prior to the date of acquisition, his rate shall be the rate applicable to the predecessor employer or employers with respect to the period immediately preceding the date of acquisition, provided there was only one predecessor or there were only predecessors with identical rates; if the predecessor rates were not identical, the successor's rate shall be the recomputed rate of the predecessor employers. Where the account for a severable portion has been transferred, the rate of the successor shall be computed on the transferred account.

(d) Any individual or organization (including the types of organizations described in section 56-1002f, Arizona Code of 1939), whether or not an employing unit, which acquires the organization, trade, or business, or a substantial part of the assets thereof, from an employer, shall be liable, in an amount not to exceed the reasonable value (as determined by the commission) of the organization, trade, business, or assets acquired, for any contributions, interest, and penalties due or accrued and unpaid by such predecessor employer, and the amount of such liability shall, in addition, be a lien against the property or assets so acquired which shall be prior to all other liens except prior recorded realty mortgages; provided that the lien shall not be valid as against one who acquires from the successor any interest in the property or assets in good faith, for value and without notice of the lien. On written request, the commission shall furnish the successor with a written statement of the amount of contributions, interest, and penalties due or accrued and unpaid by the predecessor employer as of the date of such acquisition, and the amount of the liability of the successor or the amount of the lien shall in no event exceed the liability disclosed in such statement. The foregoing remedy shall be in addition to all other existing remedies against the predecessor employer or his successor, and the lien against the successor may be foreclosed as in other civil action.

Sec. 2. EFFECTIVE DATE. Unless otherwise provided in this Act, the provisions of this Act shall become effective on and after July 1, 1954.

Approved by the Governor—April 7, 1954.

Filed in the Office of the Secretary of State—April 7, 1954.

CHAPTER 122

(House Bill No. 257)

AN ACT

RELATING TO THE LIVESTOCK SANITARY BOARD; MAKING AN APPROPRIATION THERETO; PROVIDING FOR THE REVERSION OF APPROPRIATIONS TO THE GENERAL FUND, AND REPEALING CHAPTER 84, LAWS OF 1947, REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of seventy-five thousand dollars is appropriated to the livestock sanitary board, for use in effecting the prevention and control of foot-and-mouth disease, and any other serious disease of livestock of a contagious or infectious nature determined by the state veterinarian, with the consent of the governor, to constitute an emergency.

Sec. 2. EXEMPTION. The appropriation made under the provisions of section 1 shall be exempt from the provisions of section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Sec. 3. REPEAL AND REVERSION OF FUNDS. Chapter 84, Laws of 1947, regular session, is repealed. Any balances remaining of the appropriation made under the provisions of Chapter 84, Laws of 1947, regular session, shall immediately upon the effective date of this Act, revert to the general fund.

Sec. 4. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 8, 1954.

Filed in the Office of the Secretary of State—April 8, 1954.

CHAPTER 123

(Senate Bill No. 44)

AN ACT

RELATING TO COUNTY OFFICERS; PRESCRIBING SALARIES; PROVIDING FOR APPOINTMENT AND CLASSIFICATION OF DEPUTY COUNTY ATTORNEYS; AMENDING SECTIONS 12-724, 12-725 AND 12-726, AND ADDING SECTIONS 12-724a, 17-902a AND 17-902b, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 12-724, Arizona Code of 1939, is amended to read:

12-724. SALARIES IN COUNTIES OF THE FIRST CLASS. (a) In a county of the first class having a population of one hundred thousand or over, as determined by the official census of the United States, county officers shall receive the following annual salaries: County attorney, nine thousand six hundred dollars ($9,600.00); sheriff, seven thousand two hundred dollars ($7,200.00); superintendent of schools, six thousand dollars ($6,000.00); clerk of the superior court, six thousand dollars ($6,000.00); recorder, six thousand dollars ($6,000.00); treasurer and ex-officio tax collector, six thousand dollars ($6,000.00), and assessor, six thousand six hundred dollars ($6,600.00).

(b) Each of the officers named in subsection (a) shall appoint a chief deputy, who shall receive an annual salary agreed upon by the officer appointing the deputy, and the members of the board of supervisors, in an amount not to exceed the following: For deputy county attorney, eight thousand four hundred dollars ($8,400.00); for deputy sheriff, five thousand four hundred dollars ($5,400.00); for deputy superintendent of schools, four thousand eight hundred dollars ($4,800.00); for deputy clerk of the court, four thousand eight hundred dollars ($4,800.00); for deputy recorder, four thousand eight hundred dollars ($4,800.00); for deputy treasurer, four thousand eight hundred dollars ($4,800.00), and for deputy assessor, five thousand four hundred dollars ($5,400.00).

(c) In a county of the first class having a population of over two hundred fifty thousand, as determined by the

official census of the United States, members of the board of supervisors shall receive an annual salary of six thousand dollars ($6,000.00) each. In a county of the first class having a population of not less than one hundred thousand or more than two hundred fifty thousand, as determined by the official census of the United States, the chairman of the board of supervisors shall receive an annual salary of four thousand eight hundred dollars ($4,800.00), and members of the board other than the chairman, four thousand five hundred dollars ($4,500.00) each.

(d) In a county of the first class having a population of less than one hundred thousand, county officers shall receive the following annual salaries: Sheriff, seven thousand two hundred dollars ($7,200.00); county attorney, six thousand dollars ($6,000.00); clerk of the superior court, six thousand dollars ($6,000.00); recorder, six thousand dollars ($6,000.00); treasurer and ex-officio tax collector, six thousand dollars ($6,000.00); assessor, six thousand six hundred dollars ($6,600.00); superintendent of schools, six thousand dollars ($6,000.00); chairman of the board of supervisors, three thousand six hundred dollars ($3,600.00), and members of the board of supervisors other than the chairman, three thousand three hundred dollars ($3,300.00) each.

(e) Each of the officers named in subsection (d), other than the board of supervisors, may appoint a chief deputy, who shall receive an annual salary agreed upon by the officer appointing the deputy and the members of the board of supervisors, in an amount not to exceed the following: For deputy sheriff, five thousand four hundred dollars ($5,400.00); for deputy county attorney, four thousand two hundred dollars ($4,200.00); for deputy clerk of the court, four thousand eight hundred dollars ($4,800.00); for deputy recorder, four thousand eight hundred dollars ($4,800.00); for deputy treasurer, four thousand eight hundred dollars ($4,800.00); for deputy assessor, four thousand eight hundred dollars ($4,800.00), and for deputy superintendent of schools, four thousand eight hundred dollars ($4,800.00); provided that

(f) In a county of the first class having a population of less than twenty thousand no chief deputy shall be appointed unless authorized by the board of supervisors who shall fix the annual salary of such chief deputy at not to exceed the following amounts: For deputy sheriff, five thousand four hundred dollars ($5,400.00); for deputy attorney, three thousand six hundred dollars ($3,600.00); for deputy clerk of the court, four thousand eight hundred

dollars ($4,800.00); for deputy recorder, four thousand eight hundred dollars ($4,800.00); for deputy treasurer, four thousand eight hundred dollars ($4,800.00); for deputy assessor, three thousand six hundred dollars ($3,600.00), and for deputy superintendent of schools, three thousand six hundred dollars ($3,600.00).

Sec. 2. Article 7, chapter 12, Arizona Code of 1939, is amended by adding section 12-724a, to read:

12-724a. SALARIES OF DEPUTY COUNTY ATTORNEYS. In a county of the first class having a population of one hundred thousand, or over, as determined by the official census of the United States, the county attorney's deputies shall be appointed in the grades hereinafter set forth and shall receive salaries not to exceed the following: Deputy county attorney, grade 1, eight thousand four hundred dollars ($8,400.00); deputy county attorney, grade 2, seven thousand eight hundred dollars ($7,800.00); deputy county attorney, grade 3, seven thousand two hundred dollars ($7,200.00); deputy county attorney, grade 4, six thousand eight hundred dollars ($6,800.00); deputy county attorney, grade 5, six thousand dollars ($6,000.00), and deputy county attorney, grade 6, four thousand eight hundred dollars ($4,800.00).

Sec. 3. Section 12-725, Arizona Code of 1939, is amended to read:

12-725. SALARIES IN COUNTIES OF THE SECOND CLASS. (a) In a county of the second class, county officers shall receive the following annual salaries: Sheriff, six thousand dollars ($6,000.00); clerk of the superior court, four thousand two hundred dollars ($4,200.00); recorder, four thousand two hundred dollars ($4,200.00); treasurer and ex-officio tax collector, four thousand eight hundred dollars ($4,800.00); assessor, five thousand four hundred dollars ($5,400.00); county attorney, five thousand four hundred dollars ($5,400.00); superintendent of schools, four thousand eight hundred dollars ($4,800.00); chairman of the board of supervisors, three thousand dollars ($3,000.00), and members of the board other than the chairman, two thousand seven hundred dollars ($2,700.00).

(b) Each of the officers named in subsection (a), other than the board of supervisors, if so authorized by the board of supervisors, may appoint a chief deputy, who shall receive an annual salary agreed upon by the officer appointing the deputy and the members of the board of supervisors, of not to exceed the following amounts: For

deputy sheriff, four thousand two hundred dollars ($4,-200.00); for deputy county attorney, three thousand three hundred dollars ($3,300.00); for deputy clerk of the court, three thousand six hundred dollars ($3,-600.00); for deputy recorder, three thousand six hundred dollars ($3,600.00); for deputy treasurer, three thousand six hundred dollars ($3,600.00); for deputy assessor, three thousand six hundred dollars ($3,600.00), and for deputy superintendent of schools, three thousand six hundred dollars ($3,600.00).

Sec. 4. Section 12-726, Arizona Code of 1939, is amended to read:

12-726. SALARIES IN COUNTIES OF THE THIRD CLASS. (a) In a county of the third class, county officers shall receive the following annual salaries: Sheriff, six thousand dollars ($6,000.00); clerk of the superior court, four thousand two hundred dollars ($4,200.00); recorder, four thousand two hundred dollars ($4,200.00); treasurer and ex-officio tax collector, four thousand eight hundred dollars ($4,800.00); county attorney, five thousand four hundred dollars ($5,400.00); assessor, five thousand four hundred dollars ($5,400.00); superintendent of schools, four thousand eight hundred dollars ($4,-800.00); chairman of the board of supervisors, three thousand dollars ($3,000.00), and members of the board other than the chairman, two thousand seven hundred dollars ($2,700.00) each.

(b) Each of the officers named in subsection (a), other than the board of supervisors, if so authorized by the board of supervisors, may appoint a chief deputy, who shall receive an annual salary agreed upon by the officer appointing the deputy, and the members of the board of supervisors, of not to exceed the following amounts: For deputy sheriff, four thousand two hundred dollars ($4,-200.00); for deputy county attorney, three thousand three hundred dollars ($3,300.00); for deputy clerk of the court, three thousand six hundred dollars ($3,-600.00); for deputy recorder, three thousand six hundred dollars ($3,600.00); for deputy treasurer, three thousand six hundred dollars ($3,600.00); for deputy assessor, three thousand six hundred dollars ($3,600.00), and for deputy superintendent of schools, three thousand six hundred dollars ($3,600.00).

Sec. 5. Article 9, chapter 17, Arizona Code of 1939, is amended by adding section 17-902a, to read:

17-902a. APPOINTMENT OF DEPUTY COUNTY

ATTORNEYS. The county attorney, in a county of the first class having a population of one hundred thousand or over, as determined by the official census of the United States, shall, in the appointment of his deputies, designate them as deputy county attorney, grade 1; deputy county attorney, grade 2; deputy county attorney, grade 3; deputy county attorney, grade 4; deputy county attorney, grade 5, and deputy county attorney, grade 6; upon the following basis: deputy county attorney, grade 1, chief deputy; deputy county attorney; grade 2, chief of civil division or chief of criminal division; deputy county attorney, grade 3, five or more years of legal experience while a member of a recognized bar association; deputy county attorney, grade 4, three or more years of legal experience while a member of a recognized bar association; deputy county attorney, grade 5, one or more years of legal experience while a member of a recognized bar association, and deputy county attorney, grade 6, all others.

Sec. 6. Article 9, chapter 17, Arizona Code of 1939, is amended by adding section 17-902b, to read:

17-902b. PRIVATE PRACTICE PROHIBITED. In a county of the first class, having a population of one hundred thousand or over, as determined by the official census of the United States, the county attorney, or any of his deputies, shall not engage in the private practice of law except that with the consent of the board of supervisors, a special deputy county attorney may be appointed upon a fee basis in like manner as a special assistant attorney general.

Approved by the Governor—April 8, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 124

(Senate Bill No. 116)

AN ACT

MAKING AN APPROPRIATION FOR ARIZONA CORPORATION COMMISSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. In addition to all

other appropriations, the sum of fifteen hundred dollars ($1,500.00) is appropriated to the corporation commission to be available during the forty-first fiscal year.

Sec. 2. PURPOSE. The purpose of this appropriation is to provide for traveling and other expenses incident and necessary for a member and/or representatives of the corporation commission to attend meetings, hearings and conferences relative to the interstate commerce commission investigation of railroad freight class rates in the mountain states region.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 8, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 125

(House Bill No. 227)

AN ACT

ADOPTING THE PALO VERDE (GENERA CERCIDIUM) AS THE STATE TREE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. STATE TREE. The Palo Verde (genera cercidium) shall be the state tree of Arizona.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 126

(House Bill No. 86)

AN ACT

RELATING TO HOSPITALS; PROVIDING FOR A LIEN

FOR CHARGES FOR HOSPITAL CARE AND TREATMENT OF INJURIES OF PERSONS ADMITTED TO A HOSPITAL, AND EXEMPTING CASES FALLING WITHIN THE PURVIEW OF THE WORKMEN'S COMPENSATION LAW.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. RIGHT TO LIEN CONFERRED. Every individual, partnership, firm, association, corporation, institution or any governmental unit maintaining and operating a hospital within the state of Arizona which has been duly licensed by the Arizona state department of health as required by chapter 130, Laws of 1947, regular session, entitled "an Act relating to hospitals and maternity homes, providing for the licensing, regulation, and inspection thereof, and establishing the hospital advisory council", shall be entitled to a lien for the customary charges for hospital care and treatment of an injured person upon any and all causes of action, suits, claims, counter-claims, or demands for damages accruing to the person to whom such hospital service was rendered, or to the legal representative of such person, on account of injuries giving rise to such causes of action and which necessitated such hospitalization.

Sec. 2. PERFECTING LIEN; STATEMENT OF CLAIM; CONTENTS; FILING. In order to perfect such lien, the executive officer or agent of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the recorder of the county in which such injuries were sustained a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital, and the name and address of the executive officer or agent of such hospital, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and to the best of the claimant's knowledge, the names and addresses of all persons, firms, or corporations and the insurance carriers of such persons, firms or corporations claimed by such injured person or the legal representative of such person, to be liable for damages arising from such injuries; such claimant shall also, within five days after the filing of such claim or lien, mail a copy thereof, postage prepaid, to each person, firm, or corporation so claimed to be liable for such damages, at the address so given in the statement. The filing of such claim or lien shall be notice thereof to all persons, firms or corporations liable

for such damages, whether or not they are named in such claim or lien.

Sec. 3. FILING AND INDEXING LIEN. The recorder shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which he shall enter the date and hour of such filing, the name and address of such hospital, the executive officer or agent of such hospital and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damage. Such recorder shall be paid the sum of fifty cents as his fee for such filing.

Sec. 4. RELEASE OF LIEN; ACTION TO ENFORCE LIEN. No release of such causes of action, or any of them, or of any judgment thereon, shall be valid or effectual as against such lien unless such lienholder shall join therein, or execute a release of such lien, and the claimant, or assignee of such lien may, if any sum has been or is to be collected by the injured person or his legal representative from, or on account of, the person, firm or corporation liable for such damage by reason of a judgment, settlement or compromise, enforce such lien by action against the person, firm or corporation liable for such damage, which action shall be commenced and tried in the county in which such lien shall be filed, unless ordered removed to another county by the court for cause. If the claimant shall prevail in such action, the court may allow reasonable attorney's fees and disbursements. Such action shall be commenced within two years after the entry of such judgment or the making of such settlement or compromise.

Sec. 5. WORKMEN'S COMPENSATION CASES COVERED BY ARIZONA LAW EXCEPTED FROM THIS ACT. The provisions of this Act shall not be applicable to accidents or injuries within the purview of the workmen's compensation law of this state.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 127

(House Bill No. 315)

AN ACT

RELATING TO CITIES AND TOWNS; PROVIDING

FOR THE CONTENTS OF PETITIONS SUBMITTED BY PROPERTY OWNERS FOR ANNEXATION TO A CITY OR TOWN, AND AMENDING SECTION 16-701, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 16-701, Arizona Code of 1939, is amended to read:

16-701. ANNEXATION BY PETITION OF PROPERTY OWNERS. (a) Any city may extend and increase its corporate limits in the manner following: On presentation of a petition in writing, signed by the owners of not less than one-half in value of such real and personal property as would be subject to taxation by the city in the event of annexation, in any territory contiguous to the city, as shown by the last assessment of said property, and not embraced within its limits, the common council of said city may, by ordinance, annex such territory to said city, upon filing and recording a copy of such ordinance, with an accurate map of the territory annexed, certified by the mayor of said city, in the office of the county recorder, in the county where the annexed territory is situated.

(b) The petition submitted to the owners of property for their signature under the provisions of subsection (a) shall set forth a description of all the exterior boundaries of the entire area proposed to be annexed to the city.

Such petition shall have attached to it at all times an accurate map of the territory desired to be annexed, and no additions or alterations increasing the territory sought to be annexed shall be made after the petition to which it is annexed has been signed by any owner of property in said territory; provided however that a reduction in the territory sought to be annexed may be made.

For the purpose of determining the sufficiency of the percentage of the value of property under this Act, such values of property shall be determined as follows:

In the case of property assessed by the county assessor, values shall be the same as shown by the last assessment of said property; in the case of property assessed by the state tax commission, values shall be appraised and assessed by the state tax commission in the manner provided by law for municipal assessment purposes. It shall be the duty of the county assessor and the state tax com-

mission, respectively, to furnish to the city within thirty days after a request therefor, a statement in writing showing the appraisement and assessment of all said property.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 128

(House Bill No. 94)

AN ACT

TO PROVIDE FOR THE CLEARANCE AND REDEVELOPMENT OF SLUM AND BLIGHTED AREAS IN CITIES AND TOWNS IN THIS STATE IN ACCORDANCE WITH PLANS APPROVED BY THE GOVERNING BODIES THEREOF; TO DEFINE THE DUTIES, LIABILITIES, EXEMPTIONS AND POWERS OF SUCH CITIES AND TOWNS IN UNDERTAKING SUCH ACTIVITIES, INCLUDING THE POWER TO ACQUIRE AND DISPOSE OF PROPERTY, TO EXERCISE THE POWER OF EMINENT DOMAIN, TO ISSUE BONDS AND OTHER OBLIGATIONS AND GIVE SECURITY THEREFOR, AND TO ENTER INTO AGREEMENTS TO SECURE FEDERAL AID OR CONTRIBUTIONS AND COMPLY WITH CONDITIONS IMPOSED IN CONNECTION THEREWITH; TO AUTHORIZE PUBLIC BODIES TO FURNISH FUNDS, SERVICES, FACILITIES AND PROPERTY IN AID OF REDEVELOPMENT PROJECTS HEREUNDER; TO AUTHORIZE CITIES AND TOWNS TO PREPARE GENERAL PLANS FOR THEIR DEVELOPMENT IN CONNECTION WITH REDEVELOPMENT PROJECTS; AND TO AUTHORIZE CITIES OR TOWNS TO OBTAIN FUNDS THEREFOR BY THE ISSUANCE OF OBLIGATIONS, BY TAXATION OR OTHERWISE.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. SHORT TITLE. This Act shall be known and may be cited as the "slum clearance and redevelopment law".

Sec. 2. FINDINGS AND DECLARATION OF NECESSITY. It is hereby found and declared that there exist in municipalities of the state slum and blighted areas (as herein defined) which constitute a serious and

growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities and retards the provision of housing accommodations; that this menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided; that the acquisition of property for the purpose of eliminating slum conditions or conditions of blight thereon or preventing recurrence of such conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to the foregoing, and any assistance which may be given by any public body in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

Sec. 3. DEFINITIONS. The following terms, wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

(a) "Commission" or "slum clearance and redevelopment commission" shall mean an agency of a municipality created pursuant to section 7 of this Act;

(b) "municipality" shall mean any incorporated city or town in the state;

(c) "public body" shall mean the state or any municipality, county, village, board, commission, authority, district, or any other subdivision or public body of the state;

(d) "local governing body" shall mean the council or other legislative body charged with governing the municipality;

(e) "mayor" shall mean the mayor of a municipality or other officer or body having the duties customarily imposed upon the executive head of a municipality;

(f) "clerk" shall mean the clerk or other official of the municipality who is the custodian of the official records of such municipality;

(g) "federal government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America;

(h) "area of operation" shall mean the area within the territorial boundaries of the municipality;

(i) "slum area" shall mean an area in which a majority of the structures are residential (or an area in which there is a predominance of buildings or improvements, whether residential or non-residential), and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conductive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare;

(j) "blighted area" shall mean an area (other than a slum area) which by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax, or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use;

(k) "redevelopment project" shall mean any work or undertaking to acquire slum or blighted areas or portions thereof, and lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance or redevelopment of such areas or to the

prevention of the spread or recurrence of slum conditions or conditions of blight in such area; to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; or to sell, lease or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use or to retain such land for public use, in accordance with a redevelopment plan. The term "redevelopment project" may also include the preparation of a redevelopment plan, the planning, surveying and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project;

(l) "redevelopment plan" shall mean a plan, other than a preliminary or tentative plan, for the acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment project area;

(m) "redeveloper" shall mean any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract;

(n) "redevelopment contract" shall mean a contract entered into between a municipality and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(o) "real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens;

(p) "bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, debentures, or other obligations;

(q) "obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the municipality;

(r) "person" shall mean any individual, firm, partnership, corporation, company association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other similar representative thereof.

Sec. 4. FINDING OF NECESSITY BY LOCAL GOVERNING BODY. No municipality shall exercise any of the powers conferred upon municipalities by this Act until after its local governing body shall have adopted a resolution finding that: (1) One or more slum or blighted areas exist in such municipality; and, (2) the redevelopment of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

Sec. 5. POWERS. Every municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To prepare or cause to be prepared redevelopment plans and to undertake and carry out redevelopment projects within its area of operation.

(b) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with a redevelopment project; and (notwithstanding anything to the contrary contained in this Act or any other provision of law), to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate.

(c) Within its area of operation, to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property; to sell, lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein in a redevelopment project; to enter into con-

tracts with redevelopers of property containing covenants, restrictions and conditions regarding the use of such property for residential, commercial, industrial, recreational or other purposes or for public purposes in accordance with a redevelopment plan and such other covenants, restrictions and conditions as the municipality may deem necessary to prevent a recurrence of slum or blighted areas or to effectuate the purposes of this Act; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the municipality to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds and provide security for loans or bonds; to insure or provide for the insurance of any real or personal property or operations of the municipality in a redevelopment project of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Act; provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict a municipality in such functions with respect to a redevelopment project, unless the legislature shall specifically so state.

(d) To invest any redevelopment project funds held in reserves or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to section 12 of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled.

(e) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal government, the state, county, or other public body or from any sources, public or private, for the purposes of this Act, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act.

(f) Within its area of operation, to make or have made all surveys, appraisals, studies and plans, including the preparation of a general plan for the development of the municipality, necessary to the carrying out of the purposes of this Act and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies and plans.

(g) To prepare plans and provide reasonable assistance for the relocation of families displaced from a redevelopment project area to the extent essential for acquiring possession of and clearing such area or parts thereof to permit the carrying out of the redevelopment project.

(h) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures.

(i) To exercise all or any part or combination of powers herein granted.

Sec. 6. DELEGATION OF POWERS OF MUNICIPALITIES UNDER THIS ACT. In undertaking redevelopment projects under this Act, every municipality may, by resolution of its governing body, delegate to the slum clearance and redevelopment commission of the municipality, if any, created by it pursuant to section 7 of this Act, as an agent of the municipality any or all of the powers conferred upon municipalities by this Act; except, the powers to borrow money, issue bonds, acquire and dispose of real property, enter into contracts with the federal government or any public body, prepare a general plan for the development of the municipality, or approve redevelopment plans.

Sec. 7. CREATION OF SLUM CLEARANCE AND REDEVELOPMENT COMMISSION. (a) Every municipality, in addition to the other powers conferred by this Act, shall have power, by resolution of its governing body, to create a "slum clearance and redevelopment commission" which shall be an agent of the municipality for the exercise of such powers of the municipality under this Act as may be delegated by it pursuant to the provisions of this Act.

(b) If the governing body of a municipality adopts

a resolution as described in subsection (a), the mayor, by and with the advice and consent of the governing body, shall appoint a board of commissioners of the slum clearance and redevelopment commission so created for such municipality which shall consist of five commissioners. The commissioners who are first appointed pursuant to this Act shall be designated to serve one for one year, one for two years, one for three years and two for four years each, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of four years, except that all vacancies shall be filled for the unexpired term.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the municipality and such certificate shall be conclusive evident of the due and proper appointment of such commissioner.

The powers delegated by a municipality to a slum clearance and redevelopment commission shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the commission and for all other purposes. Action may be taken by the commission upon a vote of a majority of the commissioners present. Any persons may be appointed as commissioners if they reside within the area of operation of the commission and are otherwise eligible for such appointments under this Act.

The mayor shall designate a chairman and vice-chairman from among the commissioners. A commission may be authorized by the local governing body to employ an executive director, technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and to determine their qualifications, duties and compensation. For such legal service as it may require, a commission may, with approval of the mayor, call upon the chief law officer of the municipality or it may be authorized by the local governing body to employ its own counsel and legal staff. A commission shall file a report of its activities with the local governing body periodically as the local governing body shall require, but at least once a year, and shall make recommendations regarding additional legislation or other ac-

tion that may be necessary to enable it to carry out the purposes of this Act.

(d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by the mayor, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least 10 days prior to such hearing and have had an opportunity to be heard in person or by counsel.

Sec. 8. INTERESTED PUBLIC OFFICIALS, COMMISSIONERS OR EMPLOYEES. No public official of a municipality, and no commissioner or employee of a housing authority or slum clearance and redevelopment commission to which the powers of a municipality have been delegated pursuant to the provisions of this Act, shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned to be included in any redevelopment project of such municipality or in any contract or proposed contract in connection with such redevelopment project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, commissioner or employee presently owns or controls, or owned or controlled within the preceding two years, any interest, direct or indirect, in any property which he knows is included or planned by the municipality to be included in any redevelopment project, he shall immediately disclose this fact in writing to the local governing body, and such disclosure shall be entered upon the minutes of the governing body, and such official, commissioner or employee shall not participate in any action by the municipality, housing authority or commission affecting such property. Any violation of the provisions of this section shall constitute misconduct in office.

Sec. 9. PREPARATION AND APPROVAL OF REDEVELOPMENT PLANS. (a) A municipality shall not prepare a redevelopment plan for a redevelopment project area unless the local governing body has, by resolution, declared such area to be a slum or blighted area in need of redevelopment, and the local governing body shall not consider a redevelopment plan for approval until a general plan for the development of the municipality has been prepared. A municipality shall not acquire real property for a redevelopment project unless the local governing body has approved the redevelopment plan, as prescribed in subsection (e) below.

(b) The municipality may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such plan to a municipality. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements and the proposed land uses and building requirements in the redevelopment project area. Such plan shall include, without being limited to: A statement of the boundaries of the redevelopment project area; a map showing the existing uses and conditions of the real property therein; a land use plan showing proposed uses of the area; information showing the standards of population densities, land coverage and building intensities in the area after redevelopment; a statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, building codes and ordinances; a statement as to the kind and number of site improvements and additional public utilities which will be required to support the new land uses in the area after redevelopment; a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenues from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

(c) The land uses and building requirements proposed in a redevelopment plan shall be designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted and harmonious development of the municipality and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, the prevention of the recurrence of slum conditions or conditions of blight and the provision of adequate, safe and sanitary dwelling accomodations. Prior

to its approval of a redevelopment plan, the local governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed redevelopment plan to the local governing body within thirty (30) days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within said thirty (30) days, then without such recommendations, the local governing body may proceed with the hearing on the proposed redevelopment plan prescribed by subsection (d) hereof.

(d) The local governing body shall hold a public hearing on any redevelopment plan or substantial modification thereof being considered for approval, after public notice thereof by publication in a newspaper (having a general circulation in the area of operation) once each week for two consecutive weeks, the last publication to be at least ten days prior to the date set for hearing. The notice shall describe the time, date, place and purpose of the hearing and shall also generally identify the area to be redeveloped under the plan. All interested parties shall be afforded at such public hearing a reasonable opportunity to express their views respecting the proposed redevelopment plan.

(e) Following such hearing, the local governing body may approve a redevelopment plan if it finds that said plan is feasible and in conformity with the general plan for the development of the municipality as a whole; provided, that if the redevelopment project area is a blighted area, the local governing body must also find that a shortage of housing of sound standards and design, adequate for family life, exists in the municipality; the need for housing accomodations has been or will be increased as a result of the clearance of slums in other areas under redevelopment; the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the development of the area for predominately residential uses is an integral part of and essential to the program of the municipality for the elimination of slum and blighted areas.

(f) A redevelopment plan may be modified at any time; provided, that if modified after the lease or sale

of real property in the redevelopment project area, the modification must be consented to by the redeveloper or redevelopers of such real property or his successor or their successors in interest affected by the proposed modification. Any proposed modification which will substantially change the redevelopment plan as previously approved by the local governing body shall be considered a new plan and shall be subject to all the requirements of this section before it may be approved.

Sec. 10. DISPOSAL OF PROPERTY IN REDEVELOPMENT PROJECT AREA. (a) A municipality may sell, lease, exchange or otherwise transfer real property or any interest therein in a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial or other uses or for public use in accordance with the redevelopment plan, subject to such covenants, conditions and restrictions as it may deem to be in the public interest or to carry out the purposes of this Act; provided that, such sale, lease, exchange or other transfer, and any agreement relating thereto, may be made only after, or subject to, the approval of the redevelopment plan by the local governing body. Such real property shall be sold, leased or transferred at its fair value for uses in accordance with the redevelopment plan notwithstanding such value may be less than the cost of acquiring and preparing such property for redevelopment. In determining the fair value of real property for uses in accordance with the redevelopment plan, a municipality shall take into account and give consideration to the uses and purposes required by such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the reveloper of, such property; the objectives of the redevelopment plan for the prevention of the recurrence of slum or blighted areas; and such other matters as the municipality shall specify as being appropriate. No such sale, lease, exchange or other transfer of real property or any interest therein shall be made until after public advertising for bids therefor shall have been made for at least thirty (30) days in some newspaper of general circulation within said municipality, and the posting of notices in three (3) or more public places therein, or, if there be no such newspaper within the corporate limits of said municipality, then by posting in three (3) or more public places therein, notices for bidders for the property proposed to be sold.

(b) Prior to the consideration of any redevelopment contract proposal, the municipality shall, by public notice published at least once a week for two consecutive weeks in a newspaper having a general circulation in the area of

operation, invite proposals from, and make all pertinent information available to, private redevelopers or any persons interested in carrying out the redevelopment of an area, or any part thereof, which the local governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state where such further information as is available may be obtained. The municipality shall consider all redevelopment proposals and the financial, technical and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The municipality, with the approval of the local governing body, may accept such redevelopment contract proposals as it deems to be in the public interest and in furtherance of the purposes of this Act, and may execute such redevelopment contracts in accordance with the provisions of subsection (a) and deliver deeds, leases and other instruments and take all steps necessary to effectuate such redevelopment contracts. In its discretion, the municipality may, without regard to the foregoing provisions of this paragraph, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of subsection (a).

(c) A municipality may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for redevelopment, without regard to the provisions of subsections (a) and (b) above, for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan. If said real property is not disposed of for redevelopment within one year the said municipality shall, immediately upon the expiration of said one year period, remove or demolish all buildings thereon.

Sec. 11. EMINENT DOMAIN. A municipality shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with a redevelopment project under this Act, after the adoption by the local governing body of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. A municipality may exercise the power of eminent domain in the manner provided in the public works eminent domain law or in sections 27-901 to 27-921, Arizona Code of 1939, and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which

may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner; provided that no real property belonging to the state, or any political subdivision thereof, may be acquired without its consent.

Sec. 12. ISSUANCE OF BONDS. (a) A municipality shall have power to issue bonds from time to time in its discretion to finance the undertaking of any redevelopment project under this Act, including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of redevelopment projects under this Act, whether or not they are financed in whole or in part with the proceeds of such bonds; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the federal government or other source, in aid of any redevelopment projects of the municipality undertaken under this Act, and by a mortgage of any of such redevelopment projects. Such bonds shall not be issued by a municipality until assented to by a majority of the property taxpayers, who must also in all respects be qualified electors, therein voting at an election provided by law to be held for that purpose.

(b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds issued under the provisions of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this section shall be authorized by resolution of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding six per centum (6%) per annum, be in such denomination or demoninations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or

places, and be subject to such terms of redemption (with or without premium) as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(d) Such bonds may be sold at not less than par at public sales held after notice published once at least ten days prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality may determine or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds are sold to the federal government, the balance may be sold at private sale at not less than par at an interest to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the federal government.

(e) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.

(f) In any suit, action or proceedings involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with a redevelopment project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this Act.

Sec. 13. POWERS IN CONNECTION WITH ISSUANCE OF BONDS. (a) In connection with the issuance of bonds pursuant to section 12 of this Act, or the incurring of obligations under leases, and in order to secure the payment of such bonds or obligations, a municipality, in addition to its other powers, shall have power to prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be

given; to vest in any obligees the right to enforce the payment of such bonds or any covenants securing or relating to the bonds; to vest in any obligee or obligees holding a specified amount in such bonds the right, in the event of a default to take possession of and use, operate and manage any redevelopment project or any part thereof, title to which is in the municipality, or any funds connected therewith, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the municipality with such obligees; to provide for the powers and duties of such obligees and to limit the liabilities thereof; to provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds; to exercise all or any part or combination of the powers herein granted; and to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said municipality, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

(b) A municipality shall have power by its resolution, trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds issued pursuant to section 12 of this Act, the right (in addition to all rights that may otherwise be conferred), upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction: (1) To require said municipality and the officials, agents and employees thereof to account as if it and they were the trustees of an express trust, and (2) to obtain the appointment of a receiver of any redevelopment project of said municipality or any part thereof, title to which is in the municipality, and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of, carry out, operate and maintain such project or any part thereof and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said municipality as the court shall direct.

Sec. 14. RIGHTS OF OBLIGEE. An obligee of a municipality exercising its powers under this Act shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel said municipality and the officials, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said municipality with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said municipality and the fulfillment of all duties imposed upon said municipality by this Act; and

(b) by suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said municipality.

Sec. 15. CONSTRUCTION OF BOND PROVISIONS. This Act, without reference to other statutes of the state, shall constitute full authority for the authorization and issuance of bonds under section 12. Notwithstanding any other laws to the contrary, bonds authorized under said section shall not be subject to the provisions of any other law or charter relating to the issuance or sale of bonds.

Sec. 16. CERTIFICATE OF ATTORNEY GENERAL. Any bonds to be issued under section 12 of this Act may be submitted to the attorney general of the state after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general it shall be the duty of the attorney general to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations enforceable according to the terms thereof, the attorney general shall certify in substance upon the back of each of said bonds that it is issued in accordance with the constitution and laws of the state of Arizona.

Sec. 17. PROPERTY EXEMPT FROM TAXES AND FROM LEVY AND SALE BY VIRTUE OF AN EXECUTION. All property of a municipality, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by a municipality on its rents, fees, grants or revenues from redevelopment projects.

Sec. 18. COOPERATION BY PUBLIC BODIES. (a) For the purpose of aiding in the planning, undertaking or carrying out of a redevelopment project located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine: (1) Dedicate, sell, convey or lease any of its interest in any property or grant easements, licenses or other rights or privileges therein to a municipality; (2) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section; (3) do any and all things necessary to aid or cooperate in the planning or carrying out of a redevelopment plan; (4) lend, grant or contribute funds to a municipality; (5) employ any funds belonging to such public body or within its control (including funds derived from the sale or furnishing of property, service or facilities to a municipality) in the purchase of the bonds or other obligations of a municipality issued pursuant to section 12 of this Act; (6) enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality respecting action to be taken by such public body pursuant to any of the powers granted by this Act, and (7) where otherwise authorized to perform functions of a similar character, cause parks, playgrounds, recreational, water, sewer or drainage facilities, or any other works to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the municipality. If at any time title to or possession of any redevelopment project is held by any public body or governmental agency, other than the municipality, which is authorized by law to engage in the undertaking, carrying out, or administration of redevelopment projects (including any agency or instrumentality of the United States of America), the provisions of the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(b) Any sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or public bidding.

Sec. 19. ADDITIONAL MUNICIPAL FUNDS. Every municipality may use its funds for the purposes of aiding in the planning, undertaking, or carrying out of a redevelopment project in its area of operation. To obtain

funds for this purpose, every municipality may, in addition to other powers set forth in this Act, levy taxes, incur indebtedness and issue bonds in such amount or amounts as the local governing body determines by resolution to be necessary for the purpose of raising funds for use in connection with a redevelopment project. Any bonds to be issued by the municipality pursuant to this section shall be issued in the manner and within the limitations prescribed by the laws of this state for the issuance and authorization of bonds for public purposes generally.

Sec. 20. TITLE OF PURCHASER. Any instrument executed by a municipality and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provisions of this Act insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

Sec. 21. SEPARABILITY OF PROVISIONS. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 22. INCONSISTENT PROVISIONS. Insofar as the provisions of this Act are inconsistent with the provisions of any other laws, the provisions of this Act shall be controlling.

Sec. 23. ADDITIONAL CONFERRED POWERS. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Sec. 24. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 129

(House Bill No. 365)

AN ACT

RELATING TO MILEAGE AND TRAVELING EXPENSES; AUTHORIZING THE GOVERNOR TO PERMIT THE USE OF STATE EQUIPMENT FOR OUT OF STATE TRAVEL UNDER CERTAIN CONDITIONS; AND AMENDING SECTION 12-713, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 12-713, Arizona Code of 1939, is amended to read:

12-713. MILEAGE AND TRAVELING EXPENSES. (a) Authorization for travel. Whenever the official duties of a public officer or employee make it necessary for him to travel from his designated post of duty he shall be allowed expenses. All travel shall be authorized by a travel order signed by the head of the issuing department or agency, or by a person to whom such authority has been properly delegated.

(b) Travel without the state. Whenever the official duties or activities of a public officer or employee of the state or of any department, institution, commission, board or other agency of the state necessitate traveling without the state, the travel order shall be countersigned by the governor and this shall be authority for the state auditor to pay such claims from any funds available for such travel; provided, however, the authorization of the governor may be dispensed with where, by shortest practical routing, travel is necessary through adjoining states to reach remote areas of this state.

(c) Means of travel. (1) First class travel by air, railroad or bus will be allowed. Pullman fares shall be considered as transportation and costs not to exceed a standard lower berth may be allowed each person traveling. (2) Private conveyance may be allowed for travel within the state by way of the most direct regularly traveled route computed by highway map or speedometer reading when traveling by automobile and shall be paid at a rate not to exceed seven cents a mile; if by airplane, by the most direct air mileage route listed by the civil aeronautics board at actual rates not to exceed ten cents a mile.

When private conveyance is used without the state, mileage will not be allowed for automobile, but a sum equal to that of first class travel by railroad may be claimed; if by airplane, air mileage will not be allowed, but a sum equal to that of first class airways fare may be claimed by the employee or officer authorized to travel.

(d) Subsistence. Per diem for subsistence may be claimed at the rate of eight dollars for travel within the state and twelve dollars for travel without the state, for each twenty-four hour day for each person. In computing per diem for subsistence for the calendar day, the day shall be divided into four periods of six hours each or fraction thereof, commencing at midnight.

(e) Receipts for loding and transportation. Claims which include lodging and/or transportation by common carrier shall not be allowed unless accompanied by receipts. Provided that receipts for transportation by means of local street cars, local busses and taxicabs shall not be required and such means of local transportation may be allowed and paid for and shall not be regarded as regular common carrier transportation.

When more than one officer, employee or other public agent traveling on official business is transported in the same private conveyance, one mileage only may be allowed.

Members of boards of supervisors living without the limits of the county seat shall be allowed mileage from their home to the corporate limits of the county seat when attending meetings of the board.

(f) Who may travel. The provisions of this section shall apply to any public officer, deputy or employee of the state or of any department, institution, or agency thereof and to any member of any board, commission or other agency of the state when traveling on necessary public business when issued a proper travel order.

(g) Use of state equipment out of state. The governor may authorize the use of state equipment outside of the state of Arizona when he ascertains, and notifies the state auditor in writing, that no other means of transportation is available or no service of the type required is provided by existing common carriers.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 130

(Senate Bill No. 15)

AN ACT

RELATING TO ABANDONED REFRIGERATORS; REQUIRING THE DOORS AND LIDS TO BE REMOVED FROM ABANDONED REFRIGERATORS, AND PRESCRIBING PENALTIES.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. ABANDONED REFRIGERATORS; PENALTIES. Any person who abandons, discards, stores or keeps in any place accessible to children, or who, as the owner, lessee, or manager, permits to remain on premises under his control, in any place accessible to children, a refrigerator, icebox, freezer cabinet, or similar container, of a capacity of not less than one and one-half cubic feet, which is no longer used for refrigeration purposes, without the attached doors, hinges, lids or latches being removed, is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than fifty dollars, by imprisonment for not more than thirty days, or by both such fine and imprisonment.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 131

(Senate Bill No. 88)

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR THE REGISTRATION OF FOREIGN VEHICLES OWNED BY NONRESIDENTS, AND AMENDING SECTION 66-225, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-225, Arizona Code of 1939, is amended to read:

66-225. REGISTRATION OF VEHICLES OF NONRESIDENTS. (a) Except as hereinafter provided, every foreign vehicle owned by a nonresident and operated in the state for the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, or for the transportation of property, shall be registered and licensed in the same manner as is required in the case of motor vehicles, trailers or semi-trailers, not theretofore registered or licensed.

(b) In case it is desired to operate any such vehicle in this state for a period less than the full registration year, if such vehicle is duly registered and licensed under the laws of any other state or country, the owner may make application to the vehicle division in the manner and form prescribed, for the registration and licensing of such vehicle for periods of one, two or three months. A thirty-day registration and license application shall be accompanied by an amount equal to twelve and a half per cent of the full annual registration and unladen weight fees. A sixty-day registration and license application shall be accompanied by an amount equal to twenty-two per cent of the full annual registration and unladen weight fees. A ninety-day registration and license application shall be accompanied by an amount equal to thirty per cent of the full annual registration and unladen weight fees. The full annual registration and unladen weight fees shall be those applicable to the applicant's vehicle prescribed by section 66-256. The minimum fee for such licensing and registration shall be three dollars fifty cents ($3.50). No application will be accepted for a fraction of any of the periods set forth above, but such licenses may be issued without restriction as to number or sequence.

(c) The vehicle division, if satisfied as to the facts stated in the application, shall register and license the vehicle for the period named and assign an appropriate certificate or license, which shall at all times be displayed upon the vehicle in the manner prescribed by the division, while the same is being operated or driven upon any highway of the state.

(d) If any nonresident owner of a foreign vehicle is apprehended while operating such vehicle in this

state beyond the period specified in his certificate or license, without application for renewal thereof, no further thirty, sixty or ninety-day certificate or license will be issued such person during the registration year in which the violation took place, and such nonresident owner shall apply for, and obtain, the registration of the vehicle and pay the fees for the registration year.

(e) A nonresident owner of a foreign vehicle registered and licensed in a state adjoining Arizona, being used in this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, shall not be required to pay the registration and unladen weight fees prescribed in section 66-256, provided the nonresident owner and vehicle are domiciled within twenty-five miles of the Arizona border, and that the state in which the owner has his residence and in which such vehicle is registered exempts from the payment of registration and unladen fees like vehicles from this state.

(f) An owner seeking exemption as provided in subsection (e) shall apply to the motor vehicle division for a special registration permit, setting forth that the vehicle is to be used within this state for other than the transportation of passengers or property for compensation or in the business of a nonresident carried on in this state, and supplying such other information as the division may require, and shall make affidavit thereto. If satisfied that the applicant is entitled to exemption, the motor vehicle division shall issue a special permit to operate, which shall be distinctive in form, show the date issued, a brief description of the vehicle, and a statement that the owner has procured registration of such vehicle as a nonresident. Said permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident.

(g) Every foreign vehicle owned by a nonresident and operated in this state other than for the transportation of passengers or property for compensation, or for the transportation of property, or in the business of a nonresident carried on in this state, shall be registered within ten days after the beginning of operation in the state in like manner as vehicles owned by residents, and no fee shall be charged for such registration, nor shall any number plates be assigned to such vehicle, but the vehicle division shall issue to such nonresident owner a permit distinctive in form, containing the date issued, a brief description of the vehicle and a statement that the owner has procured registration of the vehicle as

a nonresident. No such nonresident owner shall operate any such vehicle upon the highways of this state, either before or while it is registered as provided in this section, unless there be displayed thereon the registration number plates assigned to the vehicle for the current calendar year, by the state or country of which the owner is a resident, nor unless the permit prescribed by this subsection is displayed on the windshield of the vehicle in the manner prescribed by the division. Such permit shall be valid for the period for which the registration plate was issued by the state of which the owner is a resident.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 132

(House Bill No. 258)

AN ACT

RELATING TO PUBLIC EMPLOYEES, AND PRESCRIBING TIME OFF OR EXTRA COMPENSATION FOR LEGAL HOLIDAYS WORKED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. COMPENSATION OR TIME OFF FOR LEGAL HOLIDAYS. (a) All public employees who work forty hours per week or more who do not receive either compensation or commensurate time off for legal holidays worked, regardless of the day of the week on which such legal holidays fall, shall receive, for each such holiday worked, one day's additional vacation leave or one day's additional compensation for each such legal holiday worked.

(b) For the purposes of this section, unless the context otherwise requires:

1. "Legal holiday" includes, Christmas, Thanksgiving, Labor day, New Year's day, and Independence day.

2. "public employee includes the employees of the state, a county, city or town, or any other political sub-

division of the state, but shall not include irrigation, power, electrical, agricultural, improvement, drainage and flood control districts, and tax levying public improvement districts now or hereafter organized pursuant to law.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 133

(House Bill No. 182)

AN ACT

RELATING TO DOGS AND OTHER ANIMALS; PROVIDING FOR LICENSING AND VACCINATION; PERMITTING THE ESTABLISHMENT OF COUNTY POUNDS; CREATING OFFICE OF HUMANE OFFICER; PRESCRIBING METHOD OF DISPOSING OF DOGS AND OTHER ANIMALS SUSPECTED OF HAVING RABIES; PRESCIBING PENALTIES; AMENDING SECTION 17-1607, ARIZONA CODE OF 1939, AND ARTICLE 16, CHAPTER 17, BY ADDING SECTIONS 17-1607a TO 17-1607q, INCLUSIVE, AND REPEALING ARTICLE 20, CHAPTER 17.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 17-1607, Arizona Code of 1939, is amended to read:

17-1607. DEFINITIONS. In this Act, unless the context otherwise requires:

1. "County pound" means an establishment authorized and maintained by the county for the confinement, maintenance and safe-keeping of dogs or other animals that come into the custody of the county humane officer.

2. "Humane officer" means the county humane officer, or his authorized representative, acting under the direction of the sheriff, and whose primary duty is the enforcement of the provisions of this Act.

3. "Impounded" means the act of receiving into custody by the humane officer any dog for confinement in a county pound, or confinement in a place satisfactory to the humane officer under the observation of a licensed veterinarian.

4. "Vicious dog" means a dog that has bitten a person without provocation or a dog that has a known propensity to attack or bite human beings.

5. "Rabies control area" means an area in which the state veterinarian has declared an emergency to exist due to the occurrence of rabies.

Sec. 2. Article 16, chapter 17, Arizona Code of 1939, is amended by adding sections 17-1607a to 17-1607q, inclusive, to read:

17-1607a. UNLAWFUL ACTS. It is unlawful for a person to keep or maintain a dog within the state except as provided in this Act, or to refuse to permit the humane officer to inspect any dog under the care or control of such person or the premises where a dog is kept.

17-1607b. LICENSE REQUIRED. The following annual license fee shall be paid for each dog more than six months old that is kept, owned, claimed, or maintained within the state: For a male or spayed female dog, two dollars fifty cents; for an unspayed female dog, five dollars. The fee shall be paid to the sheriff or to his authorized representative and shall cover the calendar year in which the license was issued, expiring on the thirty-first day of December of the year of issuance regardless of the date thereof.

17-1607c. CERTIFICATE OF VACCINATION. No dog license or dog tag may be issued except upon the certificate of a licensed veterinarian that the dog has been vaccinated against rabies. The sheriff may establish an administrative procedure to permit any licensed veterinarian to sell and issue dog licenses and tags for dogs that have been vaccinated. A veterinarian authorized to issue dog licenses may retain one dollar fifty cents of the fee collected as a fee for performing the vaccination. Remainder of fees collected shall be remitted to the sheriff before the 10th day of each month. The veterinarian shall provide the necessary vaccine at his own expense. The vaccine used for dog vaccination must be approved by the state veterinarian.

17-1607d. RABIES CONTROL FUND. The sheriff shall place the moneys collected by him under the pro-

visions of this Act in a special fund to be known as the rabies control fund and such fund shall be used by the board of supervisors for the enforcement of this Act and for all phases of rabies control as deemed necessary or desirable by the county board of health. Any balance in excess of five hundred dollars remaining in the fund at the end of any fiscal year shall be placed to the credit of the county school fund.

17-1607e. DOG TAGS. Metallic dog tags shall be provided by the board of supervisors to be given with each dog license issued under the provisions of this Act. Each tag shall be inscribed with the name of the county, the number of the license and the year for which it is valid. The sheriff, or his authorized representative, shall keep a record of all dog licenses and tags issued, including a description of the dog licensed, the owner's name, address and such other information as may be deemed necessary. The dog tag shall be affixed to the collar or harness and worn by the dog at all times. When a dog tag is lost the owner shall be issued a duplicate tag by applying to the sheriff and upon payment of a fee of fifty cents. No person shall counterfeit or attempt to counterfeit a dog tag, take from any dog a tag legally placed upon it, or place a dog tag upon any dog unless the tag was specifically issued for that particular dog.

17-1607f. SEEING EYE DOG. A seeing eye dog belonging to a blind person who is a resident of the state shall upon application by the owner to the sheriff, and on presentation of proper proof, be vaccinated and licensed pursuant to this Act without payment of a fee.

17-1607g. DOGS AT LARGE. (a) A licensed dog that is not vicious, and wears a valid dog tag, may be permitted to be at large, except as otherwise provided in this Act. It is unlawful for the owner of a vicious dog, or of a licensed female dog during the breeding or mating season, or of a licensed dog without a tag, or of an unlicensed dog to permit the same to be at large.

(b) Any dog found running at large in an area designated by the state veterinarian as a rabies control area without a collar and tag may be summarily disposed of by the humane officer.

17-1607h. COUNTY POUND. A county pound may be provided by the board of supervisors of each county with proper facilities for maintaining and caring for dogs coming under the custody of the humane officer

or the board of supervisors may enter into a cooperative agreement with a city for the establishment and operation of a county-city pound. Any unlicensed dog found running at large, except as otherwise provided by this Act, shall be taken into custody and impounded by the humane officer, if the county where such dog is found has a county pound. All dogs so impounded shall be given proper care and maintenance. The humane officer shall make a charge of one dollar for each dog impounded, plus fifty cents a day for maintenance, to be paid by the person reclaiming the dog. A person wishing to claim or reclaim a dog at the county pound may do so by paying the impounding and maintenance fees and proving legal right to the satisfaction of the humane officer. All moneys collected by the humane officer shall be turned over to the sheriff monthly and placed in the rabies control fund.

17-1607i. DISPOSAL OF DOGS. A licensed dog impounded under the provisions of this Act shall be maintained at the county pound for a period of ten days, unless sooner reclaimed as provided herein. The humane officer shall give notice to the owner, if known, that unless the dog is claimed within ten days it will be disposed of. In the case of an impounded unlicensed dog, if it is not reclaimed within three days, the humane officer shall dispose of it.

17-1607j. DISPOSITION OF ANIMALS THAT HAVE BITTEN PERSONS OR OTHER ANIMALS. It is unlawful for any person to destroy or dispose of a dog or other animal that has bitten any person or any other animal within a period of fourteen days after such biting. A dog or other animal that bites a person or another animal, when identified, shall be impounded and quarantined in the county pound by the humane officer, or impounded under the jurisdiction and observation of a licensed veterinarian at the request of the owner, for a period of fourteen days to determine whether such dog or other animal has rabies.

17-1607k. ANIMALS SUSPECTED OF RABIES. It is unlawful for any person to destroy or dispose of any dog or other animal which is suspected of rabies or which shows any clinical symptoms of rabies as determined by a licensed veterinarian. Any dog or other animal suspected of rabies or showing any clinical symptoms of rabies, as determined by a licensed veterinarian, shall be placed under observation in a pound or designated place for a period of fourteen days. Any dog or other animal, not suspected of having rabies, that has been bitten

by an animal suspected or proven to be rabid, and which has not previously been vaccinated, shall be destroyed, or placed under the observation of a licensed veterinarian at expense of owner.

17-1607l. RESCUING IMPOUNDED ANIMALS PROHIBITED. No person may rescue or attempt to rescue an animal which has been impounded, or which is in the possession of the humane officer.

17-1607m. DOG IMPROPERLY CARED FOR. A dog that is found to be kept without food, water, or proper care, shall be taken into custody by the humane officer.

17-1607n. ENFORCEMENT. (a) All peace officers are directed to aid in the enforcement of this Act, and any peace officer who fails, neglects or refuses to discharge this duty is guilty of a misdemeanor.

(b) The sheriff of each county shall designate one of his deputies as the county humane officer, and such humane officer, under the direction of the sheriff, shall be responsible for the enforcement of the provisions of this Act. He shall have charge of the county pound, if a pound has been established in his county. He shall keep a record of all dogs impounded or taken into custody containing such information as will determine the identity of the animal, the date of impounding, the fees charged and the final disposition of the dog. The sheriff shall be provided with such additional help and equipment as is necessary to efficiently enforce the provisions of this Act.

17-1607o. INTERFERENCE WITH HUMANE OFFICER PROHIBITED. It is unlawful for a person having the custody, care or control of an animal to fail or refuse to permit the humane officer to inspect such animal and the premises on which it is kept to determine if any provision of this Act is being violated, or to interfere in any way with the humane officer in the performance of his duties.

17-1607p. EXCEPTIONS. This Act does not apply to incorporated cities or towns that impose a tax and vaccination on dogs by ordinance adopted pursuant to law. Neither the license, tax, tags nor vaccination required by this Act shall be mandatory for dogs so long as they are used exclusively for hunting and, while not being so used, are at all times kept under leash or impounded at a distance of at least ten miles outside the boundaries of the nearest city or town.

17-1607q. PENALTY. Any person who fails to comply with the requirements of this Act, or violates any of its provisions, is guilty of a misdemeanor.

Sec. 3. REPEAL. Article 20, chapter 17, Arizona Code of 1939, is repealed.

Sec. 4. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 134

(House Bill No. 241)

AN ACT

RELATING TO THE PRACTICE OF MEDICINE AND SURGERY, AND AMENDING SECTIONS 67-1101 AND 67-1103, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 67-1101, Arizona Code of 1939, is amended to read:

67-1101. BOARD OF MEDICAL EXAMINERS. (a) Upon the taking effect of this Act the governor shall appoint a board of medical examiners consisting of five members, no two of whom shall be from the same county, from a list of not less than fifteen names submitted by the Arizona state medical association. Two of the persons so appointed shall hold office until the first day of July, 1952, and three shall hold office until the first day of July, 1953. Thereafter appointments shall be made by the governor for a term of three years, from a list of at least three names for each vacancy to be filled to be submitted by the Arizona state medical association. A member shall be eligible for reappointment for one additional term only. Each appointee shall: 1. Have resided in the state not less than three years next preceding his appointment; 2. be a licensed practitioner of medicine and sur-

gery in the state and engaged in the active practice of his profession not less than three years. No professor, instructor, or other person in any manner connected with, or financially interested in, any college or school of medicine and surgery shall be appointed.

(b) The board shall elect from among its members a president, a vice-president, and a second vice-president, and shall appoint a secretary-treasurer, who need not be a member of the board. All such officers shall hold their respective positions during the pleasure of the board. Regular meetings shall be held at the office of the board on the third Saturday of January, April, July and October of each year. The board may adopt rules and regulations, and shall keep a record of all proceedings. Any member may administer oaths and take evidence in any matter cognizable by the board. The board shall fix the salary of the secretary-treasurer. Board members shall receive twenty-five dollars for each day of actual service in the business of the board, and reimbursement for their actual expenses in connection therewith. A member of the board may, upon notice and hearing, be removed by the governor for continued neglect of duty, incompetence, or unprofessional or dishonorable conduct. Appointment to fill a vacancy occasioned otherwise than by expiration of term shall be for the unexpired portion thereof, from a list of at least three names for each vacancy to be filled, to be submitted by the Arizona state medical association.

(c) In the case of all appointments to be made by the governor pursuant to this section, the governor may require the submission by the Arizona state medical association of such additional list of recommended board members as he may deem expedient.

Sec. 2. Section 67-1103, Arizona Code of 1939, is amended to read:

67-1103. CERTIFICATES TO PRACTICE. (a) Three forms of certificates to practice medicine and surgery shall be issued by the board of medical examiners, under the seal thereof, and signed by a majority of members: 1. A certificate to practice as authorized by examination; 2. A reciprocity certificate, and, 3. a temporary license or permit to practice medicine and surgery in the event of an emergency.

(b) As used in this Act, an emergency shall be the inability of the local physicians and surgeons in any community to meet conditions affecting the public health that may arise suddenly and unexpectedly by reason of

fire, flood, explosion, epidemic, pestilence, or like disaster, or through some unusual occurrence or condition which in the judgment of a majority of the board constitutes an emergency.

(c) A certificate issued upon examination or reciprocity, when recorded in the office of the county recorder as provided in this Act, shall constitute the holder thereof a duly licensed practitioner in accordance with the provisions of his certificate. To procure a license to practice medicine and surgery, the applicant shall be a citizen of the United States, or have declared his intention, in accordance with the laws of the United States, to become a citizen, but if such declarant fails to obtain admission to citizenship within the time prescribed by law, such license shall immediately become void and his certificate cancelled, and shall file with the board, at least two weeks prior to a regular meeting thereof: 1. Satisfactory testimonials of good moral character; 2. a diploma issued by a legally chartered college or school of medicine, the requirements of which, at the time of granting such diploma, were not less than those prescribed by the association of American medical colleges for that year, or certified proof of having possessed such a diploma, and, 3. proof that he has served an internship of at least one year in an accredited hospital. The applicant must also file a verified application, upon blanks furnished by the board, stating that he is the person named in such diploma; that he is the lawful holder thereof; that it was procured in the regular course of instruction and examination, without fraud or misrepresentation, and that at no time has his license to practice medicine and surgery been revoked in any state or territory of the United States.

(d) The examination to practice medicine and surgery shall be conducted in the English language, shall be practical in character, and in whole or in part in writing on the following subjects: Anatomy and histology, gynecology and obstetrics, pathology, toxicology and pharmacology and materia medica, general surgery, general diagnosis and clinical medicine, public health and hygiene and bacteriology, pediatrics, and such other subjects pertaining to medicine and surgery as the board may determine. Examination in each subject shall consist of not less than ten questions, answers to which shall be marked upon a scale of zero to ten. An applicant must obtain not less than a general average of seventy-five per cent, and not less than sixty per cent in any one subject. Applicants who can show five years of reputable practice shall be allowed a credit of five per cent on the general average, and five per cent additional for each

subsequent ten years of reputable practice, but must receive not less than fifty per cent on any one subject. If an applicant fails in not more than two subjects, he may be re-examined in the subject or subjects in which he failed at any subsequent examination within one year without further application or payment of additional examination fee and, upon attaining the proper credit therein, shall receive a certificate to practice medicine and surgery as in this Act provided. The examination papers shall form a part of the records of the board and shall be kept on file by the secretary-treasurer for at least one year after such examinations. In the event of oral examinations, questions and answers shall be taken verbatim by a stenographer or steno-typist and a transcript thereof made and duly filed in accordance with the provisions for the filing of papers for written examinations. In the written examinations, the applicants shall be known and designated by numbers only, and the names attached to the numbers shall be kept secret until after the board has finally passed upon the applications. The secretary-treasurer of the board shall not participate as an examiner in the examinations.

(e) An applicant for a certificate to practice medicine and surgery may be granted a reciprocity certificate without such examination, if he shall file with the board the testimonials, diploma and application, and a certificate or license to practice medicine and surgery, or certified evidence of the same, issued by any state or territory in the United States where the requirements are at least equal to those set forth in this Act. The board shall have the right to give an oral examination to an applicant for a reciprocity certificate whose graduation from a college or school of medicine was five years or more prior to the filing of his application. An applicant may be issued a reciprocity certificate to practice medicine and surgery upon filing a certificate or license or a diploma issued by the national board of medical examiners, or certified evidence thereof, and, except in the case of an applicant who files a diploma of the national board of medical examiners or evidence thereof, certified evidence that at the time of the issuance of such certificate or license he was an ethical practitioner and had been engaged in the active practice of medicine and surgery for not less than three years. An applicant for a reciprocity certificate or license, who shall otherwise comply with the provisions of this Act, and who shall file with the board proper evidence of honorable discharge from any branch of the military service of the United States, shall not be required to furnish character testimonials or file the certificate of three years of ethical practice.

(f) Whenever the services of an applicant are needed as an emergency in any community, the board may grant to a graduate of any college or school of medicine and surgery approved by the association of American medical colleges, a temporary license or permit to practice medicine and surgery in such community. A temporary permit or license shall be valid only until the next regular meeting of the board, when the applicant must appear for regular examination, or for such limited time thereafter as is essential only to grade the applicant's examination papers to determine eligibility for or a denial of a certificate to practice medicine and surgery as in this Act provided, and the issuance thereof. Two renewals of a temporary license may be granted provided the renewals immediately follow consecutively the quarter for which the temporary license was issued, and then only to provide sufficient time for an applicant to take two consecutive basic science examinations, if required. Only one temporary license and two renewals shall be issued to any person. A temporary license shall not be filed with the county recorder.

(g) A graduate of a college or school of medicine of any foreign country, the requirements of which were in the opinion of the board, at the time of such graduation, equal to the requirements prescribed by this Act, may, at the discretion of the board, be examined for a license and issued a certificate to practice medicine and surgery.

(h) The board shall keep a register of applicants and the result of each examination.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 135

(House Bill No. 200)

AN ACT
RELATING TO SCHOOL DISTRICT BOUNDARIES, AND AMENDING SECTION 54-403, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 54-403, Arizona Code of 1939, is amended to read:

54-403. RECORD OF BOUNDARIES. The county school superintendent shall on or before the fifteenth day of April of 1954, file with the board of supervisors and the county assessor a transcript of the boundaries of each school district within his county, and the boundaries shown in said transcript shall become the legal boundaries of the several districts as of the first day of July following. Thereafter the county school superintendent shall on or before the first day of April of each year, file with the board of supervisors and the county assessor a transcript of the boundaries of each school district within his county, and the boundaries shown in said transcript shall become the legal boundaries of the several districts as of the first day of July following. School district boundaries shall not be changed except between January first and April first, except for the year 1954, when they may be changed at any time prior to April 15. The boundaries of a district shall not be changed except as provided in this chapter and then only after the trustees of the districts affected have had written notice of the proposed change from the county superintendent and an opportunity to be heard.

Sec. 2. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 136

(House Bill No. 278)

AN ACT

RELATING TO EXCISE TAXATION; IMPOSING A LICENSE FEE AND A PRIVILEGE TAX UPON THE PRIVILEGE OF ENGAGING IN CERTAIN OCCUPATIONS AND BUSINESSES; AMENDING SECTIONS 73-1302a, 73-1303, 73-1304, 73-1306, 73-1310, 73-1314, 73-1315, 73-1317, 73-1318, 73-1319, 73-1320, 73-1324, 73-1329 AND 73-1331, AND REPEALING SECTIONS 73-1308, 73-1309, 73-1313 and 73-1330, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 73-1302a, Arizona Code of 1939, is amended to read:

73-1302a. EXCLUSION OF TAX. For the purpose of this Act the total amount of gross income, gross receipts or gross proceeds of sales shall be deemed to be the amount received, exclusive of the tax imposed by article 13, chapter 73, Arizona Code of 1939, provided the person upon whom the tax is imposed shall establish to the satisfaction of the commission that the tax has been added to the sale price and not absorbed by him, but in no event shall the person upon whom the tax is imposed, where an added charge is made to cover the tax levied by this Act, remit less than the amount so collected to the commission.

Sec. 2. Section 73-1303, Arizona Code of 1939, is amended to read:

73-1303. IMPOSITION OF TAX. From and after the effective date of this Act, there is hereby levied and shall be collected by the tax commission for the purpose of raising public money to be used in liquidating the outstanding obligations of the state and county governments, to aid in defraying the necessary and ordinary expenses of the state and the counties, to reduce or eliminate the annual tax levy on property for state and county purposes, and to reduce the levy on property for public school education to the extent hereinafter provided, annual privilege taxes measured by the amount or volume of business done by the persons on account of their business activities and in the amounts to be determined by the application of rates against values, gross proceeds of sales, or gross income, as the case may be, in accordance with the following schedule:

(a) At an amount equal to one per cent of the gross proceeds of sale or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Transporting for hire persons or property by motor vehicle from one point to another point in this state.

(b) At an amount equal to one per cent of the gross proceeds of sales or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Mining, quarrying, smelting or producing for sale, profit, or commercial use any oil, natural gas, limestone, sand, gravel, copper, gold, silver or other mineral prod-

uct, compound or combination of mineral products, or felling, producing or preparing timber or any product of the forest for sale, profit or commercial use;

2. producing and furnishing or furnishing to consumers electricity, electric lights, current, power or gas, natural or artificial, and water;

3. transmitting local or long distance messages or conversations by telephone or message by telegraph from one point to another point in the state, including gross income derived from tolls, subscriptions and services on behalf of subscribers or by the publication of any director of the names of subscribers;

4. transporting for hire, freight or passengers by railroads or aircraft from one point to another point in the state;

5. operating a pipe line or lines for transporting of oil, or natural or artificial gas, through pipes or conduits from one point to another point in the state;

6. operating private car lines, as such are defined in section 73-1001, Arizona Code of 1939, from one point to another point in the state;

7. publication of newspapers, magazines or other periodicals and publications, when published within the state including the gross income derived from subscriptions, advertising and notices;

8. job printing, engraving, embossing and copying, advertising by billboards, direct mail, radio, television or by any means calculated to appeal to prospective purchasers.

In the case of persons engaged in the businesses classified in paragraph 1 of subsection (b) of this section, the rate shall be applied to the value of the entire product mined, quarried, produced, felled or prepared for sale, profit or commercial use in this state, regardless of the place of sale or of the fact that deliveries may be made to points outside this state.

In the case of persons engaged in the businesses classified in paragraph 1 of subsection (b) of this section, whose incomes in whole or in part are derived from service or manufacturing charges instead of from sales of the products manufactured or handled, the rate shall be applied to the gross income of such persons derived from such manufacturing or service charge.

(c) At an amount equal to two per cent of the gross proceeds of sales or gross income from the business upon every person engaging or continuing within this state in the following businesses:

1. Selling any tangible personal property whatsoever at retail, provided, however, the tax levied by this section shall not apply to the gross proceeds of sales or gross income from:

a. The sale of stocks and bonds;

b. professional, or personal service occupations or businesses which involve sales or transfers of tangible personal property only as inconsequential elements thereof;

c. services rendered in connection with or in addition to the sale of tangible personal property at retail by businesses or occupations other than those to which subsection (b) of this section is applicable.

When any person is engaged in a business or occupation to which subsection (c) of this section is applicable, his books must be kept so as to show separately his gross proceeds from the sale or tangible personal property and his gross income from his sale of services, and if not so kept this tax shall be imposed upon the total of his gross proceeds of sales of tangible personal property and gross income from services.

When any person is engaged in the business of selling tangible personal property at both wholesale and retail, the retail rate shall be applied only to the gross proceeds of the sales made other than at wholesale when his books are kept so as to show separately the gross proceeds of sales of each class, and when his books are not so kept the retail rate shall be applied to the gross proceeds of every sale made.

The sale to hotels, restaurants, dining cars, lunch rooms, boarding houses or similar establishments or articles used by man for food, drink or condiment, whether simple, mixed or compounded, where such articles are customarily prepared and served to patrons for consumption on the premises or on such dining cars, shall be deemed wholesale sales as to such commodities, and the person who then resells such commodities in a cooked or prepared form shall be deemed to be engaged in the business classified in subsection (d) of this section.

(d) At an amount equal to one per cent of the gross proceeds of sales, or gross income from the business, upon every person engaging or continuing, within this state in the following businesses:

1. Restaurants, dining cars, dining rooms, lunch rooms, lunch stands, soda fountains or similar establishments where articles of food or drink are sold for consumption on the premises or on such dining cars.

(e) At an amount equal to two per cent of the gross proceeds of sales, or gross income from the business, upon every person engaging or continuing within this state in the following businesses:

1. Operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard and pool parlors and bowling alleys, public dances, dance halls, boxing matches and wrestling matches, and any business charging admission fees for exhibition, amusement or instruction, other than projects of bona fide religious or education institutions;

2. Hotels, guest houses, dude ranches and resorts, rooming houses, apartment houses, office buildings, automobile rental services, automobile storage garages, parking lots, tourist camps, or any other business or occupation charging storage fees or rents, and adjustment and credit bureaus and collection agencies.

(f) At an amount equal to one-fourth of one per cent of the gross proceeds of sales, or the gross income from the business upon every person engaging or continuing in the business of slaughtering animals for food, packing, processing, or compounding meat or meat products.

(g) At an amount equal to one per cent of the gross proceeds or gross income from the business, upon every person engaging or continuing in the business of contracting. Payments made by the contractor for labor employed in construction, improvements or repairs shall not be subject to the tax herein imposed.

(h) At an amount equal to one-fourth of one per cent of the gross proceeds or gross income from the business, upon every person engaging in the business of selling poultry or stock feed to poultrymen or producers of poultry and poultry products or to stockmen or feeders of stock, at wholesale rates, for their own use and not for resale.

(i) In the event any funds shall remain after the payments hereinbefore provided for state purposes, then the remainder shall, to the extent to which they will apply, be in lieu of county or ad valorem taxes for educational purposes on a per capita basis, as provided by section 54-605, Arizona Code of 1939.

Sec. 3. Section 73-1304, Arizona Code of 1939, is amended to read:

73-1304. ADDITIONAL MANUFACTURING OUTSIDE THE STATE. If any person engaging in any business classified in paragraph 1, subsection (b), of section 73-1303, shall ship or transport products, or any part thereof, out of the state without making sale of such products, or shall ship his products outside of the state in an unfinished condition, the value of the products or articles in the condition or form in which they existed when transported out of the state and before they enter interstate commerce shall be the basis for assessment of the tax imposed by said section, and the commission shall prescribe equitable and uniform rules for ascertaining such value.

Sec. 4. Section 73-1306, Arizona Code of 1939, is amended to read:

73-1306. PRODUCERS SELLING AT RETAIL. Any person engaging in any of the following classified businesses who sells the product of such business at retail in this state shall be required to make return of the gross proceeds of such sales and to pay the tax at the rate and subject to the provisions imposed by subsection (c) of section 73-1303:

Persons in the business of manufacturing, baling, crating, boxing, barrelling, canning, bottling, sacking, preserving, processing, or otherwise preparing for sale or commercial use, livestock, agricultural or horticultural products, or any product, article, substance or commodity except those classified in subsections (a), (b) 2, (b) 3, (b) 4, (b) 5, (b) 6, (b) 7, (b) 8, (d), (g) and (h) of section 73-1303, and except those specifically exempt by and under the provisions of the Act.

Where the retail rate applies to such sales as herein provided, such person shall be exempt from any other tax on the gross proceeds derived from such sales imposed by this Act.

Sec. 5. Section 73-1310, Arizona Code of 1939, is amended to read:

73-1310. PERSONS ENGAGED IN MORE THAN ONE BUSINESS. Any person engaging in two or more forms of business of like classification taxable under this article may file a consolidated return covering all business activities of such like classification engaged in within this state.

Sec. 6. Section 73-1314, Arizona Code of 1939, is amended to read:

73-1314. TAX PAYABLE MONTHLY; RETURN REQUIRED. The taxes levied under this article shall be due and payable monthly on or before the fifteenth day of the month next succeeding the month in which the tax accrues, and shall be delinquent five days thereafter. The taxpayer shall on or before the fifteenth day of the month make out a return showing the amount of the tax for which he is liable, for the preceding month, and shall mail the same together with a remittance, in the form required by section 73-1322, for the amount of the tax, to the office of the commission. Such return shall be verified by the oath of the taxpayer, or his or its authorized agent.

Any taxpayer who shall have failed to pay such tax within five days from the date upon which such payment shall have become due shall be subject to and shall pay a penalty of ten per cent of the amount of such tax, plus interest at the rate of one-half of one per cent per month or fraction of a month from the time such tax was due and payable until paid; provided, however, that any person taxable under this article having cash and credit sales, shall report such cash and credit sales separately, and upon making application therefor may obtain from the commission an extension of time for the payment of taxes due on such credit sales. Such extension shall be granted by the commission, under such rules and regulations as the commission may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report all collections made on such credit sales during the month next preceding, and shall pay the taxes due thereon at the time of filing such report.

For the purpose of computing the tax levied by this article, "conditional sales", as that term is defined by section 52-620, Arizona Code of 1939, shall be treated as credit sales and the tax paid only upon the amounts received under such conditional sales contracts; provided, that in the event the seller transfers his interest in such contract to some third person, he shall pay upon the full sale price of the commodity unless a record is kept of payments thereafter made on such contract in such manner that the tax commission can at all times

ascertain from the records of the seller, the amount paid thereon by the purchaser, and if at any time the tax commission cannot so ascertain the amount paid thereon, the tax shall become due and payable as to any sums not shown to be paid by the records of such seller or to the satisfaction of the commission.

The monthly returns required under this article shall be made upon forms to be prescribed by the commission.

The commission, for good cause, may extend the time for making any return required under the provisions of this article, and may grant such reasonable additional time within which to make such return as it may deem proper, but the time for filing such return shall not be extended beyond the fifteenth day of the second month next succeeding the regular due date of such return.

Sec. 7. Section 73-1315, Arizona Code of 1939, is amended to read:

73-1315. DEFICIENCIES; PENALTY; NOTICE OF DEFICIENCY; PAYMENT OF DEFICIENCY. (a) If the taxpayer fails to file a return, or if the commission is not satisfied with the return and payment of the amount of tax herein required to be paid to the state by any person, it is authorized and empowered to examine the return and recompute and re-examine the amount required to be paid, based upon the facts contained in the return or upon any information within its possession or that shall come into its possession. All additional amounts determined to be due under the provisions of this section shall bear interest at the rate of one-half of one per cent per month or fraction of a month from the time the additional tax was due and payable, until paid. If any part of the deficiency for which a determination of an additional amount due is made, is found to be due to negligence or intentional disregard of this article or authorized rules and regulations, but without intent to defraud, a penalty of ten per cent of such amount shall be added, plus interest at the rate of one-half of one per cent per month or fraction of a month from the time the additional tax was due and payable, until paid. If any part of the deficiency for which a determination of an additional amount due is made, is found to be due to fraud or an intent to evade this article, or authorized rules or regulations, a penalty of twenty-five per cent of such amount shall be added, plus interest at the rate of one-half of one per cent per month or fraction of a month from the time the additional tax was due and payable, until paid. The commission shall give to the taxpayer written notice of its determination of a deficiency by mail, and such

deficiency, plus penalties and interest shall be due and payable thirty days after receipt of said notice and demand, or in the event an appeal is taken to the commission, within ten days after the order or decision of the commission has become final. Except in the case of a fraudulent return, failure or refusal to make a return, every notice of a determination of an additional amound due shall be mailed within three years after the fifteenth day of the calendar month following the period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(b) If the taxpayer shall make any error in computing the tax assessable against him, the commission shall correct such error or reassess the proper amount of taxes and notify the taxpayer of this action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement; provided, however, that no correction, assessment or reassessment shall be made for any month since the enactment of the excise revenue Act of 1935 after the expiration of three years from the date upon which the taxpayer was obligated to file his return for such month under the provisions of this article and no action or proceeding may be taken or commenced to collect any taxes levied by this article until the amount thereof has been established by assessment, correction or reassessment; provided, further, if a taxpayer fraudulently fails or refuses to file a return for any month the commission may assess the amount of taxes payable for that month at any time, or the commission may cause an audit to be made of the taxpayer's records covering any period of time not specifically exempted by the provisions of this section. Such audits shall disclose the gross taxable income for the period audited, the tax due, tax paid, and any additional tax due for the period audited. The commission shall assess the taxpayer for any additional tax due, and furnish such taxpayer with a copy of the assessment together with a copy of the summary of audit. Any additional tax due where an audit has been made under the provisions of this subsection shall be paid within thirty days after receipt of such assessment, or in the event an appeal is taken to the commission, within ten days after the order or decision of the commission has become final.

(c) The burden of proving that a sale of tangible personal property was not a sale at retail shall be upon the person who made it, unless such person shall have taken

from the purchaser a certificate signed by and bearing the name and address of the purchaser that the property was purchased for resale in the ordinary course of business and that he has a valid license, with the number thereof, to sell the kind of property purchased.

(d) For the purpose of proper administration of this article and to prevent evasion of the tax hereby imposed it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

Sec. 8. Section 73-1317, Arizona Code of 1939, is amended to read:

73-1317. TAX LIEN; WARRANT FOR COLLECTION OF DELINQUENT TAXES; RECORDING AND RELEASE OF NOTICE AND CLAIM OF LIEN; LIABILITY OF PURCHASER OF BUSINESS. Any tax, penalty or interest imposed under this article and which has become final, as provided herein, shall become a lien providing the commission issue a notice and claim of lien setting forth the name of the taxpayer, the amount of the tax, penalty and interest, the period or periods for which due, the date of accrual thereof, and that the state of Arizona claims a lien therefor. Said notice and claim of lien shall be issued under the official seal of the commission and signed by its chairman and shall be filed of record in the office of the county recorder of any county in this state in which the taxpayer may own property. After said notice and claim of lien is filed, the taxes, penalties and interest in the amounts specified therein shall be a lien on all real property and personal property of the taxpayer located or situated in said county, superior to all other liens and assessments placed of record subsequent to the filing of such notice and claim of lien, except liens for ad valorem taxes.

After such notice and claim of lien has been filed, or concurrently therewith, the commission shall issue a warrant under the official seal of the commission signed by its chairman directed to any agent of the commission authorized by it to collect taxes, commanding him to levy upon and sell the real property and personal property of the taxpayer found within any county in this state for the payment of the amount of said tax, with the added penalties, interest and cost of executing the warrant and return such warrant to the commission, and pay to it the money collected by virtue thereof, by a time to be therein specified of not exceeding six months from the date of the warrant, or if no collection be made, then to return the warrant to the commission at the end of six months with a report of the reasons

for failure to collect the amount therein required. In the execution of said warrant, such agent shall have all the powers conferred by law on sheriffs, but he shall not be entitled to any fee or compensation in excess of actual expenses paid in the performance of such duty. Upon receipt of the warrant, such agent shall thereupon proceed upon the same with like effect and in the same manner prescribed by law in respect to execution issued against property upon a judgment of a court of record. The agent to whom the warrant is directed shall, within five days after receipt thereof, file a copy thereof with the clerk of the superior court in any county within this state in which the taxpayer may have property, and the clerk shall thereupon enter on the judgment docket, in the column of judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of the tax or portion thereof and penalties and interest for which the warrant was issued and the date when such copy was filed and docketed, and thereupon the amount of such warrant so docketed shall become a lien upon the title to any interest in real or personal property of the delinquent taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of the clerk of the superior court. The commission or agent to whom the warrant is directed may file with the county recorder of any county within this state wherein a taxpayer may have property, an abstract of the judgment entered by the clerk of the superior court, as aforesaid, and the county recorder shall thereupon record the same in the records of abstracts of judgments in the same manner as any other judgment entered by a superior court of this state. All such abstracts so recorded shall become a lien upon the title to any interest in real or personal property of the taxpayer against whom it is issued, in the same manner as any other abstract of judgment duly recorded in the office of the county recorder.

If a warrant be returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes against the delinquent taxpayer as if the people of the state had recovered judgment against the delinquent taxpayer for the amount of the tax,

Any lien perfected pursuant to the provisions of this article shall, upon payment of the taxes, penalties and interest covered thereby, be released by the commission in the same manner as mortgages and judgments are released.

It shall be the duty of any county recorder to whom

notices are sent to file and record the same without cost or charge.

The tax imposed by this article shall be a lien upon the property of any person subject to the provisions of this article who shall sell out his business or stock of goods, or shall quit business if such person shall fail to make a final return and payment within fifteen days after the selling or quitting of business. His successor, successors or assigns, if any, shall be required to withhold sufficient of the purchase money to cover the amount of such taxes herein required to be collected and interest or penalties due and payable until such time as the former owner shall produce a receipt from the commission, showing that they have been paid or a certificate stating that no amount is due, as then shown by the records of the tax commission. If a subsequent audit shows a deficiency, arising prior to the sale of such business, such deficiency shall be an obligation of the seller and shall not constitute a liability against the buyer who has received a certificate from the tax commission. If the purchaser of a business or stock of goods shall fail to withhold sufficient purchase money as above provided, he shall be personally liable for the payment of the amount of taxes herein required to be collected or paid by the former owner on account of the business being purchased, together with interest and penalties accrued and unpaid by the former owner, owners or assignors.

Sec. 9. Section 73-1318, Arizona Code of 1939, is amended to read:

73-1318. APPEAL TO COMMISSION; PETITION FOR REDETERMINATION; FINALITY OF ORDER. Any person from whom an amount is determined to be due under the provisions of this article may apply to the commission by a petition in writing within thirty days after such notice is received by him, or within such additional time as may be allowed by the commission, for a hearing, correction or redetermination of the action taken by the commission, and in which petition he shall set forth the reasons why such hearing, correction or redetermination should be granted and the amount in which any tax should be reduced. The commission shall promptly consider such petition and may grant such hearing or deny the same. If granted or denied, the commission shall make such order in the matter as may appear to it to be just and lawful and shall furnish a copy of such order to the petitioner by mail. If a hearing is granted, such order shall specify

the time and place fixed by it for such hearing or redetermination.

If a petition for hearing, correction or redetermination is not filed within said thirty day period, or within such additional time as may be allowed by the commission, the amount determined to be due shall become final at the expiration thereof, and the person shall be deemed and treated as waiving and abandoning any rights to question said amount determined to be due.

All orders or decisions made upon the filing of a petition for a hearing, correction or redetermination shall become final thirty days after notice thereof shall have been received by the petitioner, but without prejudice to the right of the petitioner to pay the tax under protest and to bring action as provided in section 73-1319.

Sec. 10. Section 73-1319, Arizona Code of 1939, is amended to read:

73-1319. TAXPAYER'S ACTION; PAYMENT OF JUDGMENT IN FAVOR OF TAXPAYER; PROVIDING FOR TAX PROTEST FUND. No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court in this state against any officer of this state to prevent or enjoin the collection of any tax, penalty or interest due under this article; but after payment of any such tax, penalty or interest under protest, which protest shall be duly verified by oath and shall set forth the grounds of objection to the legality of the tax, a taxpayer may bring action against the commission in any superior court of the state of Arizona for the recovery of any tax, interest or penalty so paid under protest. No such action shall be instituted more than thirty days after the order or decision of the commission becomes final, and failure to bring such action within said thirty days shall constitute a waiver of said protest and all claims against the state on account of any illegality in the tax, penalties and interest so paid. No grounds of illegality of the tax shall be considered by the court other than those set forth in the protest filed at the time payment is made; provided, however, that payments of tax made under protest subsequent to the original protested item and prior to the institution of the action within the said thirty days may be included or incorporated in the same action, either party to such action in the superior court shall have the right to appeal to the supreme court of Arizona, as now provided by law, except that the time in which an appeal may be taken shall be limited to sixty days.

In the event a final judgment is rendered in favor of the taxpayer in an action to recover taxes paid under protest, the amount of the judgment or such portion thereof as may be necessary shall first be credited on any taxes, penalties and interest due from the said plaintiff taxpayer under this article and the amount of the balance then remaining due the plaintiff taxpayer, if any, shall be certified by the commission to the state auditor, along with a certified copy of the final judgment and a claim for refund authenticated by the commission. Upon receipt of same, the state auditor shall draw a warrant directed to the state treasurer in favor of such taxpayer in an amount equal to the amount of the tax found by said final judgment to have been collected illegally, less any credit to the commission, as aforesaid, from the tax protest fund; and shall draw a separate warrant directed to the state treasurer in favor of such taxpayer in an amount equal to the amount of the interest and other costs that may have been recovered against the commission by the final judgment in such action, and said warrant shall be paid by the state treasurer out of the special privilege tax account.

In the event any taxpayer hereunder shall, at the time of paying any tax imposed by this Act or by the commission under cover hereof, make protest of the payment of all or any part thereof, the amount so protested shall be deposited by the state treasurer to the credit of a tax protest fund and shall remain in such fund until such time as a final judgment has been rendered or the time for appeal has expired, or until a dismissal of any such proceeding instituted by such taxpayer is entered, or upon failure of such taxpayer to institute a proceeding for the recovery of such amount within said thirty day period, or in the event the final judgment rendered holds that the whole or any part of said sum was due and lawfully payable on the date when paid, in which cases the amount found lawfully payable shall be disposed of in the manner herein provided for other collections made under the provisions of this article, and shall be deemed a collection as of the date of such final determination. In the event a refund is granted in the proceedings so instituted, the amount of such refund shall be paid as hereinbefore provided, and the remainder of the moneys so credited to the tax protest fund shall be treated as other collections under the provisions of this article, as of the date of such refund.

Sec. 11. Section 73-1320, Arizona Code of 1939, is amended to read:

73-1320. PERSONAL LIABILITY FOR TAX; REMED-

IES FOR COLLECTION. Every tax imposed by this article and all increases, interest and penalties thereon shall become, from the time the same is due and payable, a personal debt due from the taxpayer to the state of Arizona, and may be collected by action in any superior court instituted in the name of the state by the attorney general at the request of the commission, this remedy shall be in addition to all other existing remedies or as may be provided in this article.

Sec. 12. Section 73-1324, Arizona Code of 1939, is amended to read:

73-1324. FAILURE TO MAKE RETURN; FALSE RETURN; PREVENTING EXAMINATION; PERJURY; PENALTIES. Any person who fails or refuses to make any return required by this article to be made, or who fails to remit the full amount of any additional charge made to cover the tax, or who fails or refuses to furnish any supplemental return or other pertinent and available data required by the commission, or who makes or causes to be made a false or fraudulent return, or who fails or refuses to permit any lawful examination of any book, paper, account, record or other memoranda by the commission or any of its authorized agents or employees, as required by this article shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three months, or by both such fine and imprisonment.

Any person required to make, render, sign or verify any return or report required by this article who makes any false or fraudulent return or report with intent to defeat or evade the collection of any tax, interest or penalty imposed by this article shall be deemed guilty of perjury and shall be punished by fine of not more than one thousand dollars or by imprisonment in the state penitentiary for not more than one year or both and in the case of a corporation, by a fine of not more than five thousand dollars.

Sec. 13. Section 73-1329, Arizona Code of 1939, is amended to read:

73-1329. DEDUCTIONS. The provisions of this Act shall not apply to the sales of gasoline upon which a tax has been imposed under the provisions of article 3, chapter 66, Arizona Code of 1939; nor to common or contract motor carriers of passengers or property paying a tax under provisions of section 66-518, Arizona Code of 1939; nor to a sale of tangible personal property to a person licensed as a contractor under article 23, chapter 67,

Arizona Code of 1939, and holding a valid privilege tax license for engaging or continuing in the business of contracting under the provisions of this Act where the tangible personal property so sold is by said contractor incorporated or fabricated into any structure, project, development or improvement in fulfillment of a contract therefor. Nor to sales in interstate or foreign commerce when prohibited from being taxed by the constitution of the United States or the constitution of the state of Arizona. In computing the amount of tax levied by this article upon the activities classified in paragraph 1 of subsection (b) of section 73-1303, the price shall be reduced by the actual freight paid by any person, from the place of production to the place of delivery, when such freight is included in the sales price of such products.

Sec. 14. Section 73-1331, Arizona Code of 1939, is amended to read:

73-1331. NOTICES. All notices required or authorized by this Act to be given by mail to any taxpayer shall be addressed to him at his last known address, or to such address as may be reflected by the records of the commission and shall be sent by registered first class mail with return receipt requested, with the proper amount of postage affixed thereto. For the purposes of this Act notice shall be presumed received upon the date shown by an executed return receipt, or, in the event such receipt is not executed, then upon the date such notice was attempted to be delivered.

Sec. 15. REPEAL. Sections 73-1308, 73-1309, 73-1313 and 73-1330, Arizona Code of 1939, are repealed.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 137

(House Bill No. 161)

AN ACT

RELATING TO A RECOGNITION OF THE STATE BANKING DEPARTMENT AND OFFICE OF SUPERINTENDENT OF BANKS; PROVIDING FOR APPOINTMENT, TERM, COMPENSATION, OATH AND BOND OF SUPERINTENDENT, PROVIDING FOR DEPUTY EXAMINER, APPRAISERS AND OTHER

EMPLOYEES; PROHIBITING DISCLOSURE OF CONFIDENTIAL INFORMATION, EXCEPTIONS; PROHIBITING CERTAIN ACTS BY SUPERINTENDENT AND EMPLOYEES; DEFINING FINANCIAL INSTITUTIONS SUBJECT TO SUPERVISION AND EXAMINATION; DEFINING POWERS AND DUTIES OF SUPERINTENDENT AND EXAMINERS; PROVIDING FOR MINIMUM ANNUAL EXAMINATIONS; GRANTING OATH AND SUBPOENA POWERS; PROVIDING FOR LEVY OF MINIMUM ANNUAL EXAMINATION ASSESSMENTS AND OTHER EXAMINATION COSTS ON BANKS AND OTHER FINANCIAL INSTITUTIONS; PROVIDING FOR DISPOSITION OF REVENUE RECEIVED BY STATE BANKING DEPARTMENT; AUTHORIZING JOINT EXAMINATIONS, EXCHANGE OF INFORMATION AND ACCEPTANCE OF OTHER AUTHORIZED EXAMINATIONS; AUTHORIZING MEMBERSHIP IN NATIONAL OR REGIONAL ORGANIZATIONS; PROVIDING FOR ISSUANCE OF LICENSES TO AND REPORTS FROM SMALL MONEY LENDERS; PROVIDING FOR PENALTIES FOR VIOLATIONS; AMENDING SECTIONS 51-101, 51-102, 51-103, 51-104, 51-106, 51-107, 51-108, 51-109, 51-111, 51-112, 51-113, 51-802, 51-804 AND 51-807, ARIZONA CODE OF 1939; AMENDING CHAPTER 51, ARTICLE 1, ARIZONA CODE OF 1939, BY ADDING SECTION 51-114, AND REPEALING SECTIONS 51-503 AND 51-521, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 51-101, Arizona Code of 1939, is amended to read:

51-101. DEFINITION OF TERMS. As used in this article, the term "bank" shall include commercial banks, savings banks and trust companies;

the term "commercial bank" means any bank authorized by law to receive deposits of money, deal in commercial paper, or to make loans thereon, to lend money on real or personal property, to discount bills, notes, or other commercial paper, and to buy and sell securities, gold and silver bullion or foreign currency or bills of exchange;

the term "savings bank" means a bank organized for the purpose of accumulating and loaning its funds, receiving deposits of money, loaning, investing and collecting the same with interest and repaying depositors with or

without interest and having power to invest said funds in such property, securities, and obligations, as may be prescribed by its board of directors, and to pay a stipulated rate of interest on deposits made for a stated period or upon special bonds;

the term "trust company" means any bank authorized by law to take, acquire, execute trusts committed to it, and to act as trustee or fiduciary, and to receive deposits of money and other personal property and issue its obligations therefor, and to lend money;

the term "security company" as used in this article shall mean any Morris Plan Company, or any person, partnership, association or corporation receiving from the public money on deposit and issuing therefor certificates of deposit or passbooks, or any evidence of deposit, whether such money is paid in in cash or by regular or irregular installments or otherwise, but such terms shall not be construed to include banks, building and loan associations, savings and loan associations, credit unions, industrial banks, small money lenders or insurance companies;

the term "financial institution" as used in this article shall include banks, commercial banks, savings banks, trust companies, security companies, building and loan associations, which term shall include savings and loan associations, credit unions, industrial banks, and small money lenders.

Sec. 2. Section 51-102, Arizona Code of 1939, is amended to read:

51-102. STATE BANKING DEPARTMENT RECOGNIZED—SUPERINTENDENT OF BANKS—APPOINTMENT — QUALIFICATIONS — TERM — COMPENSATION—OATH AND BOND. (a) There is in the state government a state banking department which has and shall have charge of the execution of the laws of this state relating to banks and other financial institutions and relating to the businesses conducted by each.

(b) The chief officer of the state banking department is the superintendent of banks. His office is a continuance of the office of superintendent of banks created by chapter 31 of the Laws of 1922. He may also be called the state bank examiner or examiner.

(c) The superintendent of banks shall be appointed by the governor, by and with the consent of the senate, to hold office for a term of four years. The superintend-

ent shall be a citizen of the United States and the state of Arizona; and he shall be chosen solely for his qualifications and fitness to perform the duties of his office under the laws of the state.

(d) Any provision of law to the contrary notwithstanding, the annual salary of the superintendent shall be nine thousand six hundred dollars. Before entering upon the duties of his office, the superintendent shall take and subscribe to the oath of office as prescribed by law and execute to the state an official surety company bond in the penal sum of fifty thousand dollars.

Sec. 3. Section 51-103, Arizona Code of 1939, is amended to read:

51-103. DEPUTY EXAMINER AND OTHER EMPLOYEES—EMPLOYMENT OF APPRAISERS. (a) The superintendent of banks shall appoint such deputy examiners, one of whom may be designated as the chief deputy examiner, and other employees as may be necessary to carry out the laws of this state relating to the state banking department. A deputy examiner shall be employed solely for his qualifications and fitness to perform the duties of his employment under the laws of this state. Before entering upon the duties of a deputy examiner, said deputy examiner shall take and subscribe to the oath of office as prescribed by law and execute to the state an official surety company bond in the penal sum of twenty-five thousand dollars. Each deputy examiner shall perform such duties as are prescribed by the laws of this state or that may be assigned to him by the superintendent of banks. Any provision of law to the contrary notwithstanding, the annual salary of the chief deputy examiner shall not exceed seven thousand two hundred dollars.

(b) The superintendent shall have the authority to employ appraisers to appraise any real or personal property owned by or mortgaged or pledged to any bank or security company, the reasonable travel and subsistence expense and compensation to such appraisers not in excess of comparable fees paid for the same or similar appraisals in the same area shall be paid by the bank or security company owning or holding such real and personal property as mortgagee or pledgee.

Sec. 4. Section 51-104, Arizona Code of 1939, is amended to read:

51-104. DISCLOSURES—EXCEPTIONS—PENALTY. Neither the superintendent, nor any deputy examiner, or

other person connected with his office, shall disclose any information obtained in the discharge of his official duties to any person not connected with the banking department, except to federal, state, or clearing house banking examiners, or to proper officials legally empowered to investigate criminal charges, or except as is otherwise provided by law. Every person who shall violate any provision of this section shall forfeit his office or employment and shall be guilty of a misdemeanor.

Sec. 5. Section 51-106, Arizona Code of 1939, is amended to read:

51-106. ACTS—PROHIBITED—PENALTY. Neither the superintendent nor any deputy examiner or employee of the state banking department shall do any of the following with respect to any bank or other financial institution supervised by the department:

(a) Be indebted, directly or indirectly, as borrower, accommodation endorser, surety, or guarantor to any such bank or other financial institution;

(b) be an officer, director, or employee of any such bank or other financial institution;

(c) own or deal in, directly or indirectly, the shares or obligations of any such bank or other financial institution;

(d) be interested in or, directly or indirectly, receive from any such bank or other financial institution, or any officer, director or employee thereof, any salary, fee, compensation, or other valuable thing by way of gift, credit, compensation for services or otherwise;

(e) be interested in or engage in the negotiation of any loan to, obligation of, or accommodation for another person to or with any such bank or other financial institution;

(f) give any prior notice of intention to visit any such bank or other financial institution for purpose of making an investigation and examination.

Notwithstanding the foregoing the superintendent and any deputy examiner or employee may have and maintain one or more commercial or savings accounts in any bank or other financial institution in the state.

Every person who shall violate any provision of this section shall forfeit his office or employment and shall be guilty of a misdemeanor.

Sec. 6. Section 51-107, Arizona Code of 1939, is amended to read:

51-107. INSTITUTIONS AND BUSINESSES SUBJECT TO EXAMINATION. All banks and other financial institutions and the businesses conducted by each shall be under the jurisdiction and supervision of and subject to examination by the state banking department.

Sec. 7. Section 51-108, Arizona Code of 1939, is amended to read:

51-108. POWERS AND DUTIES OF SUPERINTENDENT AND DEPUTY EXAMINERS—MINIMUM ANNUAL EXAMINATIONS. (a) The superintendent of banks is responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the state banking department. In addition to all other duties and responsibilities vested by law in the state banking department, the state superintendent of banks:

1. Shall exercise all the powers necessary and convenient for the administration and enforcement of the laws relating to banks and other financial institutions, and the business conducted by each; and

2. shall issue such rules and regulations consistent with law as he may deem necessary or advisable in executing the powers, duties and responsibilities of the banking department;

3. shall make a continual study of Arizona laws relating to banks and banking and other financial institutions and businesses, with a view of so strengthening said laws as to attain and maintain the maximum degree of protection to depositors, stockholders, shareholders, certificate holders and the banking and borrowing public, and shall report each year to the governor the results of his study, together with his recommendations.

(b) It shall be the duty of the superintendent or a deputy examiner, without previous notice, to visit each bank and every other financial institution at least once in each calendar year and oftener if necessary, for the purpose of making a full investigation and examination into the condition of such bank or other financial institution. The superintendent may make such other full or partial examinations as he deems necessary. At every examination the examiner or deputy examiner shall carefully inquire into the condition and resources of the bank or other financial institutions, the mode of conducting

and managing its affairs, the official conduct of its directors and officers, the investment and disposition of its funds, whether or not it is violating any laws of this state, and into any other matters as the superintendent may prescribe. If any financial institution is engaged in the business of receiving money on deposit and issuing certificates or evidence of indebtedness to the public, the superintendent shall inquire into the plan and contract under which such certificates or evidences of indebtedness are issued and sold, the probable value thereof, the liability of the financial institution under which such certificates or evidences of indebtedness and all matters relating to or affecting the value of such certificates or evidences of indebtedness.

Sec. 8. Section 51-109, Arizona Code of 1939, is amended to read:

51-109. OATH AND SUBPOENA POWERS. The superintendent or any deputy examiner, in the performance of his duties, may examine on oath any person, and may compel the attendance of witnesses and the production of books and papers. Upon refusal to produce books or papers, the superintendent or deputy examiner may apply to the superior court to compel such production.

Sec. 9. Section 51-111, Arizona Code of 1939, is amended to read:

51-111. MINIMUM ANNUAL EXAMINATION ASSESSMENT OF BANKS AND OTHER FINANCIAL INSTITUTIONS-AMOUNT ADDITIONAL EXAMINATION COSTS-COLLECTIONS. (a) On the first day of July of each year after the effective date of this Act, the following minimum annual examination assessments, in addition to license fees, privilege charges and any other costs otherwise provided by law shall be levied by the superintendent on all banks and other financial institutions under the supervision of the state banking department:

(1) Banks other than savings banks: A sum equal to five hundred dollars plus one hundred dollars for each branch, or twenty dollars per one million dollars, or major fraction thereof, of its total resources as shown by the last report of the bank to the superintendent, whichever is the greater.

(2) Savings banks: A sum equal to two hundred fifty dollars plus fifty dollars for each branch, or twenty dollars per one million dollars, or major fraction thereof, of

its total resources as shown by the last report of the savings bank to the superintendent, whichever is the greater.

(3) Building and loan associations: A sum equal to three hundred seventy-five dollars plus seventy-five dollars for each branch, or twenty dollars per one million dollars, or major fraction thereof, of its total resources as shown by the last report of the building and loan association to the superintendent, whichever is the greater.

(4) Small money lenders: One hundred dollars for each licensed place of business.

(5) Credit unions: Twenty-five dollars for the first twenty-five thousand dollars of assets or any fraction thereof, twenty-five dollars for the next fifty thousand dollars of assets or major fraction thereof, and twenty-five dollars for each additional one hundred thousand dollars of assets or major fraction thereof, as shown by the last report of the credit union to the superintendent.

(6) All other financial institutions not hereinabove specifically enumerated: One hundred fifty dollars.

No bank or other financial institution shall be required to pay in any calendar year more than the minimum annual examination assessment unless such bank or other financial institution requests additional examinations, or unless, in the opinion of the superintendent, additional examinations are necessary. Each bank or other financial institution requesting additional examinations or undergoing additional examinations deemed necessary by the superintendent shall be chargeable by and pay to the state banking department the cost of such additional examinations, which cost shall not be less than the total travel and subsistence allowances as provided by law for state officers plus the following per diem charges computed on each day of examination or fraction thereof.

Thirty dollars for examination by the examiner;

fifteen dollars for examination by a deputy examiner.

(b) The minimum annual examination assessment described in the preceding paragraph shall be paid to the state banking department within thirty days of the assessment. If any bank or other financial institution under the supervision of the state banking department fails to pay the minimum annual assessment by the first day of August of each year, the superintendent may cancel any certificate of authority or license issued by him to such

bank or other financial institution for the conduct of its banking or financial business. The same penalties may be invoked by the superintendent against any bank or other financial institution failing to pay the costs of additional examinations.

Sec. 10. Section 51-112, Arizona Code of 1939, is amended to read:

51-112. DISPOSITION OF REVENUE. All fees, charges, fines and assessments received by the state banking department shall be remitted promptly to the state treasurer and by him placed in the general fund.

Sec. 11. Section 51-113, Arizona Code of 1939, is amended to read:

51-113. JOINT EXAMINATION AUTHORIZED-ACCEPTANCE OF FEDERAL REGULATORY AND OTHER AUTHORIZED EXAMINATIONS-EXCHANGE OF INFORMATION. Any examination of banks or other financial institutions authorized by state law may be made by the state banking department in conjunction with authorized examinations of any federal regulatory or other public authority or officer. The superintendent of banks, subject to full compliance with minimum annual visits for purposes of investigation and examination into the condition of each bank and every other financial institution as provided by law, in his discretion, may accept, in lieu of any additional examination authorized under the laws of this state, the authorized examination and report required by any federal regulatory or other public authority or officer; provided, however, that the acceptance of an examination and report required by any such federal regulatory or other public authority or officer in lieu of additional examinations authorized under the laws of this state shall not be deemed a waiver of minimum annual examination assessments as provided by law.

The superintendent of banks may make available to any federal regulatory or other public authority or officer any information furnished to or obtained by him, and all or any part of any report or examination of any bank or other financial institution under his supervision, provided the said regulatory or other public authority or officer is permitted to and will, upon the request of the superintendent of banks, disclose the same information respecting those banks and other financial institutions examined by such federal regulatory or other public authority or officer.

Sec. 12. Chapter 51, article 1, Arizona Code of 1939, is amended by adding section 51-114.

51-114. AUTHORIZATION TO MAINTAIN MEMBERSHIP IN AND TO ATTEND MEETINGS OF STATE OFFICIALS. The superintendent of banks is authorized to hold membership in, to maintain such membership by the payment of dues to, and to attend the annual convention of, the national or regional organization of state officials occupying like offices or performing similar functions.

Sec. 13. Section 51-802, Arizona Code of 1939, is amended to read:

51-802. LICENSE-APPLICATION-FEE. Application for such license in such form as the superintendent of banks may require by rules and regulations, shall be signed by the applicant under oath. If the superintendent of banks, after full investigation, shall find that the financial responsibility and general character of the applicant are such as to warrant belief that the business will be operated within the purposes of this article, subject to compliance with all other provisions of law, he shall thereupon enter an order granting such application and forthwith issue a license to the applicant. Every person making application shall pay one hundred dollars as an annual license fee. If the license be issued for less than twelve months the fee shall be prorated according to the number of months that it is operative.

Sec. 14. Section 51-804, Arizona Code of 1939, is amended to read:

51-804. ISSUANCE OF LICENSE-EXPIRATION-RENEWAL. Upon filing and approval of such application, the approval of said bond and the payment of said license fee a money-lender's license shall be issued to the applicant for a period expiring with the fiscal year. Such license shall not be assignable. No licensed money-lender shall continue in the loan business after the expiration of his license and bond, unless prior thereto said bond is renewed and refiled; or, if such surety is furnished by a surety corporation an annual renewal receipt, or continuation certificate is filed. A new application shall not be required for the consecutive annual renewal of a license.

Sec. 15. Section 51-807, Arizona Code of 1939, is amended to read:

51-807. ANNUAL REPORT. Every licensed money-lender shall, during November in each year, file with the licensing official an annual report upon a form prescribed by him, and upon matters enabling the licensing official to make his annual report.

Sec. 16. REPEAL. Sections 51-503 and 51-521, Arizona Code of 1939, are hereby repealed.

Sec. 17. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 9, 1954.

Filed in the Office of the Secretary of State—April 9, 1954.

CHAPTER 138

(House Bill No. 247)

AN ACT

RELATING TO DAIRY PRODUCTS; PRESCRIBING THE BUTTER-FAT CONTENT OF MILK, AND AMENDING SECTION 50-963, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 50-963, Arizona Code of 1939, is amended to read:

50-963. APPLICATION OF STANDARD MILK ORDINANCE. (a) Unless otherwise provided by law, the production, transportation, handling and sale of milk and milk products, and the inspection of dairy herds, dairies and milk plants shall in all respects be regulated in accordance with the terms of the unabridged form of the 1939 edition of the United States public health service milk ordinance and code, a certified copy of which shall be on file in the office of the secretary of state, except that all milk prepared for sale to or use by the ultimate consumer other than buttermilk or fat-free milk shall contain not less than 3.5 per cent butter-fat.

(b) The words "health officer" when used in such milk ordinance and code shall be deemed to mean the state dairy commissioner or his authorized representative, except as to such powers and duties relating to health and sanitation, such powers and duties are hereby vested in and imposed upon the division of public health, and the provisions of the milk code and ordinance shall be deemed to apply to the state of Arizona.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 139

(House Bill No. 232)

AN ACT

RELATING TO TRAILERS; PROVIDING THAT FARM TRAILERS NEED NOT HAVE A CERTIFICATE OF TITLE OR BE REGISTERED; PROVIDING FOR ASSESSMENT THEREOF; PRESCRIBING A PENALTY; AND AMENDING SECTION 66-204, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-204, Arizona Code of 1939, is amended to read:

66-204. REGISTRATION OF MOTOR VEHICLES. (a) Every owner of a motor vehicle, trailer or semi-trailer, before the same is operated upon any highway in this state, shall apply to the vehicle division for a certificate of title thereto and the registration thereof.

(b) When an application, accompanied by the proper fee, has been made as herein required, such vehicle may be operated pending completion of the registration thereof, but during such period there shall be displayed, as evidence of said application, two "drive-out" number plates of a distinctive type, which shall be supplied by the county assessor, attached to the front and rear of the vehicle. At the expiration of fifteen days said plates shall be surrendered and regular license plates affixed. Any assessor issuing "drive-out" plates shall, on the day of the issuance thereof, notify the local peace officers and the nearest highway patrolman, and failure to do so shall constitute a misdemeanor. On the sixteenth day after the issuance of any such plates, if the same be not surrendered, any officer shall seize and impound said vehicle and hold it until the regular license plates are procured and placed thereon, and the owner of such vehicle shall be guilty of a misdemeanor, except that in the case of a foreign registration or other emergency, the division shall have the right to extend said time so as to allow time for clearance of title and registration.

(c) This section shall not apply to farm tractors, trailers used solely in the operation of a farm for transporting the unprocessed fiber or forage products thereof and not used to transport property or persons for hire,

road-rollers, or road machinery temporarily operating or moved upon the highway, nor to any owner permitted to operate a vehicle under special provision relating to lien holders, manufacturers, dealers, and nonresidents.

(d) A person owning or operating a trailer as described in subsection (c) shall so notify the county assessor, and it shall be the duty of the assessor to assess such trailer. The assessor shall furnish the owner with a metal tag or plate showing that the trailer has been duly assessed, which tag or plate shall be conspicuously displayed on the rear of the trailer. The cost of the tag or plate shall be borne by the owner of the trailer. Any person who violates a provision of this subsection is guilty of a misdemeanor.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 140

(House Bill No. 270)

AN ACT

RELATING TO PUBLIC HEALTH; DEFINING THE POWERS AND DUTIES OF THE HEALTH DEPARTMENT; CREATING THE POSITION OF COMMISSIONER OF PUBLIC HEALTH, PRESCRIBING HIS SELECTION, QUALIFICATIONS, TERM OF OFFICE, REMOVAL, AND PRESCRIBING POWERS AND DUTIES THEREFOR; DEFINING THE POWERS AND DUTIES OF THE STATE BOARD OF HEALTH AND AUTHORIZING THE PROMULGATION OF REGULATIONS IN CONNECTION THEREWITH; PRESCRIBING PENALTIES AND DECLARING CERTAIN ACTS TO BE PUBLIC NUISANCES AND PROVIDING FOR THE ABATEMENT OF THE SAME; AMENDING ARTICLE 1, CHAPTER 68 BY ADDING SECTIONS 68-108a AND 68-112a, AND AMENDING SECTIONS 68-107, 68-108, 68-109, 68-110, 68-111, 68-112, 68-114, 68-115a, 68-116, 68-119, 68-601, AND REPEALING SECTION 68-115b, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 68-107, Arizona Code of 1939, is amended to read:

68-107. DEFINITIONS. In this Act, unless the context otherwise requires:

1. "Department" means state department of health.

2. "Board" means state board of health.

3. "Commissioner" means commissioner of public health.

Sec. 2. Section 68-108, Arizona Code of 1939, is amended to read:

68-108. STATE DEPARTMENT OF HEALTH. The state department of health shall consist of the state board of health, the commissioner of public health, and the several divisions of the department. The department shall succeed to and is hereby vested with the duties and powers, purposes, responsibilities, and jurisdiction heretofore by law vested in and imposed upon the state board of health, the director or superintendent of public health, the state registrar of vital statistics, the supervisor of public health nursing, the state laboratory, the director of the state laboratory, the board of regents of the university of Arizona relating to the state laboratory and the director thereof.

Sec. 3. Article 1, chapter 68, Arizona Code of 1939, is amended by adding section 68-108a, to read:

68-108a. FUNCTIONS OF THE DEPARTMENT. The department shall, in addition to other powers and duties vested in it by this Act or by other law:

1. Protect the health of the people of the state of Arizona.

2. Promote the development, maintenance, efficiency, and effectiveness of local health departments or districts of sufficient population and of such area as can be sustained with reasonable economy and efficient administration; provide technical consultation and assistance to local health departments or districts; and provide financial assistance to local health departments or districts and services which meet minimum standards of personnel and performance as established by the board and in accordance with a plan and budget submitted by the local health department or districts to the department for approval; recommend the qualifications of all personnel;

3. Collect, preserve, tabulate, and interpret all information required by law in reference to births, deaths,

and all vital facts, and shall obtain, collect, and preserve such information relating to the health of the people of the state and to the prevention of diseases as may be useful in the discharge of the functions of the department not in conflict with the provisions of sections 68-602 to 68-630, inclusive, and section 34-138, Arizona Code of 1939;

4. Operate such sanatoria, hospitals, or other facilities as may be assigned to the department by law or action of the governor;

5. Conduct a state-wide program of health education, relevant to the powers and duties of the department; prepare educational materials and disseminate information as to conditions affecting health, including basic information for the promotion of good health on the part of individuals and communities; prepare and disseminate technical information concerning public health to the health professions, local health officials, and hospitals. In cooperation with the state department of public instruction, prepare and disseminate materials and render technical assistance for the purpose of the education of children in hygiene, sanitation, personal and public health; provide consultation and assistance in community organization to counties, communities, and groups of people;

6. Administer or supervise a program of public health nursing, prescribe the minimum qualifications of all public health nurses engaged in official public health work, and encourage and aid in coordinating local public health nursing services;

7. Encourage and aid in coordinating local programs concerning control of preventable diseases in accordance with state-wide plans which shall be formulated by the department;

8. Encourage and aid in coordinating local programs concerning maternal and child health, including midwifery, antepartum and postpartum care, infant and preschool health, the health of school children, including such special fields as the prevention of blindness, conservation of sight and hearing;

9. Encourage and aid in the coordination of local programs concerning the nutrition of the people of the state;

10. Encourage and aid in coordinating local programs concerning dental health, in cooperation with the Arizona dental association;

11. Establish and maintain adequate serological, bacteriological, parasitological, entomological, and chemical laboratories with such qualified assistance and such facilities as are necessary for routine examinations and analyses, and for investigations and research in matters affecting public health;

12. Supervise sanitary engineering facilities and projects within the state, authority for which is now or may hereafter be vested by law in the state department of health, and shall, in the exercise of such supervision, make and enforce regulations concerning plans or specifications, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, and of sewage systems and disposal plants for treatment of sewage, industrial wastes and other deleterious matter, gaseous, liquid, or solid, require all such plans or specifications to be first approved by it before any work thereunder shall be commenced, inspect all such projects during the progress thereof and enforce compliance with such approved plans and specifications;

13. Enforce the state food, drug, narcotic, caustic alkali or acid laws in accordance with sections 68-401 to 68-425, inclusive, 68-701 to 68-706, inclusive, and 68-801 to 68-838, inclusive, Arizona Code of 1939, and collaborate in the enforcement of the federal food, drug, and cosmetic Act;

14. Recruit and train personnel for state, local, and district health departments;

15. Conduct continual evaluation of state, local, and district public health programs; study and appraise state health problems and develop broad plans for use by the department and for recommendation to other agencies, professions, and local health departments for the best solution of these problems;

16. Conduct the state hospital survey and construction program, in accordance with the provisions of sections 68-131 to 68-144, inclusive, Arizona Code of 1939, and license hospitals according to sections 68-1301 to 68-1312, inclusive, Arizona Code of 1939;

17. License and supervise nursing homes according to sections 68-1601 to 68-1613, inclusive, Arizona Code of 1939;

18. Issue or direct the issuance of such licenses and permits as may be required by law;

19. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

Sec. 4. Section 68-109, Arizona Code of 1939, is amended to read:

68-109. DIVISIONS. The department shall include such divisions or other units as the commissioner, with the approval of the board, may establish. The commissioner shall prescribe the powers and duties of the several divisions, and shall appoint the directors thereof, subject to the approval of the board.

Sec. 5. Section 68-110, Arizona Code of 1939, is amended to read:

68-110. POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner shall:

1. Be the executive officer of the department and the state registrar of vital statistics but shall receive no compensation for his services as registrar;

2. Perform all duties necessary to carry out the functions and responsibilities of the department as provided in this Act or other Acts, except those specifically assigned to the board;

3. Subject to the approval of the board, prescribe the organization of the department. He shall, subject to the rules and regulations established by the board concerning employment, appoint or remove such personnel as he may consider necessary for the efficient work of the department. He shall prescribe the duties of all such personnel appointed and subject to the rules and regulations established by the board, fix their compensation within the limits of available appropriations. Subject to the rules and regulations and approval of the board, he may abolish any office or position in the department which, in his judgment, may be unnecessary to retain;

4. Administer and enforce the laws relating to health and sanitation and the rules of the department and regulations of the state board of health;

5. Provide for the examination of any premises if he has reasonable cause to believe that on the premises there exists a violation of any health law of the state or any regulation of the state board of health;

6. Exercise general supervision over all matters relating to sanitation and health throughout the state.

Whenever in the opinion of the commissioner it is necessary or advisable, a sanitary survey of the whole or of any part of the state shall be made. The commissioner may enter upon, examine and survey any source and means of water supply, sewage disposal plant, sewerage system, prison, public or private place of detention, asylum, hospital, school, public building, private institution, factory, workshop, tenement, public wash room, public rest room, public toilet and toilet facility, public eating room and restaurant, dairy, milk plant or food manufacturing or processing plant, and also any premises in which he has reason to believe there exists a violation of any health law of the state, and regulation of the state board of health, or any law which he has the duty of administering;

7. Prepare sanitary and public health regulations for consideration by the board and shall submit to said board recommendations for new legislation. The commissioner may sit at meetings of the board, but shall have no vote. The commissioner shall perform such other duties as may be prescribed by law or by the board.

(b) The commissioner may, if he has reasonable cause to believe that there exists any violation of any health law of the state or any regulation of the state board of health, which this Act sets forth or authorizes, make an inspection of any person or property in transportation through the state, and of any car, boat, train, trailer, airplane or other vehicle in which such person or property may be transported, and may enforce such detention or disinfection as may be reasonably necessary for the public health if there exists any violation of any such health law or regulation.

(c) Whenever in this act the commissioner is empowered to, or charged with the responsibility to do or perform any act, he may deputize, in writing, any qualified officer or employee in the department to do or perform the act in his place and stead.

Sec. 6. Section 68-111, Arizona Code of 1939, is amended to read:

68-111. POWERS AND DUTIES OF THE BOARD. (a) The board shall establish the general policies of the department, and shall:

1. Have no administrative or executive functions other than those set forth by law;

2. Advise the commissioner in the performance of his duties;

3. Meet quarterly and review the activities, budgets and expenditures of the department;

4. Recommend budgets and proposed legislation to the legislature;

5. Prescribe what are to be considered as recognized public health activities and minimum standards of performance in connection with the activities of the local health departments and districts or local health services in which the state participates through grants-in-aid or other financial assistance.

(b) In addition to its powers and duties otherwise provided in this Act, the board may:

1. Require from the commissioner such information concerning the work of the department as it may deem necessary;

2. Consider any matter relating to the preservation and improvement of public health, and may advise the commissioner thereon;

3. From time to time, submit to the commissioner any recommendations which it may deem necessary for the proper conduct of the department;

4. Study and investigate the public health needs and activities of the state and report its findings thereon to the governor and the legislature.

Sec. 7. Section 68-112, Arizona Code of 1939, is amended to read:

68-112. RULES AND REGULATIONS. (a) The board shall have the power, by affirmative vote of the majority of its full membership, to make such rules and amend the same as may from time to time be deemed necessary for the proper administration and enforcement of this Act. The board shall, by regulation:

1. Define and prescribe reasonably necessary measures for the detection, reporting, prevention and control of communicable and preventable diseases. Such regulations shall declare certain diseases to be reportable, such regulations shall further establish minimum periods of isolation or quarantine and shall prescribe such measures as may reasonably be required to prevent the occurrence of, or to seek early detection, and alleviation of disability, insofar as possible, from communicable or preventable diseases. Such regulations shall include rea-

sonably necessary measures to control animal diseases transmissible to man;

2. Define and prescribe reasonably necessary measures, in addition to those already prescribed by law, regarding the preparation, embalming, cremation, interment, disinterment, and transportation of dead human bodies and conduct of funerals, relating to and restricted to communicable diseases, and regarding the removal, transportation, cremation, interment or disinterment of any dead human body;

3. Define and prescribe reasonably necessary procedures not inconsistent with present laws in regard to the use and accessibility of vital records, to delayed birth registration and to the completion, change and amendment of vital records;

4. provide reasonable regulations necessary to assure that all food or drink sold or distributed for human consumption is free from unwholesome, poisonous, or other foreign substances and filth, insects or disease-causing organisms. Such regulations shall prescribe reasonably necessary measurements governing the production, processing, labeling, storing, handling, serving and transportation of food and drink including but not limited to milk and frozen desserts. Such regulations shall prescribe minimum standards for the sanitary facilities and conditions which shall be maintained in any plant, packing house, abattoir, dairy, warehouse, restaurant, or other premises, and any truck or other vehicle in which food or drink is produced, processed, stored, handled, served or transported. Such regulations shall provide for the inspection and licensing of such premises and vehicles used in this connection, and for the abatement as public nuisances of any such premises or vehicles which do not comply with such regulations and minimum standards;

5. provide reasonable regulations regarding domestic and industrial water supply production, treatment, and distribution necessary to assure that all water sold or distributed to the public or used in the production, processing, storing, handling, serving and transportation of food and drink is free from unwholesome, poisonous, deleterious, or other foreign substances and filth, or disease-causing organisms. Such regulations shall prescribe minimum standards for the sanitary facilities and conditions which shall be maintained by any domestic or industrial water supply sold or distributed to the public or used in the production, processing, storing, handling, serving and transportation of food and drink. Such regulations shall provide that the plans and specifications for

all public and semipublic water supply systems, water treatment plants, distribution systems, distribution system extensions, water treatment methods and devices, and all appurtenances and devices for sale to be used in water supplies and water supply systems be submitted for review to the state department of health. Such regulations shall provide that no such water supply system, water treatment plant, distribution system, distribution system extension, water treatment method or device, appurtenance and device used in water supplies or water supply systems be constructed, reconstructed, installed, or initiated before compliance with such standards and regulations has been demonstrated by approval of the plans and specifications by the state department of health. Such regulations shall prescribe minimum standards for the bacteriological, physical and chemical quality of water available to the public or used in the production, processing, storing, handling, serving and transportation of food or drink, and for the submission of samples at stated intervals. The regulations shall provide for the inspection and certification of all such water supplies, and for the abatement as public nuisances of any such premises, equipment, process or device, and any water supply system which does not comply with such minimum standards and regulations;

6. Provide reasonable regulations regarding the production, processing, labeling, handling, serving, and transportation of bottled water as are necessary to assure that all bottled drinking water distributed for human consumption is free from unwholesome, poisonous, deleterious or other foreign substances and filth or disease-causing organisms. Such regulations shall prescribe minimum standards for the sanitary facilities and conditions which shall be maintained at any source of water, bottling plant, and truck or vehicle in which bottled water is produced, processed, stored or transported, and shall provide for inspection and certification of all bottled drinking water sources, plants, processes and transportation, and for the abatement as public nuisances of any water supply, label, premises, equipment, processes or vehicles which do not comply with such minimum standards. Such regulations shall prescribe the minimum standards for bacteriological, physical and chemical quality for bottled water and for the submission of samples at such intervals as prescribed in such standards;

7. Provide reasonable regulations defining and prescribing necessary measures governing ice production, handling, storing and distribution to assure that all ice sold or distributed for human consumption or for the pre-

servation or storage of food for human consumption, is free from unwholesome, poisonous, deleterious or other foreign substances and filth, or disease-causing organisms. Such regulations shall prescribe minimum standards for the sanitary facilities and conditions and the quality of ice which shall be maintained at any ice plant, storage and truck or vehicle in which ice is produced, stored, handled or transported, and shall provide for the inspection and licensing of such premises and vehicles, and for the abatement as public nuisances of any such ice, premises, equipment, processes or vehicles which do not comply with such minimum standards;

8. Prescribe reasonable regulations with regard to sewage collection, treatment, disposal and reclamation systems to prevent sewage contamination or pollution of all underground and surface waters, and to prevent the transmission of sewage-borne or insect-borne diseases. Such regulations shall prescribe minimum standards for the design of sewage collection systems, treatment, disposal and reclamation systems and for the operation of the collection system, treatment, disposal and reclamation, and shall provide for the inspection of such premises, systems and installations and for the abatement as public nuisances of any such collection system, process, treatment plant, disposal system or reclamation system which does not comply with such minimum standards. Such regulations shall provide that the plans and specifications for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems and reclamation systems be submitted for review to the state department of health. Such regulations shall provide that no such sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system or reclamation system be constructed, reconstructed, installed or initiated before compliance with such standards and regulations has been demonstrated by the approval of the plans and specifications by the state department of health;

9. Provide reasonable regulations defining and providing for treatment of industrial wastes, disposal and reclamation in order to prevent industrial waste contamination or pollution of all underground and surface waters and to prevent the transmission of insect-borne diseases. Such regulations shall prescribe minimum standards for the design of collection, treatment, disposal and reclamation systems and the operation of industrial waste treatment processes, disposal and reclamation systems, and shall provide for the inspection of such premises and

installations, and for the abatement as public nuisances of any such treatment plant, process, disposal system or reclamation system which does not comply with such minimum standards. Such regulations shall provide that the plans and specifications for all industrial wastes treatment plants, processes, equipment, devices, disposal systems and reclamation systems be submitted for review to the state department of health. Such regulations shall provide that no such industrial waste treatment plant, process, equipment, device, disposal system or reclamation system be constructed, reconstructed, installed or initiated before compliance with such standards and regulations has been demonstrated by the approval of the plans and specifications by the state department of health; providing that such regulations shall not apply to waste rock, mill tailings, and smelter slag.

10. Define and prescribe reasonably necessary measures regarding excreta storage, handling, treatment, transportation and disposal. Such regulations shall prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for the abatement as public nuisances of any such premises, processes or vehicles which do not comply with such minimum standards. Such regulations shall provide that vehicles for transporting human excreta from privies, septic tanks, cesspools and other treatment processes be licensed as directed by the state department of health subject to compliance with such regulations;

11. Define and prescribe reasonably necessary measures regarding the storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure, and objectionable wastes. Such regulations shall prescribe minimum standards for the storage, collection, transportation, disposal and reclamation of such wastes and shall provide for the inspection of such premises, containers, processes, equipment and vehicles, and for the abatement as public nuisances of any such premises, containers, processes, equipment or vehicles which do not comply with such minimum standards;

12. Define and prescribe reasonably necessary measures, concerning the sewerage and excreta disposal, garbage and trash collection storage and disposal and water supply for recreational and summer camps, camp grounds, motels, tourist courts, trailer coach parks and hotels. Such regulations shall prescribe minimum standards for the preparation of food in community kitchens, adequacy of excreta disposal, garbage and trash collection, storage

and disposal, and water supply for recreational and summer camps, camp grounds, motels, tourist courts, trailer coach parks and hotels, and shall provide for the inspection of such premises and for the abatement as public nuisances of any such premises or facilities which do not comply with such regulations;

13. Define and prescribe reasonably necessary measures concerning the sewerage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation of all public and semipublic schools. Such regulations shall prescribe minimum standards for the sanitary conditions which shall be maintained in any public or semipublic school, and shall provide for the inspection of such premises and facilities and for the abatement as public nuisances of any such premises which do not comply with such minimum standards.

14. The board shall by regulation define and prescribe reasonably necessary measures regarding sewerage and excreta disposal, garbage and trash collection, storage and disposal, water supply and food preparation for all workshops and other places of employment. Such regulations shall prescribe minimum standards for sanitary conditions and facilities at all workshops and other places of employment, and shall provide for the inspection of such premises and for the abatement as public nuisances of any such premises and facilities which do not comply with minimum standards;

15. Provide reasonable regulations to prevent the pollution of water used in all public or semipublic swimming pools and bathing places and the prevention of deleterious health conditions at such places. Such regulations shall prescribe minimum standards for design of pools, for sanitary conditions which shall be maintained at any public or semipublic swimming pool or bathing place, and shall provide for the inspection of such premises and for the abatement as public nuisances of any such premises and facilities which do not comply with such minimum standards;

16. Define and prescribe reasonably necessary measures regarding minimum standards for the sanitary conditions and facilities which shall be maintained in any public or semipublic building, and shall provide for the inspection of such premises and for the abatement as public nuisances of any such premises and facilities which do not comply with such minimum standards;

17. Define and prescribe reasonably necessary measures regarding the water supply, sewage disposal, and

garbage collection and disposal for subdivisions. Such regulations shall provide minimum sanitary facilities to be installed in the subdivision. Such regulations shall provide that the plans and specifications showing or describing the water supply, sewage disposal and garbage collection facilities be submitted to the state department of health for review, and that no lots in any subdivision be offered for sale before compliance with such standards and regulations has been demonstrated by the approval of the plans and specifications by the state department of health;

18. Define and prescribe reasonably necessary sanitary measures concerning sewage collection, treatment and disposal, putrescible waste collection storage and disposal, rubbish, trash and manure collection, storage and disposal for all slaughter and meat packing houses, rendering works, and fertilizer manufacturing plants. Such regulations shall prescribe minimum standards for the sanitary conditions and facilities which shall be maintained at any such plant, and shall provide for the inspection of such premises and for the abatement as public nuisances of any such premises and facilities which do not comply with such minimum standards;

19. Prescribe reasonable regulations which shall define and prescribe reasonably necessary measures for the control and prevention of communicable diseases in day nurseries, day camps, and other such facilities for the group care of children. Such regulations shall establish only minimum standards for the sanitary facilities to be maintained for the food and drink preparation, storage and service.

(b) Regulations prescribed under the provisions of subsection (a) shall be promulgated in accordance with article 7, chapter 4, Arizona Code of 1939. Prior to the final adoption by the board of any regulation or amendment thereto or repeal thereof, the board shall hold a public hearing thereon for the purpose of gaining public acceptance of the regulation or amendment thereto or repeal thereof. The board shall cause one notice to be published in a newspaper of general circulation in the state, and one notice in at least one newspaper in each county, at least twenty days prior to such hearing, specifying the time when and the place where such hearing will be held, together with the text of the proposed regulation, amendment or repealer. Every regulation, or amendment thereto or repealer thereof shall state the date on which it takes effect.

(c) Copies of all regulations, and all amendments

thereto, and repealers thereof, shall be published in pamphlet form for distribution to local health officers and citizens. The commissioner shall furnish copies on request of the regulations and and their amendments certified by the chairman of the board and such certified copies shall be received in evidence in all court and other judicial proceedings in the state.

(d) The provisions of the regulations adopted by the board under the authority conferred by this Act shall be observed throughout the state and shall be enforced by each local board of health. Nothing herein contained, however, shall be deemed to limit the right of any local board of health, or county board of supervisors, to adopt such ordinances, rules and regulations, as authorized by law within its jurisdiction, provided that such ordinances, rules and regulations are not in conflict with the state law and are equal to or more restrictive than the provisions of the regulations of the state board of health.

(e) The powers and duties contained in section 68-111 shall not apply to the board wherever regulatory powers and duties relating to the public health have been vested by the legislature in any other state board, commission agency or instrumentality.

Sec. 8. Article 1, chapter 68, Arizona Code of 1939, is amended by adding section 68-112a, to read:

68-112a. PUBLIC NUISANCES. (a) Any and all of the following conditions are hereby specifically declared to be public nuisances dangerous to the public health:

1. Any condition or place in populous areas which constitutes a breeding place for flies, rodents, mosquitos and other insects which are capable of carrying and transmitting disease-causing organisms to any person or persons;

2. Any spoiled or contaminated food or drink intended for human consumption;

3. Any restaurant, food market, bakery or other place of business, or any vehicle where food is prepared, packed, processed, stored, transported, sold or served to the public which is not constantly maintained in a sanitary condition;

4. Any place, condition or building controlled or operated by any governmental agency, state or local, which is not maintained in a sanitary condition;

5. All sewage, human excreta, waste water, garbage or other organic wastes deposited, stored, discharged or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person or persons;

6. Any vehicle or container used in the transportation of garbage, human excreta or other organic material which is defective and allows leakage or spilling of contents;

7. The presence of ectoparasites (bedbugs, lice, mites, etc.) in any place where sleeping accommodations are offered to the public;

8. The maintenance of any overflowing septic tank or cesspool, the contents of which may be accessible to flies;

9. The pollution or contamination of any domestic waters;

10. The use of the so-called common drinking cup used for drinking purposes by more than one person, but this shall not apply to receptacles properly washed and sanitized after each service;

11. The presence of common towels for use of the public in any public or semipublic place unless properly washed and sanitized following each use;

12. Buildings or any parts thereof which are in a filthy condition which may endanger the health of persons living in the vicinity thereof;

13. Spitting or urinating upon sidewalks, or floors or walls of a public building or buildings used for public assemblage, or a building used for manufacturing or industrial purposes, or upon the floors or platforms or any part of any railroad or other public conveyance;

14. The use of the contents of privies, cesspools, septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the state department of health;

15. The maintenance of public assemblage or places of assemblage without providing adequate sanitary facilities, but open surface privies shall be deemed adequate sanitary facilities if they are outside populous areas and meet reasonable health requirements;

16. Hotels, tourist courts and other lodging establish-

ments that are not kept in a clean and sanitary condition, or for which suitable and adequate toilet facilities are not provided;

17. The storage, collection, transportation, disposal and reclamation of garbage, trash, rubbish, manure and other objectionable wastes other than as provided and authorized by law and regulation;

(b) Whenever the commissioner shall have reasonable cause to believe from information furnished him or from investigation made by him, that any person is maintaining a nuisance or engaging in any practice contrary to the health laws of this state or contrary to any provision of this Act or the regulations promulgated thereunder, he shall forthwith, serve such person by registered mail, a cease and desist order requiring such person to forthwith upon receipt of such notice, to cease and desist from such act. Within fifteen days after receipt of such cease and desist order, the accused person may request the board to hold a hearing. The board, as soon as practicable, shall hold a hearing, and in the event it determines the order is reasonable and just and that the practice engaged in is contrary to the health laws of the state or any provision of this Act or the regulations promulgated thereunder, the board shall order such person to comply with the cease and desist order.

(c) Upon the failure or refusal of such person to comply with the order of the board, or in the event such person does not request a hearing and fails or refuses to comply with the cease and desist order served by mail under the provisions of subsection (b), the commissioner may file an action in the superior court of the county in which such violation has occurred restraining and enjoining such person from engaging in such further acts. The court in such action shall proceed as in other actions for injunctions.

Sec. 9. Sec. 68-114, Arizona Code of 1939, is amended to read:

68-114. ANNUAL REPORT. The commissioner shall submit annually to the governor and to the president of the senate and the speaker of the house a copy of the annual report setting forth:

1. The condition of public health in the state;

2. The activities of the department during the preceding fiscal year;

3. The work done in each county;

4. The character and extent of all diseases reported;

5. The expenditures of the department and of each county or district health department;

6. Such recommendations as he may deem advisable for protection of the public health.

Sec. 10. Sec. 68-115a, Arizona Code of 1939, is amended to read:

68-115a. COMMISSIONER OF THE STATE DEPARTMENT OF PUBLIC HEALTH. (a) There shall be a commissioner of the state department of public health, to be appointed by the state board of health. The term shall not exceed five years. In case of vacancy resulting otherwise than from expiration of term, appointment shall be for the unexpired portion of the term. The commissioner may be removed only for cause, on written charges, and after a public hearing by the board. The salary of the commissioner shall be fixed by the board subject to legislative appropriation, not to exceed ten thousand dollars per annum.

(b) To be eligible for appointment to the office of commissioner of the state department of public health, a person must:

1. be a reputable physician holding a valid and existing license to practice medicine; 2. hold the degree of doctor of medicine from a medical school recognized by the council on medical education and hospitals of the American medical association.

(c) The commissioner shall have all the powers and duties heretofore vested in and imposed upon the director of the state department of public health. He shall devote his full time to the duties of the office, and shall not engage in the private practice of medicine or other occupation.

Sec. 11. Sec. 68-116, Arizona Code of 1939, is amended to read:

68-116. STATE BOARD OF HEALTH. (a) The state board of health shall consist of five members, who shall be appointed by the governor, with the advice and consent of the senate. One member shall be appointed for a term ending February 1, 1942, and one each for terms ending one, two, three, and four years thereafter and the governor shall be ex officio member of the board without voting privilege. Upon the expiration of any of said terms, a successor shall be appointed for a full term of five years. Appointment to fill a vacancy resulting

otherwise than from expiration of term shall be for the unexpired portion of the term only.

(b) Two members of the board shall be licensed practitioners of medicine and surgery, who have been engaged in the practice of medicine in the state and who have proven themselves vitally concerned with public health to be chosen from a list of five persons submitted by the Arizona medical association. One member of the board shall be a registered professional nurse with a public health background to be chosen from a list of three nurses submitted by the Arizona state nurses association. The other two members of the board shall be selected for their interest in public health, one of whom may be a lay person.

(c) Members of the board shall receive compensation at the rate of fifteen dollars per day when actively engaged in the business of the board and shall be reimbursed for necessary expenses incurred in the performance of their duties, in the amount provided by law.

Sec. 12. Sec. 68-119, Arizona Code of 1939, is amended to read:

68-119. PENALTY. Each violation of any provision of this Act, or any violation of a regulation adopted pursuant to this Act shall constitute a separate offense and shall be punishable by a fine of not less than twenty-five dollars nor more than two hundred dollars, or imprisonment in the county jail for not more than thirty days or both. In the instance of continuing violation, each day shall constitute a separate offense.

Sec. 13. Sec. 68-601, Arizona Code of 1939, is amended to read:

68-601. BUREAU OF VITAL STATISTICS; STATE REGISTRAR. The state board of health shall establish a state bureau of vital statistics, which shall have its offices in the capitol and shall have charge of the registration of births and deaths. The commissioner of public health shall be the registrar of vital statistics, with general supervision over the bureau.

Sec. 14. LIMITATION OF AUTHORITY. Nothing in this Act shall authorize the board, or any of its officers or representatives to impose on any person against his will any mode of treatment, provided that sanitary or preventive measures, and quarantine laws are complied with by any such person. Nothing in this Act shall authorize the board, or any of its officers or representatives, to impose on any person contrary to his religious concepts any mode of treatment, provided that sanitary or preventive

measures and quarantine laws are complied with by any such person.

Sec. 15. REPEAL. Sec. 68-115b, Arizona Code of 1939, is repealed.

Sec. 16. SEVERABILITY. If any part of this Act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, the remainder thereof shall not thereby be invalidated, impaired or affected.

Sec. 17. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 141

(House Bill No. 296)

AN ACT

RELATING TO AIRPORTS AND LANDING FIELDS, AND AMENDING SECTION 48-101, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 48-101, Arizona Code of 1939, is amended to read:

48-101. AIRPORTS AND LANDING FIELDS. The governing body of any city, village or town may acquire, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate airports or landing fields for the use of airplanes and other aircraft, within or without the limits of such municipality, and for any such purpose may use any property suitable therefor now owned or that may hereafter be acquired by such city, village or town. Any such governing body may also, by proper resolution, sell, lease and dispose of any airport or landing field acquired under this statute, and if made to the county in which the airport or landing field is located, to the state, or to the United States or any of its

agencies, it may be made without advertising and without the holding of a special election as prescribed by sections 16-801 and 16-802, Arizona Code of 1939, and for a nominal consideration.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety, it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 142

(House Bill No. 260)

AN ACT

RELATING TO THE ARIZONA CHILDREN'S COLONY; AND AMENDING SECTIONS 8-901, 8-905, 8-906, AND 8-911, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 8-901, Arizona Code of 1939, is amended to read:

8-901. DEFINITIONS. In this Act, unless the context otherwise requires:

1. "Colony" means the Arizona children's colony;

2. "board" means the Arizona children's colony board;

3. "superintendent" means the superintendent of the Arizona children's colony;

4. "indigent" means a minor child whose estate, parent, relative or guardian is unable to bear the full cost of maintaining said child at the colony.

Sec. 2. Section 8-905, Arizona Code of 1939, is amended to read:

8-905. HEARING. (a) Upon receipt of application for admission of an indigent, the board shall file the petition for admission with the superior court of the county in which the child resides. The superior court shall:

1. Set a time and place for hearing on the petition;

2. appoint two reputable physicians to examine and report to the court the mental status of the child and whether he is afflicted with or a carrier of a contagious or infectious disease;

3. appoint the sheriff of the county or a deputy thereof to determine the residence and amount of estate of the child, and

4. notify the parent, relative or guardian of the child, at least fifteen days prior thereto, of the date of hearing, at which hearing they shall appear and show cause why they should not bear either the full cost or a portion thereof of maintaining the child at the children's colony.

(b) In the event the court finds, upon hearing, that the child resides within the jurisdiction of the court, is not afflicted with or a carrier of a contagious or infectious disease, and that the allegations contained in the petition are true, it may order admission of the child to the colony, and shall determine the amount the child's estate, parent, relative or guardian shall pay for the maintenance of the child at the colony.

Sec. 3. Section 8-906, Arizona Code of 1939, is amended to read:

8-906. ORDER OF ADMISSION. (a) The order of admission shall include the name, residence and date of birth of the child, the nationality and address, insofar as may be ascertained, of his parents, the amount of his estate and the weekly amount the person liable for his support can pay for the maintenance of such child in the colony, as determined by the court at the hearing.

(b) A copy of the order shall be mailed to the board, and failure or refusal on the part of the person legally liable for total or partial support of the child at the colony to pay the amount specified in the court order shall be punishable as contempt of court.

Sec. 4. Section 8-911, Arizona Code of 1939, is amended to read:

8-911. LIABILITY FOR COSTS. (a) In the event it appears to the board, upon investigation of the petition for admission, that a child or its parent or guardian can pay for its maintenance, training and education in the colony, the board shall require payment quarterly, in advance, of a sum sufficient to maintain, train and educate the child. The cost of maintenance, training and educa-

tion of a dependent or indigent child shall be a charge against the county in which the child resides at the time of admission to the colony and the estate, parent or guardian of such child in the amounts determined by the court at the hearing provided for in section 8-905.

(b) Money for the support of an inmate of the colony shall be paid to the board, and by it turned over to the state treasurer.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 143

(House Bill No. 18)

AN ACT

RELATING TO PROFESSIONAL AND BUSINESS PURSUITS; PROVIDING FOR THE REGULATION OF THE PRACTICE OF OPTOMETRY, AND REPEALING ARTICLE 14, CHAPTER 67, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. SHORT TITLE. This Act may be cited as the optometry law.

Sec. 2. DEFINITIONS. In this Act, unless the context otherwise requires:

"Practice of optometry" means the examination and refraction of the human eye and its appendages; and the employment of any objective or subjective means or methods other than the use of drugs, medicine or surgery, for the purpose of determining any visual, muscular, neurological or anatomical anomalies of the eye; the use of any instrument or device to train the visual system or correct any abnormal condition of the eye or eyes; and the prescribing, fitting or employment of any lens, prism, frame or mountings for the correction or relief of or aid to the visual function;

"registered optometrist" means any person holding a certificate of registration to practice optometry in Arizona;

"certificate" means certificate of registration;

"board" means the state board of optometry.

Sec. 3. REGULATION OF PRACTICE OF OPTOMETRY. (a) No person shall engage or continue to engage in the practice of optometry in this state unless he has a certificate in good standing as provided in this Act.

(b) This Act shall not apply to physicians licensed to practice in this state, nor prohibit the sale of spectacles and eyeglasses as merchandise from a permanently established place of business.

(c) The provisions of subsections 9 and 10 of section 7 of this Act shall not apply to any person or corporation, who, at the date this Act becomes effective, is employing an optometrist, or has a profit-sharing plan or partnership with an optometrist.

Sec. 4. EXAMINATION. (a) A person over the age of twenty-one years, of good moral character, desiring to engage in the practice of optometry, shall file with the board, not less than thirty days prior to the date on which an examination is to be held, a verified application, accompanied by the required application fee, which shall show: 1. Applicant's name, age and address; 2. graduation from a high school giving a four year course accredited by the university of Arizona or an equivalent preliminary education, and 3. graduation from an accredited optometry school. In lieu of the evidence of education, applicant may furnish a certificate issued by an agency of another state or foreign country authorized to grant licenses to practice optometry, showing that the applicant has held such license therein for not less than five years and is an active practioner and furnish such additional evidence as the board may require concerning his knowledge of and ability to practice optometry.

(b) Applicants for a certificate shall be given a written examination on the following subjects only: Geometric optics, ocular anatomy, ocular pathology, theoretical and practical optics, theoretical and practical optometry, hygiene, psychology, optical laboratory and clinical work, visual training or orthoptics, contact lenses, and general anatomy, psysiology, mathematics as related to optometry, physics and optics. A grade of not less than seventy-five per cent in each subject is required to successfully complete the examination.

(c) Examinations shall be held at least once each year at the Capitol, and at such other times and places

as the board may designate. Notice of examination shall be given not less than sixty days prior to the date thereof. If an applicant is unable to take the examination and notifies the board prior to the date fixed thereof, the board shall refund to the applicant the application fee.

(d) All applicants who satisfactorily pass the examination shall thereupon be registered in the board's register of optometry, and a certificate of registration shall be issued to each one under the seal and signature of the members of the board upon the payment of the issuance fee. The certificate shall continue in force until the first day of July in the year next succeeding.

Sec. 5. REGISTRATION. (a) The board shall issue, without examination and without payment of the registration fee, a certificate effective until July 1 next succeeding the effective date of this Act to optometrists now holding valid certificates.

(b) A holder of a certificate shall notify the board in writing of the place where he is practicing or intends to begin practice, and of any subsequent change of his office location, including temporary visit and practice. Any notice required to be given by the board to any registered optometrist may be given by the United States mail to this address.

(c) A holder of a certificate shall, before beginning practice in any location, file his certificate or a certified copy thereof for record with the county recorder of each county in which he intends to practice. It shall be unlawful to engage in the practice of optometry in any county, including temporary visitant practice away from the registrant's regular office, until the certificate has been recorded.

(d) Any registered optometrist who temporarily practices optometry outside or away from his regular registered place of practice shall deliver to each patient there fitted or supplied with glasses, a receipt which shall contain his signature and show: 1. His permanent registered place of practice; 2. the number of his certificate.

Sec. 6. RENEWAL OF CERTIFICATE. A certificate shall remain in effect until the first day of July in the year next succeeding the date the certificate is issued, unless sooner suspended or revoked. Upon payment of the renewal fee, the certificate shall be renewed by the board each year thereafter for an additional one year period. On the written application of the holder the board shall renew a lapsed certificate upon the payment of all

unpaid renewal fees, plus a penalty to be fixed by the board, not to exceed twenty-five dollars. Failure to pay the renewal fee on or before June 30 of any year shall void the certificate.

Sec. 7. REVOCATION OF CERTIFICATE. After notice and hearing the board in its discretion may suspend or revoke the certificate of a registered optometrist for any of the following reasons: 1. Conviction of an offense involving moral turpitude; 2. obtaining a certificate by fraud or deceit; 3. conduct likely to deceive or defraud the public; 4. employment of a solicitor to solicit business, or soliciting from house to house or person to person; 5. obtaining a fee or compensation by fraud or misrepresentation; 6. employment of a person to engage in the practice of optometry who does not hold a certificate to practice optometry; 7. habitual drunkenness or addiction to the use of narcotic drugs; 8. having a contagious or infectious disease; 9. using any device to evade or defeat the provisions of this Act, such as profit-sharing plan, partnership with an optometrist not registered in Arizona; 10. violation of any provision of this Act; 11. the practice of optometry under a false or assumed name.

Sec. 8. NOTICE AND HEARING. The board shall hold a public hearing for the purpose of determining if it should in its discretion suspend or revoke a certificate. Ten days prior notice of such hearing shall be given by the board to such certificate holder. The board may compel the attendance of witnesses at the hearing, and the accused may appear in person or by another and present evidence in his own behalf. The board shall keep a record of the testimony presented, and serve a copy of its findings and orders entered on the accused.

(a) Except upon conviction of an offense involving moral turpitude or when the certificate was obtained by fraud or deceit the revocation or suspension may be set aside by the board within six months from the date thereof, upon proof, to the satisfaction of the board, that the cause therefor no longer exists, or that the applicant has been sufficiently punished.

(b) The decision of the board shall be final in any matter relating to the issuance, renewal, suspension, or revocation of a license, unless the person aggrieved, within thirty days after the date of the decision, files an appeal with the superior court, and serves a copy of such appeal on the secretary of the board. In such appeal, the court shall hear and determine the mater de novo, not more than twenty days after the date of filing the appeal.

Sec. 9. FEES. The following fees shall be paid to the board:

1. For filing an application for examination, twenty-five dollars.

2. Registration fee, ten dollars.

3. Renewal of certificate to practice optometry, ten dollars.

Sec. 10. BOARD OF OPTOMETRY. (a) The board of optometry is hereby created to be composed of three members. The present members of the state board of optometry, existing under the provisions of section der said section 67-1402, Arizona Code of 1939. Therebers of the board of optometry created hereunder until the date his respective present term of office expires under said section 67-1402, Arizona Code of 1939. Thereafter, the members shall be appointed by the governor, with the advice and consent of the senate, for a term of four years. Each member shall have been engaged in the actual practice of optometry in Arizona at least three years immediately prior to appointment. The governor may remove any member for neglect of duty, incompetency, improper or unprofessional conduct, or when his certificate has been revoked or suspended. Appointment to fill a vacancy caused other than by expiration of term shall be for the unexpired portion of the term.

(b) Members of the board shall receive fifteen dollars plus expenses for each day actually spent in the performance of their duties and mileage as prescribed for state officers.

(c) The board shall annually elect from among its membership a president and a secretary-treasurer, and in its discretion may appoint a person not holding a certificate to assist in the performance of the duties of the secretary-treasurer.

(d) The secretary-treasurer before entering upon the discharge of his duties shall give bond to the state in the sum of one thousand dollars, conditioned upon the faithful performance of his duties, and shall account for all fees and moneys received on behalf of the board, and keep the accounts and records of the board and of all the proceedings of the board. All money received by the board shall be paid to the state treasurer monthly. The treasurer shall deposit ten per cent thereof in the general fund and ninety per cent in the board of optometry fund for the payment of salaries and other expenses of the board when appropriated for such purposes.

Sec. 11. POWERS AND DUTIES. (a) The board shall make rules for the performance of its duties under this Act and for the examination of applicants for certificates, and shall adopt and use a seal, administer oaths and take testimony concerning any matter within its jurisdiction.

(b) The board shall meet at least once each year at the Capitol and at such other times and places as its president or the governor may designate by call. The board shall keep a record of its acts, receipts and disbursements, and of examinations held, with the names and addresses of the applicants and the results thereof, the names of all persons to whom certificates have been issued, date of issuance, and all renewals, which records shall be public.

(c) The board shall accredit schools of optometry giving standard courses in optometry, with a minimum of three thousand hours instruction covering a period of three years, with eighty per cent of actual attendance by students. An accredited school shall teach all of the subjects on which applicants for a certificate are required to be examined by this Act.

(d) The board may hire investigators to assist in the investigation of violations of this Act, and such other employees as may be required to enforce the provisions thereof and of such rules and regulations as the board may promulgate to carry out the Act's purposes.

(e) Not later than December 31 of each year the board shall transmit to the governor a written report of its actions and proceedings. The report shall be verified by the secretary-treasurer, and shall include a detailed statement of the receipts and disbursements for the preceding year.

Sec. 12. PENALTY. (a) Any person who practices or attempts to practice optometry without at the time having a valid recorded certificate of registration therefor, or who files or attempts to file for record a certificate of registration issued to another, claiming to be the person entitled thereto, is guilty of a misdemeanor, and for the first conviction shall be fined not less than one hundred nor more than three hundred dollars or imprisoned in the county jail not less than one nor more than six months, or both. Any person convicted of a subsequent misdemeanor pursuant to this section shall be fined not less than two hundred fifty nor more than five hundred dollars or imprisoned in the county jail not less than six months nor more than one year, or both.

(b) The attorney general, a county attorney, the state board of examiners in optometry, or any citizen of a county where any person shall engage in the practice of optometry defined in this Act, without having first obtained a license so to do, or whose license has been regularly issued and for cause has been suspended or revoked, may, in accordance with the laws governing injunctions, maintain in the name of the state an action in the county in which the offense is committed to enjoin such person from so engaging until a license therefor be secured or restored. Any person so enjoined who violates the injunction shall be punished as for contempt of court. Such injunction shall not relieve a person practicing optometry without a license from criminal prosecution, but shall be in addition to any remedy provided for the criminal prosecution of the offender. In charging any person, in a complaint for injunction, or in an affidavit information or indictment, with a violation of this Act by practicing optometry without a license, it shall be sufficient to charge that he did upon a certain day and in a certain county engage in the practice of optometry, he not having a valid license so to do, without averring any further or more particular facts concerning the same.

Sec. 13. REPEAL. Article 14, chapter 67, Arizona Code of 1939, is repealed. This section does not negative an implied repeal of any statute which conflicts with this Act.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 144

(House Bill No. 332)

AN ACT

RELATING TO STATE AGENCIES; REQUIRING THE PREPARATION OF ANNUAL REPORTS, AND AMENDING SECTION 13-119, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona

Section 1. Sec. 13-119, Arizona Code of 1939, is amended to read:

13-119. OFFICIAL REPORTS. (a) Any and all state or county officers, boards, commissions or agencies which are by law required to prepare, make or publish annual reports of financial condition or operations, excepting the Arizona industrial commission, shall notwithstanding any provision of law to the contrary, prepare, make or publish such reports within ninety days after the close of each fiscal year, and such reports shall disclose with respect to such fiscal year, rather than the calendar year, all matters and things required by law.

(b) All such state boards, commissions or agencies shall send copies of their annual reports to the secretary of state and the department of library and archives.

(c) The administrative head of a state board, commission or agency who fails to comply with any provision of this Act shall have all compensation which he receives from public funds withheld until such time as such officer shall have complied with the provisions of this Act.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 145

(House Bill No. 361)

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR NOMINATION OF SUPERIOR COURT JUDGES BY DIVISIONS AND SUPREME COURT JUDGES BY TERMS; AND AMENDING ARTICLE 10, CHAPTER 55, ARIZONA CODE OF 1939, BY ADDING SECTIONS 55-1002a, 55-1002b AND 55-1002c, AND PROVIDING FOR SEVERABILITY AND DECLARING AN EMERGENCY.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 10, chapter 55, Arizona Code of 1939, is amended by adding section 55-1002a, to read:

55-1002a. SUPERIOR COURT — DECLARATION BY DIVISIONS. In any election at which two or more judges of the superior court are to be voted for or elected

for the same term, it shall be deemed that there are as many separate offices to be filled as there are judges of the superior court to be elected. Each separate office shall be designated by the distinguishing number of the division of the court occupied on April 30 preceding the primary by the respective judges whose terms shall expire after the general election and on or before the first Monday in January next succeeding such election. The expiration of the term of an incumbent of a division of the superior court created subsequent to April 30 and prior to sixty days before the primary election date in an election year, shall be designated by the division number assigned to it at the time of its creation. The designation shall remain the same for all purposes of both the primary and general election and shall be used on all nominating petitions, nomination papers, ballots, certificates of election, and all election papers referring to the office. After election and the issuance of the certificate of election, the designating number shall have no further significance.

Sec. 2. Article 10, chapter 55, Arizona Code of 1939, is amended by adding section 55-1002b, to read:

55-1002b. SUPREME COURT — DECLARATION BY TERMS. In any election at which two or more judges of the supreme court are to be voted for or elected for the same length of term, it shall be deemed that there are as many separate offices to be filled as there are judges of the supreme court to be elected. Each office shall be designated by a distinguishing number, as "term number one expiring the first Monday in January, 19—". The court shall, on or before April 30 of each election year, designate the members of the court who hold such terms of office which expire in January next following such election year. The designation shall remain the same for all purposes of both the primary and general election and shall be used on all nominating petitions, nomination papers, ballots, certificates of election, and all election papers referring to the office. After election and the issuance of the certificate of election, the designating number shall have no further significance.

Sec. 3. Article 10, chapter 55, Arizona Code of 1939, is amended by adding Section 55-1002c, to read:

Sec. 55-1002c. FORM AND FILING OF PETITION. Any nominating petition for a candidate for judge of the superior court or judge of the supreme court to be voted on at any election held after the effective date of this Act shall be prepared and filed in accordance with the provisions of this Act; any petition filed by a candidate

for any such court which does not comply with the provisions of this Act shall have no force nor effect at any such election.

Sec. 4. SEVERABILITY. If any provision of this Act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable.

Sec. 5. EMERGENCY. To preserve the public peace, health and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 146

(House Bill No. 368)

AN ACT

REALLOCATING FUNDS AND ENLARGING PURPOSES OF APPROPRIATIONS MADE AVAILABLE FOR CAPITOL BUILDING CONSTRUCTION, AND AMENDING SECTION 2, CHAPTER 107, LAWS OF 1952, SECOND REGULAR SESSION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. REALLOCATION OF FUNDS. The sum of one million five hundred thousand dollars appropriated to the governor under the provisions of subdivision 6, section 1, chapter 1, Laws of 1951, first special session, is unconditionally transferred to and shall be added to the sum of three million dollars appropriated under the terms of section 1, chapter 107, Laws of 1952, second regular session.

Sec. 2. Section 2, chapter 107, Laws of 1952, second regular session, is amended to read:

2. PURPOSE. (a) Of the total sum of four million five hundred thousand dollars, being the sum of three million dollars appropriated under the provisions of sec-

tion 1, chapter 107, Laws of 1952, second regular session together with the one million five hundred thousand dollars transferred under the provisions of section 1 of this Act, the sum of not to exceed four hundred fifty thousand dollars is made immediately available for the purpose of employing the services of necessary architects and engineers to prepare plans and estimates for the construction of new Capitol buildings or additions to existing Capitol buildings on the present site of the state Capitol building and for alteration or remodeling of existing Capitol buildings.

(b) The remainder of the four million five hundred thousand dollars not authorized for immediate expenditure under the provisions of subsection (a), together with all unexpended and unencumbered balances remaining, after the completion of the plans and estimates, of the four hundred fifty thousand dollars made immediately available, shall not revert to the general fund, but shall become available upon the approval by the legislature of the plans and estimates prepared under the provisions of subsection (a) and under such terms and conditions as the legislature may prescribe.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor — April 12, 1954.

Filed in the Office of the Secretary of State — April 12, 1954.

CHAPTER 147

(House Bill No. 236)

AN ACT

RELATING TO EDUCATION; PROVIDING PURPOSES FOR WHICH SCHOOL MONEY MAY BE USED; PROVIDING FOR SCHOOL DISTRICT BUDGETS; AND AMENDING SECTIONS 54-431 AND 54-603, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 54-431, Arizona Code of 1939, is amended to read:

54-431. PURPOSES FOR WHICH SCHOOL MONEY MAY BE USED. Board of trustees shall use the school money received from the state and county school apportionment exclusively for the payment of salaries of teachers and other employees, and contingent expenses of the district. All warrants registered after January 1, 1936, drawn on the county treasurer against the school fund of the district by the county school superintendent upon the order of the board of trustees, shall be entitled to preference of payment out of the school fund according to priority of registration. If a balance remains in the school fund of a district at the close of a fiscal year, such balance shall be used for the reduction of school district taxes for the ensuing fiscal year.

Sec. 2. Section 54-603, Arizona Code of 1939, as amended, is amended to read:

54-603. SCHOOL DISTRICT BUDGETS. Not later than July 3rd of each year the board of trustees of each common or high school district shall prepare and furnish to the county school superintendent and the state superintendent of public instruction a proposed budget for the current fiscal year, which shall contain the information and be in form as follows:

_____
(Name and No. of District)

PROPOSED SCHOOL DISTRICT BUDGET

for the fiscal year 19..... to 19.....

PURPOSE	No. of Employees Present Fiscal Year	No. of Employees Past Fiscal Year	Adopted Budget Past Fiscal Year	Actual Expenditures Past Fiscal Year	Proposed Budget Present Fiscal Year
OPERATING EXPENSE					
I. ADMINISTRATION					
Salaries					
Clerk and Employees of School Board	( )	( )			
Superintendent	( )	( )			
Asst. Superintendent	( )	( )			
Other Admn. Officers	( )	( )			

Attendance Officers	( )	( )			
Health Service	( )	( )			
Secretarial & Clerical Assistants	( )	( )			
Supplies and Expense					
School Board					
Superintendent's Office			_____	_____	_____
Total			_____	_____	_____

II. INSTRUCTION

Salaries					
Principals	( )	( )			
Supervisors of Instruction	( )	( )			
Guidance & Psychological Personnel	( )	( )			
Class Room Teachers	( )	( )			
Other Instructional Personnel	( )	( )			
Librarians	( )	( )			
Secretarial & Clerical Assistants	( )	( )			
Supplies and Expense					
Teaching Supplies					
Textbooks					
Library Books					
Principals' Office					
Other			_____	_____	_____
Total			_____	_____	_____

III. OPERATION OF SCHOOL PLANT

Wages & Salaries					
Janitorial Employees	( )	( )			
Supplies and Expense					
Utilities					
Supplies					
Other			_____	_____	_____
Total			_____	_____	_____

IV. MAINTENANCE OF SCHOOL PLANT

Wages & Salaries					
Maintenance Employees	( )	( )			
Materials, supplies & expense					
Contracts			_____	_____	_____
Total			_____	_____	_____

V. AUXILIARY AGENCIES					
Health Service Expense					
Attendance Service Expense					
Transportation	( )	( )			
Lunch Program	( )	( )			
Other	( )	( )	_____	_____	_____
Total			_____	_____	_____
VI. FIXED CHARGES					
Rent					
Insurance Premiums					
Industrial Compensation Premiums					
O.A.S.I. Contributions					
Interest on Registered Warrants					
Other			_____	_____	_____
Total			_____	_____	_____
TOTAL OPERATING EXPENSE			_____	_____	_____

PER CAPITA EXPENDITURE AND BUDGET CHECK

1. Total operating expense "Adopted Budget past fiscal year"	$_____	
2. Total estimated number of students in average daily attendance for the "past fiscal year" upon which the budget for "past fiscal year" was based	_____	
3. Budgeted per capita expenditure for the "past fiscal year" (Item 1 ÷ Item 2)		$_____
4. Total budgeted operating expense "present fiscal year"		$_____
5. Estimated number of students in average daily attendance for the "present fiscal year"		_____
6. Budgeted per capita expenditure for the "present fiscal year" (Item 4 ÷ Item 5)		$_____
7. Decrease in budgeted per capita expenditure for the "present fiscal year" from adopted budget "past fiscal year"		$_____

8. Increase in budgeted per capita expenditure for the "present fiscal year" over adopted budget "past fiscal year" $____

SUPPLEMENTAL PER CAPITA INFORMATION

A. Total number of students in average daily attendance for the highest month in the "past fiscal year" _____

B. Number of students in average daily attendance for the highest month in the "past fiscal year" _____

C. State average budgeted per capita expenditure during the previous fiscal year _____

D. County average budgeted per capita expenditure during the previous fiscal year _____

CAPITAL OUTLAY

I. Furniture & Equipment	____	____	____
II. Transportation Equipment	____	____	____
III. Additions, alterations & improvements			
a. Salaries & Wages	____	____	____
b. Materials	____	____	____
c. Contracts	____	____	____
TotalCapitalOutlay	____	____	____
Tuition to other School Districts	____	____	____
GRAND TOTAL INCLUDING CAPITAL OUTLAY	____	____	____

SPECIAL LEVIES AND BOND SERVICE

I. Special District levy for improvement of adjacent public ways	____	____	____
II. Special district levy for building fund (Not to exceed 10¢ on $100 valuation)	____	____	____
Special Levy for Expenditures Authorized pursuant to section 54-608	____	____	____
III. Bonded indebtedness	____	____	____
Interest	____	____	____
Redemption	____	____	____
Total	____	____	____

The board of trustees shall establish and set forth in the proposed budget the per capita expenditure per school child, which shall be the "total operating expense" proposed therein for the present fiscal year divided by the estimated number of students in average daily attendance within the district for the present fiscal year, including students not eligible for state aid. Average daily attendance as used herein for the purpose of determining per capita expenditure shall be computed according to the provisions of subsection (c) of section 54-602, Arizona Code of 1939, as amended, except that if any school district provides kindergarten facilities, those students in attendance in kindergarten for a minimum period of 180 minutes per school day shall be included in computing average daily attendance. For the purpose of determining the per capita expenditure per school child for the year ending June 30, 1954, the sum of the items herein classified as operating expense which were contained in the budget actually adopted for the year ending June 30, 1954, shall be divided by the average daily attendance of all pupils attending public schools within the district during the year ending June 30, 1954.

The county school superintendent shall prepare a notice fixing a time not later than July 15th and a public place within each district when a meeting will be held at which the board of trustees will present the proposed budget for the consideration of the residents and taxpayers of the district. The board of trustees of each district, at least five days prior to such meeting, shall publish a copy of such notice with a copy of such proposed budget one time in a newspaper of general circulation within the school district, but if no such newspaper is published therein, publication shall be made in a newspaper of the nearest district within the county. The cost of such publication shall be a proper charge against the school district. The publisher's affidavit of such publication shall be filed by the board of trustees with the state superintendent of public instruction within thirty days thereafter. At the time and place fixed in the notice the members of the board of trustees shall hold the meeting and present the proposed budget to the residents and taxpayers attending such meeting. Upon request of any person, the board of trustees shall explain the budget and any resident or taxpayer may protest the inclusion of any item. Thereafter the board of trustees shall adopt the budget, making such deductions therefrom as it may see fit, but no additions thereto, and shall enter the budget as adopted in its minutes. Not later than the third Monday of July the budget as finally adopted shall be filed by the board of trustees in triplicate with the

county school superintendent, who shall immediately transmit a copy of such budget to the board of supervisors of the county and a copy to the state superintendent of public instruction. Pending the final adoption of such budget, a district may expend not to exceed five per cent of such proposed budget. No expenditure shall be made for a purpose not particularly itemized and included in such budget, and no expenditure shall be made, and no debt, obligation or liability shall be incurred or created in any year for any purpose itemized in such budget in excess of the amount specified for such item, irrespective of whether the district at any time has received or has on hand funds in excess of those required to meet the expenditures, debts, obligations and liabilities provided for under such budget, except under the following conditions:

(a) Whenever the actual average daily attendance as reflected by the first four months of the school term exceeds the estimated average daily attendance for the present fiscal year the board of trustees may petition the board of supervisors of the county to increase the budget and the board of supervisors may permit the district to increase its expenditures in the manner provided by subsection (b) of section 54-608, Arizona Code of 1939, as amended, and the established budget shall be revised to reflect such authorized increase, but in no event shall the increase in the budget exceed the same proportion that the actual average daily attendance exceeds the estimated average daily attendance used for the purpose of establishing the adopted budget. The budget so revised shall be deemed to be the adopted budget for the purposes of computing the budgeted per capita expenditure for the subsequent fiscal year.

(b) When damage or destruction to school facilities shall necessitate expenditures in excess of the adopted budget for the current fiscal year, such expenditures may be made if approved by the board of supervisors as provided in subsection (b) of section 54-608, Arizona Code of 1939, as amended, provided, however, that the amount of any increase allowed under this subsection shall not be added to the total of the operating expense in the adopted budget for the purpose of revising the budgeted per capita expenditure per school child for the year in which such increase is allowed.

(c) Whenever a new school district is created pursuant to the provisions of section 54-402, Arizona Code of 1939, as amended, the trustees shall adopt a budget in the form hereinabove provided which will provide funds sufficient for the operation of the district during its first

year, but thereafter such district shall be subject to the provisions of this Act.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety, it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 148

(Senate Bill No. 134)

AN ACT

RELATING TO FRAUD AND FALSE DEALING; MAKING UNLAWFUL DEALING WITH LIVERY STABLE OR GARAGE OWNER WITH INTENT TO DEFRAUD, AND AMENDING ARTICLE 26, CHAPTER 43, ARIZONA CODE OF 1939, BY ADDING SECTION 43-2612a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 26, chapter 43, Arizona Code of 1939, is amended by adding section 43-2612a, to read:

43-2612a. DEFRAUDING LIVERY STABLE OR GARAGE OWNER. Whoever, with intent to defraud an owner or keeper of a livery stable or garage, hires from such owner a horse, mare, stallion, filly, gelding, pony, mule, or hack, carriage, buggy, surrey, wagon, sleigh or sled, bicycle, motor vehicle or trailer, is guilty of a misdemeanor punishable upon conviction by imprisonment in a county jail not exceeding six months, or by a fine not exceeding three hundreds dollars,or by both such fine and imprisonment. Evidence of refusal to pay the hire thereof or absconding without paying or offering to pay it shall be admitted in proof of fraudulent intent. The owner or keeper of a livery stable or garage shall keep a copy of this law printed in large, easily read English type posted in a prominent place in his livery stable or garage and no conviction may be had under this section unless such copy is so displayed.

Approved by the Governor—April 12, 1954.

Filed in the Office of the Secretary of State—April 12, 1954.

CHAPTER 149

(House Bill No. 282)

AN ACT

RELATING TO EDUCATION; PROVIDING FOR A COUNTY SCHOOL FUND; AND AMENDING ARTICLE 6, CHAPTER 54, ARIZONA CODE OF 1939, BY ADDING SECTION 54-608a.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Article 6, chapter 54, Arizona Code of 1939, is amended by adding section 54-608a, to read:

54-608a. COUNTY SCHOOL FUND. The county school fund of each county shall consist of all revenues accruing to the credit of each county from:

1. State aid apportionment as provided in section 54-601 (a);

2. county aid apportionment as provided in section 54-601 (a);

3. that portion of the auto lieu tax designated for school purposes under the provisions of section 66-901;

4. that portion of the tax on dogs designated for school purposes under the provisions of section 17-1607 (c);

5. that portion of the payments made under section 16-1628 which represents payment in lieu of the county levy for school purposes;

6. that portion of the forest reserve fees designated for school purposes under the provisions of section 10-306;

7. that portion of any excess funds or revenues transferred under the provisions of section 54-614;

8. that portion of the penalties designated for school purposes under the provisions of section 17-1608;

9. Taylor grazing act money as provided in section 11-308;

10. all receipts from the lease of public lands as provided in section 11-309;

11. all balances remaining in the county school fund and in the special county school reserve fund at the end

of the fiscal year and all balances of lapsed districts remaining after the payments authorized under section 54-610;

12. all dividends, proceeds from sales, refunds, credits arising from cancelled warrants and any other sums or amounts that are attributable to the county school fund;

13. all other federal lieu taxes which are not specifically allocated by law;

14. any gratuity, devise or bequest designated for specific school purposes.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 150

(House Bill No. 302)

AN ACT

RELATING TO THE MOTOR VEHICLE LICENSE TAX, AND AMENDING SECTION 66-901, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 66-901, Arizona Code of 1939, is amended to read:

66-901. DISTRIBUTION OF VEHICLE LICENSE TAX. (a) The license tax upon vehicles operated upon the highways, imposed by section 11, article 9, constitution of Arizona (as amended by a majority vote of the qualified electors voting thereon at the general election held November 5, 1940), shall be collected by the county assessor and promptly deposited with the county treasurer of the county in which the vehicle is registered.

(b) Except as provided in section 66-902, the county

treasurer, not later than the fifteenth day of each month, shall distribute the moneys deposited with him pursuant to subsection (a) during the preceding calendar month as follows:

1. In a county containing no incorporated city or town; 1a. twenty-five per cent to the state treasurer, to be placed in the general fund of the state; 1b. thirty-seven and one-half per cent to the general fund of the county; and, 1c. thirty-seven and one-half per cent to the board of supervisors, to be placed in the county school fund.

2. In a county containing one or more incorporated cities or towns; 2a. twenty-five per cent to the state treasurer, to be placed in the general fund of the state; 2b. twenty-five per cent to the general fund of the county; 2c. twenty-five per cent to the board of supervisors, to be placed in the county school fund; and, 2d. twenty-five per cent to the several incorporated cities and towns of the county, apportioned in proportion to the population of each, as shown by the most recent United States census. Provided, however, that if any incorporated city or town shall not have a federal enumeration, the supervisors shall appoint a census taker to take an accurate census of the said incorporated city or town, and the supervisors shall certify the results to the county treasurer. Whereupon the said incorporated city or town shall share in the distribution as provided herein.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 151

(Senate Bill No. 133)

AN ACT

RELATING TO MUNICIPAL PRIVILEGE TAXES OF MUNICIPALITIES OF LESS THAN THIRTY THOUSAND POPULATION, AND PROVIDING FOR THE ALLOCATION, TRANSFER AND DISTRIBUTION OF THE PROCEEDS THEREOF.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. ALLOCATION OF MUNICIPAL PRIVILEGE TAXES. Notwithstanding the provisions of sections 73-503 and 73-505, Arizona Code of 1939, the council of any municipality having a population of less than thirty thousand based on the 1950 United States de-

cennial census, which has imposed and levied a municipal privilege tax, commonly known as a sales tax, may by resolution allocate, distribute and transfer all or a portion of the proceeds of such tax to the public works reserve fund or any fund set aside or established for the payment of principal and interest on any bonded indebtedness of the municipality.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 152

(Senate Bill No. 23)

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA FOR CAPITAL OUTLAY AT THE UNIVERSITY OF ARIZONA, INCLUDING FURNISHINGS, EQUIPMENT AND SERVICES IN CONNECTION THEREWITH.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of nine hundred thousand dollars ($900,000.00) is appropriated to the board of regents of the university and state colleges of Arizona.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for capital outlay at the university of Arizona, including furnishings, equipment and services in connection therewith, to be available July 1, 1954.

Sec. 3. LAPSING OF APPROPRIATIONS; QUARTERLY ALLOTMENTS. The appropriation made under the provisions of this Act shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations, respectively.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 153

(Senate Bill No. 24)

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA FOR CAPITAL OUTLAY AT THE ARIZONA STATE COLLEGE AT FLAGSTAFF, INCLUDING FURNISHINGS, EQUIPMENT AND SERVICES IN CONNECTION THEREWITH.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of three hundred fifty thousand dollars ($350,000.00) is appropriated to the board of regents of the university and state colleges of Arizona.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for capital outlay, including furnishings, equipment and services in connection therewith, at the Arizona state college at Flagstaff to be available July 1, 1954.

Sec. 3. LAPSING OF APPROPRIATIONS; QUARTERLY ALLOTMENTS. The appropriation made under the provisions of this Act shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations, respectively.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 154

(Senate Bill No. 25)

AN ACT

MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES OF ARIZONA FOR THE PURCHASE OF LAND AND FOR OTHER CAPITAL OUTLAY FOR THE ARIZONA STATE COLLEGE AT TEMPE, INCLUDING SERVICE FACILITIES, FURNISHINGS AND EQUIPMENT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of seven

hundred fifty thousand dollars ($750,000.00) is appropriated to the board of regents of the university and state colleges of Arizona.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is for the purchase of land, lying contiguous or adjacent to the land presently used by the Arizona state college at Tempe as its campus, and for other capital outlay, including service facilities, furnishings and equipment, to be available July 1, 1954.

Sec. 3. LAPSING OF APPROPRIATIONS; QUARTERLY ALLOTMENTS. The appropriation made under the provisions of this Act shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations, respectively.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 155

(Senate Bill No. 26)

AN ACT

MAKING AN APPROPRIATION TO THE ARIZONA STATE CHILDREN'S COLONY FOR THE CONSTRUCTION OF A SEWAGE DISPOSAL PLANT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of sixty thousand dollars is appropriated to the Arizona state children's colony, to be available for the construction of a sewage disposal plant.

Sec. 2. EXEMPTION. The appropriation made under the terms of section 1 shall be exempt from the provisions of sections 10-925 and 10-930, Arizona Code of 1939, relating to quarterly allotments and lapsing of appropriations.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 156

(House Bill No. 255)

AN ACT

RELATING TO PUBLIC HEALTH; PROVIDING FOR LOCAL HEALTH DEPARTMENTS; PRESCRIBING THE POWERS AND DUTIES THEREOF; PROVIDING FOR EXEMPTION FROM BUDGET LIMITATION OF EXPENDITURES FOR COUNTY HEALTH DEPARTMENTS; AUTHORIZING APPROPRIATIONS THEREFOR, AND AMENDING SECTIONS 68-212, 68-213, 68-214, 68-215, 68-217, AND 68-218, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 68-212, Arizona Code of 1939, is amended to read:

68-212. HEALTH DEPARTMENTS. (a) The state department of health, with the approval of the state board of health, shall prepare a plan, for recommendation to the counties, which shall outline a practical grouping of cities and counties of sufficient population and of such area as can be sustained with reasonable economy and efficient administration in order to provide efficient and effective local health services.

(b) For the purpose of providing local full time public health service, the board of supervisors of any county may: 1. Establish a county department of health; 2. enter into a cooperative agreement with a city for the establishment of a city-county department, or with one or more counties for the establishment of a district department of health. The establishment of any such department, and any agreement for the establishment of a city-county or a district department of health, shall be subject to the approval of the state department of health and to the provisions of this Act.

(c) A department of health established under the provisions of this Act shall: 1. Be authorized to develop health services with the use of any federal, state or local funds or any combination of funds thereof; 2. be authorized to expend any moneys budgeted by the city or county for the use of the department with the approval of the governing body of the city or county, irrespective of the source of such funds.

Sec. 2. Section 68-213, Arizona Code of 1939, is amended to read:

68-213. BOARDS OF HEALTH. (a) Each health department established under the provisions of this Act shall have a board of health constituted as follows:

1. For a county department of health the board of supervisors shall appoint a board to consist of five members: 1a. A member of the board of supervisors; 1b. a member of the county medical society chosen from a list of three names submitted by the society, and, 1c. three citizens selected for their interest in public health, each to be a resident of a different supervisory district, so that each supervisory district in the county will have a representative on the board. The member, selected from the board of supervisors, shall serve during his term of office, and the medical society member for a term of three years. The citizen members shall be appointed for a term of one, two and four years respectively. Thereafter the term of office of the medical society member and of the citizen members shall be four years.

2. For a city-county department of health the city council and the board of supervisors, acting jointly, shall appoint a board to consist of: 2a. A member of the board of supervisors, to be designated by the board; 2b. a member of the city council, to be designated by the council; 2c. a member of the county medical society to be chosen from three names submitted by the society, and, 2d. three citizens interested in public health, each to be a resident of different supervisory districts, so that each supervisory district in the county will have a representative on the board. The member, selected from the board of supervisors, shall serve during his term of office; the medical society member and citizen members for a term of three years. Thereafter the term of each member, other than members selected from the board of supervisors, shall be four years. If a new city is brought in to a city-county health unit, add two new members. One shall be a member of the city council and the other an interested citizen member resident of the city.

3. For a district department of health the boards of supervisors of the counties concerned, acting jointly, shall appoint a board to consist of: 3a. A member of each county board of supervisors; 3b. one physician from each county, to be chosen from a list of three names submitted by the medical societies of the respective counties; 3c. two citizens of each county who are selected for their interest in public health. The ex-officio members shall serve during their terms of office; one medical society member and one citizen member shall serve for one year, and one medical society member and one of the citizen members for a term of three years. There-

after the term of each member, other than ex-officio members, shall be four years.

(b) Appointment to fill a vacancy on any board caused other than by expiration of term shall be for the unexpired portion of the term.

(c) The director of a county, city-county, or district health department shall serve, without vote, as an ex-officio member of the board.

(d) Funds to be expended shall be provided as follows: 1. In a city-county unit the cost shall be shared on an equal per capita basis, based on the last official census of the population of each city participating and the population of the counties outside of the area of the cities;

2. in a district unit the cost shall be shared on an equal per capita basis, based on total population of each participating county.

Sec. 3. Section 68-214, Arizona Code of 1939, is amended to read:

68-214. POWERS AND DUTIES OF BOARDS. (a) The board of health of each county, city-county, or district health department shall meet and elect from among its members a president and vice-president, and adopt rules not inconsistent with law for its procedure and for the government of the health department. The director of the local health department shall serve as secretary of the board. The board shall hold an annual meeting on the first Tuesday in July of each year at which officers shall be elected for the ensuing year, and monthly and special meetings on the call of the president, the director, or any two members. A majority of the members shall constitute a quorum. Members who failed to attend three consecutive meetings shall be deemed to have resigned from the board, but the board may for good cause, grant leaves of absence to its members.

(b) The board shall: 1. Appoint the director of the department; 2. advise the director and request from the director such information as it may deem necessary; 3. keep minutes of all meetings of the board; 4. make rules and regulations, not inconsistent with the rules and regulations of the state department of health, for the protection and preservation of public health; 5. make provisions for suitable offices, facilities and equipment for the health department; 6. recommend rules and regulations to the respective county boards of supervisors for adoption and enforcement in their respective counties.

(c) Nothing in this Act shall authorize a city, county, city-county, or district health department or any of its officers or representatives to impose on any person any mode of treatment against his will, or any examination inconsistent with the creed or tenets of any religious denomination of which he is an adherent, provided that sanitary and quarantine laws, rules, and regulations are complied with by such person.

Sec. 4. Section 68-215, Arizona Code of 1939, is amended to read:

68-215. DUTIES AND POWERS OF THE DIRECTOR. (a) The director of a county, city-county, or district health department shall: 1. Be the executive officer of the department; 2. perform all duties now required by law of the county superintendent of health; 3. enforce and observe the rules and regulations of the state department of health, the local board of health, county rules and regulations concerning health and all laws of the state of Arizona pertaining to the preservation of public health; 4. appoint all necessary personnel in accordance with the regulations of the merit system of the state department of health; 5. submit an annual report to the local board of health, to county board of supervisors or to each board of supervisors in a district department of health and to each city in the district and to the state director of public health setting forth: a. The condition of public health in the county or district; b. the activities of the department during the preceding year; c. the character and extent of all diseases reported; d. the expenditures of the department; and, e. such recommendations as he may deem advisable for protection of the public health.

Sec. 5. Section 68-217, Arizona Code of 1939, is amended to read:

68-217. STATE PARTICIPATION. The state department of health is authorized to use funds at its command not otherwise appropriated, to match funds provided by cities and counties to establish local health department services for any city, county, city-county, or district, on such reasonable terms as it may establish by regulation. From the appropriation made for purposes of this section, the state department of health shall reimburse local health departments, which meet minimum standards of personnel and performance as established by the state board of health and upon submission and approval of a plan and budget by such local health departments, fifty per cent of that portion of the total approved budget

not in excess of one dollar per capita or a prorated portion thereof in the event that sufficient funds are not available to meet the approved requests. If the annual expenditures of the local health department are less than the amount budgeted the total state reimbursement to such department for the year shall not exceed the appropriate per cent of the amount actually expended by such local health department.

The state department of health may, in addition, provide federal funds or services for demonstrations, studies and special projects, or for emergencies.

Sec. 6. Section 68-218, Arizona Code of 1939, is amended to read:

68-218. PARTICIPATION OF INCORPORATED CITIES AND TOWNS IN JOINT HEALTH SERVICES. The legally appointed director of any county or district health department may provide equal health services and in cooperation with local authorities may have jurisdiction over the health services of all incorporated cities and towns within the county or district when the governing body of a city or town specifically requests such service.

Sec. 7. EXEMPTION FROM BUDGET LIMITATION. In any city or county not having a local health unit or participating in a district health unit as of the effective date of this Act, the governing body, at any time prior to June 30, 1955, but not thereafter, may provide for such a department as provided in this Act, and may set up a budget therefor, but the amount approved for expenditure for such purpose shall not be taken into consideration in estimating whether the total of amounts proposed for expenditure during the current fiscal year exceeds by ten per cent the total of amounts proposed for expenditure during the previous fiscal year, as required by section 73-503, Arizona Code of 1939, relating to budget limitations.

Sec. 8. APPROPRIATION. To the state department of health to carry out the purposes of this Act, there is hereby appropriated the sum of fifty thousand dollars for the forty-third fiscal year.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 157

(House Bill No. 352)

AN ACT

RELATING TO INSURANCE; AUTHORIZING THE DIRECTOR OF INSURANCE TO APPOINT AN ASSISTANT DIRECTOR OF INSURANCE AND TO PROCURE ACTUARIAL TECHNICAL AND PROFESSIONAL SERVICES; AMENDING SECTION 61-301b, ARIZONA CODE OF 1939, AS AMENDED; AND REALLOCATING FUNDS HERETOFORE APPROPRIATED.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 61-301b, Arizona Code of 1939, as amended, is amended to read:

61-301b. DEPUTIES AND ASSISTANTS. (a) The director shall appoint a supervisor of insurance rates, who shall also serve as chief deputy director of insurance. He shall be subject to removal for cause. The supervisor of insurance rates shall be a person versed in insurance rating procedure and familiar with the operation of insurance companies and rating organizations, and shall have supervision, under the director, of the administration of laws pertaining to insurance rates and rating organizations.

(b) The director shall appoint an assistant director of insurance who shall be experienced in the fields of life and disability insurance.

(c) The director may appoint a chief examiner, who shall have had at least five years' experience as a full-time examiner for a state insurance department or departments, or as a full-time staff member of a public accounting or actuarial firm regularly employed to conduct examinations for a state insurance department.

(d) The director shall appoint such other deputies and assistants, examiners and clerks at salaries to be fixed by him, as may be necessary properly to discharge the duties imposed upon the director under this code.

(e) The director may from time to time contract for and procure, on a fee or part time basis, or both, such actuarial, technical and other professional services as he may require for the operation of his office.

(f) Any other provision of law to the contrary notwithstanding, the compensation of each such deputy, actuary, examiner, assistant, and clerk shall be as fixed by the director, (salaries, etc. shall not exceed funds made available therefor).

Sec. 2. REALLOCATION OF FUNDS. The director of insurance may reallocate the unexpended portion of funds heretofore appropriated for the payment of salaries of personnel of the division of insurance in such manner as may be necessary to carry out the purposes of this Act.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

(Failed to pass the Senate with sufficient votes to carry the emergency clause.)

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 158

(House Bill No. 366)

AN ACT

RELATING TO APPROPRIATIONS FOR THE DIFFERENT DEPARTMENTS OF THE STATE, FOR PUBLIC SCHOOLS, AND FOR INTEREST ON THE PUBLIC DEBT.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Subject to applicable laws, the sums or sources of revenue herein set forth are appropriated for the forty-third fiscal year for the purposes and objects herein specified:

Subdivision 1. ATTORNEY GENERAL — DEPARTMENT OF LAW

Personal Services	
Attorney General	$ 10,000.00
Assistant Attorneys General	86,000.00
Secretaries	33,700.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	7,130.00
Total Personal Services	$ 136,830.00

State Travel		2,750.00
Out-of-State Travel		2,500.00
Subscriptions and Organization Dues		300.00
Professional Fees		5,000.00
Fixed Charges		350.00
Other Current Expenditures		7,000.00
Capital Outlay — Equipment		5,000.00
Total	$	159,730.00
REIMBURSABLE SERVICES		
Personal Services		
Salaries	$	59,772.00
Wages — Employment Security Commission		600.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		3,320.00
Total Personal Services	$	63,692.00
Travel — State and Out-of-State		8,000.00
Subscriptions and Organization Dues		50.00
Professional Fees		1,000.00
Industrial Compensation — State Employees		605.00
Other Current Expenditures		120.00
Capital Outlay — Equipment		400.00
Total Reimbursable Services	$	73,867.00*
Total Appropriation	$	233,597.00

*This appropriation is deemed to include all unexpended balances remaining in the reimbursable fund on June 30, 1954, appropriated by Chapter 132, Laws of 1953, pursuant to Section 4-609, Arizona Code of 1939, as amended.

Subdivision 2. AUDITOR

Personal Services		
Salaries	$	123,268.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		6,780.00
Total Personal Services	$	130,048.00
State Travel		200.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		75.00
Postage		9,240.00
Other Fixed Charges		30.00
Other Current Expenditures		28,094.00

Capital Outlay — Key Punch Equipment		2,800.00
Total Appropriation	$	170,787.00

Subdivision 3. CAPITOL BUILDING AND GROUNDS

Personal Services		
Custodian	$	4,800.00
Other Personal Services		73,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		4,330.00
Total Personal Services	$	83,030.00
Other Current Expenditures		42,960.00
Capital Outlay		
Equipment		1,750.00
Buildings and Improvements		1,500.00
Total Capital Outlay	$	3,250.00
Total Appropriation	$	129,240.00

Subdivision 4. DEPARTMENT OF LIBRARY AND ARCHIVES

Personal Services		
Salaries	$	35,560.00
Employers' contributions for Old Age and Survivors' Insurance and State Retirement		1,956.00
Total Personal Services	$	37,516.00
Travel — State and Out-of-State		600.00
Other Current Expenditures		5,450.00
Capital Outlay		11,000.00
Total Appropriation	$	54,566.00

Subdivision 5. ESTATE TAX COMMISSIONER

Personal Services		
Salaries	$	11,700.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		643.50
Total Personal Services	$	12,343.50
State Travel		100.00
Subscriptions and Organization Dues		95.00

Fixed Charges		262.50
Other Current Expenditures		1,350.00
Capital Outlay — Equipment		300.00
Total Appropriation	$	14,451.00

Subdivision 6. GOVERNOR

Personal Services		
Salaries	$	45,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		2,475.00
Total Personal Services	$	47,475.00
State Travel		1,000.00
Out-of-State Travel		2,000.00
Subscriptions and Organization Dues and Council of State Governments		2,800.00
Emergency contingency for Hospital, Medical, Dental and Legal Necessities for Wards of the Welfare Department		10,000.00*
Entertainment		2,500.00
Insurance		75,000.00*
Contingency Reserve for Reimbursable Insurance Claims		10,000.00*
Fixed Charges		750.00
Other Current Expenditures		8,250.00
Capital Outlay		
Automobile		4,000.00
Other		3,250.00
Total Capital Outlay	$	7,250.00
Total Appropriation	$	167,025.00

*These appropriations are not subject to the provisions in Section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Subdivision 7. TWENTY-SECOND LEGISLATURE

Senate	$	100,000.00
House of Representatives		250,000.00
State Legislative Council		55,000.00
Total Appropriation	$	405,000.00

This appropriation is not subject to the provisions in Section 10-930, Arizona Code of 1939, relating to lapsing appropriations, and Section 10-925, relating to quarterly allotments.

Subdivision 8. SPECIAL LEGISLATIVE HIGHWAY STUDY COMMITTEE

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$	15,000.00

Subdivision 9. SECRETARY OF STATE

Personal Services		
Secretary of State	$	7,200.00
Assistant Secretary of State		5,100.00
Executive Secretary		4,800.00
Other Personal Services		12,420.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,620.00
Total Personal Services	$	31,140.00
State Travel		300.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		100.00
Fixed Charges		148.25
Other Current Expenditures		4,860.00
Arizona Session Laws		20,000.00*
Printing, Publishing and Distributing Rules and Regulations of State Departments		12,942.00*
Supplements to Code		4,250.00
Expenses Incurred in connection with National Association of National Secretaries of States	$	300.00
Capital Outlay — Equipment		300.00
Total Appropriation	$	74,640.25

*This appropriation is not subject to the provisions in Section 10-930, Arizona Code of 1939, relating to lapsing appropriations.

Subdivision 10. POST AUDITOR

Personal Services		
Salaries	$	65,100.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		3,580.00
Total Personal Services	$	68,680.00
State Travel		6,000.00
Out-of State Travel		300.00
Subscriptions and Organization Dues		75.00

Current Expenditures		2,000.00
Capital Outlay — Equipment		1,535.00
Total Appropriation	$	78,590.00

Subdivision 11. STATE EXAMINER

Personal Services		
Periodic Field Clerks	$	10,000.00
Other Personal Services		41,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		2,805.00
Total Personal Services	$	53,805.00
State Travel		17,600.00
Out-of-State Travel		300.00
Fixed Charges		175.00
Other Current Expenditures		2,200.00
Capital Outlay — Adding Machines		700.00
Total Appropriation	$	74,780.00

Subdivision 12. ARIZONA STATE RETIREMENT SYSTEM

Personal Services		
Salaries	$	28,140.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,548.00
Total Personal Services	$	29,688.00
State Travel		2,000.00
Appropriation to Lieu Pension Fund		116,000.00
Expenses incurred in the assistance of counties and municipalities in participation in the Arizona State Retirement System		5,000.00*
Expenses incurred pertaining to the inclusion of members of the Arizona Teachers' Retirement System in the Arizona State Retirement System		20,000.00*
Fixed Charges		1,950.00
Current Expenditures		8,675.00
Capital Outlay — Equipment		750.00
Total Appropriation		$184,063.00

*These appropriations are exempt from the provisions of Section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

Subdivision 13. STATE TAX COMMISSION

Personal Services	
3 Additional Sales Tax Auditors	$ 11,400.00
Other Personal Services	534,680.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	30,000.00
Total Personal Services	$576,080.00
State Travel	42,000.00
Out-of-State Travel	12,500.00
Subscriptions and Organization Dues	250.00
Postage	17,700.00
Luxury Tax Stamps	15,000.00
Printing — Withholding Tax Forms	5,765.00
Rent — Buildings	7,500.00
Rent — Business Machines	33,320.00
Fixed Charges	3,150.00
Other Current Expenditures	50,235.00
Capital Outlay — Office Equipment	2,500.00
Total Appropriation	$766,000.00

Subdivision 14. STATE TREASURER

Personal Services	
Salaries	$ 23,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,287.00
Total Personal Services	$ 24,687.00
Out-of-State Travel	300.00
Fixed Charges	2,140.00
Other Current Expenditures	1,915.00
Total Appropriation	$ 29,042.00

Subdivision 15. SUPERIOR COURTS

Personal Services	
Salary of Judges	$130,000.00
Periodic Court Commissioners	500.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	30.00
Total Appropriation	$130,530.00

Subdivision 16. SUPREME COURT

Personal Services	
Salaries	$106,150.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	2,400.00
Total Personal Services	$108,550.00
State Travel	700.00
Out-of-State Travel	300.00
Fixed Charges	37.50
Publishing Arizona Reports	5,400.00
Other Current Expenditures	4,000.00
Capital Outlay	
Equipment	500.00
Library and Reference Facilities	1,000.00
Total Capital Outlay	$ 1,500.00
Total Appropriation	$120,487.50

Subdivision 17. ARIZONA STATE BOARD OF PHARMACY

From the Arizona State Board of Pharmacy Fund the following is appropriated:

Personal Services	
Salaries	$ 18,850.00
Periodic Wages	300.00
Per Diem	1,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,053.00
Total Personal Services	$ 21,203.00
State Travel	4,900.00
Out-of-State Travel	1,000.00
Subscriptions and Organization Dues	225.00
Fixed Charges	1,810.00
Other Current Expenditures	4,150.00
Capital Outlay	350.00
Total Appropriation	$ 33,638.00

Subdivision 18. ARIZONA STATE DENTAL BOARD

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

This appropriation is exempt from the provisions of section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

Subdivision 19. BOARD OF BARBER EXAMINERS

From the Board of Barber Examiners Fund the following is appropriated:

Personal Services	
Salaries	$ 10,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	600.00
Total Personal Services	$ 11,500.00
State Travel	2,700.00
Out-of-State Travel	300.00
Fixed Charges	38.75
Other Current Expenditures	1,200.00
Subscriptions and Organization Dues	25.00
Rent	1,000.00
Capital Outlay	545.00
Total Appropriation	$ 17,308.75

Subdivision 20. BOARD OF BEAUTY CULTURIST EXAMINERS

From the Board of Beauty Culturist Examiners Fund the following is appropriated:

Personal Services	
Salaries	$ 12,300.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	677.00
Total Personal Services	$ 12,977.00
State Travel	$ 3,300.00
Out-of-State Travel	300.00
Subscriptions and Organization Dues	35.00
Fixed Charges	2,080.00
Other Current Expenditures	2,050.00
Capital Outlay	200.00
Total Appropriation	$ 20,942.00

Subdivision 21. BOARD OF MEDICAL EXAMINERS

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and

capital outlay. 10% shall be credited to the general fund.

Subdivision 22. BOARD OF NURSE REGISTRATION AND NURSING EDUCATION

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 23. BOARD OF PHYSICAL THERAPY EXAMINERS

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 24. DAIRY COMMISSIONER

Personal Services	
Salaries	$ 15,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	825.00
Total Personal Services	$ 15,825.00
State Travel	$ 2,500.00
Subscriptions and Organization Dues	25.00
Fixed Charges	50.00
Other Current Expenditures	825.00
Capital Outlay	250.00
Total Appropriation	$ 19,475.00

Subdivision 25. NATUROPATHIC BOARD OF EXAMINERS

From the Naturopathic Board of Examiners Fund the following is appropriated:

Personal Services	
Salaries	$ 640.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	35.20
Total Personal Services	675.20
State Travel	110.00
Fixed Charges	5.00

Other Current Expenditures	280.00
Capital Outlay	150.00
Total Appropriation	$ 1,220.20

Subdivision 26. STATE BOARD OF CHIROPODY EXAMINERS

From the State Board of Chiropody Examiners Fund the following is appropriated:

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$ 395.20

Subdivision 27. STATE BOARD OF CHIROPRACTIC EXAMINERS

From the State Board of Chiropractic Examiners Fund the following is appropriated:

Personal Services	
Salaries	$ 1,280.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	$ 70.40
Total Personal Services	$ 1,350.40
State Travel	150.00
Fixed Charges	10.00
Other Current Expenditures	410.00
Capital Outlay	75.00
Total Appropriation	$ 1,995.40

Subdivision 28. STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

From the State Board of Funeral Directors and Embalmers Fund the following is appropriated:

Personal Services	
Salaries	$ 1,500.00
Per Diem	200.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	82.50
Total Personal Services	$ 1,782.50
State Travel	600.00
Out-of-State Travel	300.00
Subscriptions and Organization Dues	100.00
Fixed Charges	15.00
Other Current Expenditures	239.00
Total Appropriation	$ 3,036.50

Subdivision 29. STATE BOARD OF OPTOMETRY

From 90% of the fees collected by the State Board of Optometry the following is appropriated:

Board Members — Per Diem	$ 1,000.00
State Travel	240.00
Fixed Charges	$ 5.00
Other Current Expenditures	300.00
Capital Outlay	100.00
Total Appropriation	$ 1,645.00

Subdivision 30. STATE DEPARTMENT OF HEALTH LOCAL HEALTH ADMINISTRATION, MATERNAL AND CHILD HEALTH AND PUBLIC HEALTH NURSING

Personal Services	
Director	$ 9,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	495.00
Total Personal Services	$ 9,495.00

LOCAL HEALTH ADMINISTRATION

Personal Services	
Clerk-typist II	2,628.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	145.00
Total Personal Services	$ 2,773.00
State Travel	1,000.00
Total Local Health Administration	$ 3,773.00

MATERNAL AND CHILD HEALTH

Personal Services	
Public Health Nursing Consultant	4,272.00
Hearing Consultant	4,272.00
Stenographer II	2,748.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	620.00
Total Personal Services	$ 11,912.00
State Travel	2,000.00
Out-of-State Travel	300.00
Other Current Expenditures	500.00
Biologics	$ 4,000.00

Clinics	1,000.00
Total Maternal and Child Health	$ 19,712.00
PUBLIC HEALTH NURSING	
Personal Services	
Administrative Director of Public Health Nursing	5,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	297.00
Total Personal Services	$ 5,679.00
State Travel	800.00
Total Public Health Nursing	$ 6,497.00
Total Local Health Administration, Maternal and Child Health and Public Health Nursing	$ 39,477.00
CENTRAL ADMINISTRATION	
Personal Services	
Director	8,400.00
Administrative Assistant	4,080.00
Account Clerk	3,600.00
Clerk II, 2 @ $2,628.00	5,256.00
Clerk II	2,532.00
Clerk III	3,240.00
Duplicating Machine Operator	2,628.00
Clerk-typist	2,628.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,780.00
Total Personal Services	$ 34,144.00
State Travel	1,500.00
Out-of-State Travel	1,000.00
Subscriptions and Organization Dues	65.00
Other Current Expenditures	18,000.00
Capital Outlay	1,300.00
Total Central Administration	$ 56,009.00
VITAL STATISTICS	
Personal Services	
Director	$ 5,820.00
Statistician	3,720.00
Clerk III	3,360.00
Clerk II	2,532.00
Clerk II, 6 @ $2,628.00	15,768.00

Clerk-typist II	2,612.00
Clerk-typist II	2,564.00
Clerk-typist II	2,532.00
Clerk I, 2 @ $1,971.00	3,942.00
Periodic Employees	500.00*
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	2,385.00
Total Personal Services	$ 45,735.00
State Travel	200.00
Office Supplies	900.00
Photostatic Supplies	1,800.00
Telephone, Telegraph, Postage, Freight and Express	1,700.00
Printing	3,000.00
Binding	500.00
Tabulating Machine Rental and Supplies	1,000.00
Capital Outlay — Calculator	450.00
Total Vital Statistics	$ 55,285.00

SANITARY ENGINEERING

Personal Services	
Director	8,280.00
Sanitary Engineer IV, 2 @ $5,200.00	10,400.00
Sanitary Engineer III	5,040.00
Sanitarian IV	4,416.00
Sanitarian IV	4,056.00
Sanitarian III	2,900.00
Clerk II	2,588.00
Clerk-typist II	2,572.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	2,214.00
Total Personal Services	$ 42,466.00
State Travel	6,100.00
Out-of-State Travel	300.00
Other Current Expenditures	500.00
Total Sanitary Engineering	$ 49,366.00

STATE LABORATORIES

Personal Services	
Director	7,500.00
Senior Bacteriologist 2 @ $4,080.00	8,160.00
Senior Bacteriologist 2 @ $4,200.00	8,400.00

Junior Bacteriologist		3,360.00
Bacteriologist		3,360.00
Technical Laboratory Assistant 2 @ $2,532.00		5,064.00
Service Worker 3 @ $1,980.00		5,940.00
Clerk-typist II		2,748.00
Clerk-typist I		2,316.00
Clerk-typist II		2,628.00
Clerk I		2,388.00
Clinical Laboratory Technician		3,240.00
Periodic Employees		900.00*
New Phoenix Laboratory		
Junior Bacteriologist 2 @ $3,360.00		6,720.00
Senior Bacteriologist		4,080.00
Chemist		4,800.00
Maintenance Man		3,600.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		4,136.00
Total Personal Services	$	79,340.00
State Travel		500.00
Out-of-State Travel		300.00
Telephone, Telegraph, Postage Freight and Express		2,000.00
Office Supplies		1,200.00
Scientific and Laboratory Supplies and Moving		8,300.00
RH Sera and Supplies		800.00
Equipment Maintenance	$	500.00
Total State Laboratories	$	92,940.00

*This appropriation is exempt from the provisions of Section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

TUBERCULOSIS CONTROL

Personal Services		
Director	$	9,000.00
Public Health Nurse Consultant		4,416.00
Clerk II 2 @ $2,628.00		5,256.00
Clerk-typist II		2,580.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,169.00
Total Personal Services	$	22,421.00
State Travel		1,600.00
Out-of-State Travel		300.00
Other Current Expenditures		1,800.00

MOBILE X-RAY UNIT		
Personal Services		
Photofluorographic Technician		3,150.00
X-ray Technician		3,120.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		345.00
Total Personal Services	$	6,615.00
State Travel		6,000.00
Bus Expense and Films and Other Current Expenditures		6,000.00
Total Mobile X-ray Unit	$	18,615.00
Total Tuberculosis Control	$	44,736.00
HOSPITAL SURVEY, PLANNING, CONSTRUCTION AND LICENSING		
Personal Services		
Director		5,400.00
Hospital Field Representative		4,272.00
Nursing Home Field Representative		3,840.00
Clerk-typist II		2,628.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		888.00
Total Personal Services	$	17,028.00
State Travel	$	2,240.00
Out-of-State Travel		160.00
Professional Fees		500.00
Capital Outlay — Equipment		250.00
Other Current Expenditures		200.00
Total Hospital Survey, Planning, Construction and Licensing	$	20,3780.0
HEALTH EDUCATION		
Personal Services		
Director		5,940.00
Health Educator II		3,532.00
Health Educator I 2 @ $3,120.00		6,240.00
Part-time Community Educators		800.00
Clerk-typist II		2,628.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,053.00
Total Personal Services	$	20,193.00

State Travel		1,000.00
Out-of-State Travel		300.00
Other Current Expenditures		4,500.00
Total Health Education	$	25,993.00

VENEREAL DISEASES

Personal Services		
Senior Investigator	$	3,600.00
Investigator		3,240.00
Investigator		3,160.00
Investigator		3,000.00
Clerk		2,628.00
Clerk-typist		2,628.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,004.00
Total Personal Services	$	19,260.00
Drugs		2,000.00
State Travel	$	6,000.00
Clinician Fees		1,000.00
Total Venereal Diseases	$	28,260.00

STATE MATCHING FUNDS FOR COUNTY HEALTH WORK		25,000.00
Merit System		8,290.00
Total Appropriation	$	445,736.00

The foregoing is the total appropriation to the State Department of Health and shall be deemed to include all fees collected under the provisions of Section 68-118, Arizona Code of 1939, as amended, and all funds granted to the state by the Federal Government except Federal funds received for county and city health work, project grants for mental and heart disease, cancer diagnostic clinic, and child study and counseling service and special project grants.

Subdivision 31. STATE BOARD OF OSTEOPATHIC EXAMINERS

From the State Board of Osteopathic Examiners Fund the following is appropriated:

Personal Services		
Salaries	$	1,200.00
Per Diem		400.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement		66.00
Total Personal Services	$	1,666.00
State Travel		500.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		10.00
Fixed Charges		607.50
Other Current Expenditures		800.00
Capital Outlay — Equipment		300.00
Total Appropriation	$	4,183.50

Subdivision 32. ARIZONA CHILDREN'S COLONY BOARD

Personal Services		
Salaries	$	216,144.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		11,888.00
Total Personal Services	$	228,032.00
State Travel		1,200.00
Out-of-State Travel		450.00
Subscriptions and Organization Dues		100.00
Fixed Charges		1,945.00
Other Current Expenditures		161,355.00
Total Appropriation	$	393,082.00

Subdivision 33. DEPARTMENT OF PUBLIC WELFARE ADMINISTRATION STATE AND COUNTY OFFICES

Personal Services		
Salaries	$	697,824.00
Employers' contribution for Old Age and Survivors' Insurance, State Retirement, and Industrial Insurance		48,015.00
Total Personal Services	$	745,839.00
State Travel		60,850.00
Out-of-State Travel		5,400.00
Subscriptions and Organization Dues		650.00
Fixed Charges		7,255.00
Joint Merit System		10,250.00
Other Current Expenditures		41,170.00
Capital Outlay — Equipment		12,000.00
Total State and County Offices	$	883,414.00

Aid to the Blind		225,900.00
Blind Services		56,700.00
Cash Revolving Fund — Industries for the Blind		30,000.00*
Aid to Dependent Children		1,257,300.00
CRIPPLED CHILDREN'S SERVICES		
Personal Services		
Salaries	$ 174,000.00	
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	9,570.00	
Total Personal Services	$ 183,570.00	
Travel — State and Out-of-State	1,800.00	
Other Current Expenditures	90,225.00	
Fixed Charges	240.00	
Rehabilitation	14,175.00	
Capital Outlay	3,000.00	
Total Crippled Children's Services	$ 293,010.00	
Direct Relief	794,700.00	
Foster Home Care	273,600.00	
Old Age Assistance	3,654,450.00	
Public Assistance Services	40,500.00	
Unallocated Assistance and Services	711,950.00**	
Total Appropriation	$8,221,524.00	

The foregoing total appropriation with the exception of Administration, is in addition to funds granted to the state by the Federal Government for the same purposes, but shall be deemed to include the sums deposited in the State Treasury to the credit of the Department of public Welfare, pursuant to the provisions of Section 73-1322, Arizona Code of 1939.

Administration is the total appropriation with the exception of funds granted to the state by the Federal Government for Child Welfare Services and Vocational Rehabilitation for the Blind, which shall be available to the Department of Public Welfare, in addition to the appropriations for Child Welfare Services and for Blind Services and for the administration thereof.

*The appropriation for a Cash Revolving Fund for Industries for the Blind is a continuing fund, and, as such, exempt from the lapsing provisions of Section 10-930, Arizona Code of 1939.

**The appropriation for Unallocated Assistance and Service is exempt from the provisions of Section 10-925,

Arizona Code of 1939, as amended, relating to quarterly allotments.

Subdivision 34. ARIZONA COMMISSION OF INDIAN AFFAIRS

Lump Sum Appropriation	$	3,000.00

Subdivision 35. BOARD OF DIRECTORS OF STATE INSTITUTION FOR JUVENILES

BOARD EXPENSE		
Personal Services		
Salaries	$	2,600.00
Employers' Contribution for Old Age and Survivors' Insurance and State Retirement		143.00
Total Personal Services	$	2,743.00
State Travel		1,200.00
Fixed Charges		160.00
Other Current Expenditures		150.00
Total Board Expense	$	4,253.00
Care of Juvenile Offenders		135,000.00
Total Appropriation	$	139,253.00

Subdivision 36. BOARD OF PARDONS AND PAROLES

Personal Services		
Salaries	$	9,170.00
Employers' Contribution for Old Age and Survivors' Insurance and State Retirement		505.00
Total Personal Services	$	9,675.00
State Travel		800.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		25.00
Other Current Expenditures		680.00
Capital Outlay — Equipment		200.00
Total Appropriation	$	11,680.00

Subdivision 37. INDUSTRIAL SCHOOL

Personal Services		
Salaries	$	103,800.00
Employers' Contribution for Old Age and Survivors' Insurance and State Retirement		5,710.00
Total Personal Services	$	109,510.00

State Travel	3,300.00
Out-of-State Travel	400.00
Subscriptions and Organization Dues	50.00
Boys' Merit Allowance	720.00
Fixed Charges	785.00
Other Current Expenditures	83,500.00
Capital Outlay	
Tractor, Dump Truck, Jeep, Industrial Vacuum and Miscellaneous Replacements	7,468.00
From the funds appropriated under Chapter 89, Laws of 1949, there is hereby approved for expenditure the following:	
Building Construction	
10 2-Bedroom Cottages	100,000.00
Industrial Arts Building	55,000.00
Superintendent's Cottage	15,000.00
Total appropriation approved from Chapter 89, Laws of 1949	$ 170.000.00
Total Capital Outlay	$ 177,468.00
Total Appropriation	$ 375,733.00

Earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 38. PIONEERS' HOME

Personal Services	
New Personnel	$ 8,485.00
Other Personal Services	57,795.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	4,434.00
Total Personal Services	$ 70,714.00
State Travel	500.00
Subscriptions and Organization Dues	500.00
Fixed Charges	18.00
Other Current Expenditures	84,344.00
Total Appropriation	$ 156,076.00

Earnings on state lands and interest on the investment of the permanent land funds of the Pioneers' Home and the Hospital for Disabled Miners are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 39. PRISON AND INSTITUTE OF EDUCATIONAL REHABILITATION

Personal Services	
Salaries	$ 363,542.00
Employers' Contribution for Old Age and Survivors' Insurance and State Retirement	19,988.00
Total Personal Services	$ 383,408.00
State Travel	1,500.00
Out-of-State Travel	800.00
Subscriptions and Organization Dues	75.00
Fixed Charges	800.00
Discharge Money	$ 7,600.00
Other Current Expenditures	321,375.00
Canning Plant — Personal Services, Equipment and Supplies	17,798.00
Knitting Mill — Personal Services, Equipment and Supplies	11,148.00
Capital Outlay	
Building and Improvements	3,700.00
Livestock	1,000.00
Equipment	2,150.00
Installation of Boilers (Located at Prison)	15,000.00
Ice Plant	5,000.00
Total Capital Outlay	$ 26,850.00
Total Appropriation	$ 771,354.00

Earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 40. STATE DEPARTMENT OF HEALTH — ARIZONA TUBERCULOSIS SANATORIUM

Personal Services	
Salaries	$ 176,722.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	9,918.00
Total Personal Services	$ 186,640.00
State Travel	300.00
Out-of-State Travel	300.00
Subscriptions and Organization Dues	125.00
Other Current Expenditures	88,168.00
Fixed Charges	1,700.00
Capital Outlay	1,000.00
Total Appropriation	$ 278,233.00

Subdivision 41. STATE DEPARTMENT OF HEALTH-RELIEF COMPENSATION

Public Assistance and Rehabilitation	$ 2,000.00

Subdivision 42. STATE HOSPITAL FOR THE INSANE

Personal Services	
Salaries	$1,200,600.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	66,033.00
Total Personal Services	$1,266,633.00
State Travel	3,000.00
Out-of-State Travel	300.00
Return of Patients	6,200.00
Subscriptions and Organization Dues	650.00
Care of Institutional Patients — Outside Services	20,000.00
Discharge Money	200.00
Textbooks	100.00
Fixed Charges	2,310.00
Other Current Expenditures	645,390.00
Capital Outlay	
Hydrotherapy Facilities	4,400.00
Building Improvements, Equipment and Livestock	36,544.00
Total Capital Outlay	$ 40,944.00
Total Appropriation	$1,985,727.00

In conformity with Section 8-209, Arizona Code of 1939, as amended, collections received during the fiscal year for maintenance of patients when paid into the State Treasury are hereby appropriated for current expenditures; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 43. ARIZONA VETERANS SERVICE COMMISSION

Personal Services	
Salaries	$ 20,175.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,110.00
Total Personal Services	$ 21,285.00

State Travel	3,500.00
Public Assistance and Rehabilitation	10,000.00
Fixed Charges	200.00
Other Current Expenditures	1,550.00
Total Appropriation	$ 36,535.00

Subdivision 44. ARIZONA STATE COLLEGE AT FLAGSTAFF

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	$ 28,700.00
Lump Sum Appropriation	607,654.00
Total Appropriation	$ 636,354.00

Any unencumbered balance remaining in the collections account on June 30, 1954, and all collections received by the college during the fiscal year when paid into the State Treasury are hereby appropriated for personal services, current expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 45. ARIZONA STATE COLLEGE AT TEMPE

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	$ 93,150.00
Lump Sum Appropriation	1,572,568.00
Total Appropriation	$1,665,718.00

Any unencumbered balance remaining in the collections account on June 30, 1954, and all collections received by the college during the fiscal year when paid into the State Treasury are hereby appropriated for personal services, current expenditures, capital outlay, and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 46. ARIZONA STATE SCHOOL FOR THE DEAF AND BLIND

Personal Services	
Salaries	$ 219,340.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	12,455.00
Total Personal Services	$ 231,795.00

State Travel	$ 400.00
Out-of-State Travel	300.00
Insurance	7,690.00
Subscriptions and Organization Dues	250.00
Teachers' Retirement (State Employees)	4,750.00
Fixed Charges	170.00
Other Current Expenditures	90,700.00
Capital Outlay	8,500.00
Total Appropriation	$ 344,555.00

In conformity with the educational institution Act of 1934, collections received during the fiscal year when paid into the State Treasury are hereby appropriated for fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 47. BOARD OF REGENTS OF THE UNIVERSITY AND STATE COLLEGES WESTERN INTERSTATE COMMISSION FOR HIGHER EDUCATION

Western Interstate Commission for Higher Education	7,000.00
Commission Expenses	4,800.00
Medical Student Subsidy	24,000.00
Dental Student Subsidy	12,800.00
Veterinary Student Subsidy	15,600.00
Total Appropriation	$ 64,200.00

Subdivision 48. SUPERINTENDENT OF PUBLIC INSTRUCTION AND COMMON SCHOOLS

For the board of education; for the support of the primary, elementary, grammar, four-year high school grades of the public schools and vocational education, a sum of money which shall be equal to $95.00 per capita for common school education and $95.00 per capita for high school education per annum, computed according to average daily attendance records of the superintendent of public instruction. Such sum shall constitute the aggregate sum to be raised by the state taxation for the support of common and high school education. This amount shall include the following items.

Vocational Education	
Personal Services	
Salaries	$ 29,300.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	3,915.00
Total Personal Services	$ 33,215.00
State Travel	3,000.00
Out-of-State Travel	500.00
Subscriptions and Organization Dues	100.00
Professional Fees	450.00
Other Current Expenditures	3,455.00
Capital Outlay — Equipment	750.00
Reimbursement for Vocational Training	85,000.00
Total Vocational Education	$126,470.00

This appropriation is made to enable the state to cooperate with the Federal Government in carrying out the provisions of an Act of Congress approved February 23, 1917, and acts amendatory or supplementary thereto, providing for the promotion and development of cooperative vocational education.

FOR THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION AND COMMON SCHOOLS, SCHOOL LUNCH PROGRAM* AND TEXTBOOKS

Personal Services	
Assistant Superintendent — Director of Indian Education and Comptroller	$ 3,300.00
Assistant — Indian Education	2,800.00
Finance Division	
Auditors — 4 @ $4,800.00	19,200.00
Stenographers — 2 @ $2,900.00	5,800.00
Other Personal Services	86,360.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	6,460.00
Total Personal Services	$123,920.00
State Travel	
Superintendent	400.00
Assistant Superintendent — Comptroller	1,000.00
Auditors	7,600.00
Other	2,450.00
School Lunch Program	1,800.00
Total State Travel	$ 13,250.00
Out-of-State Travel	
School Lunch Program	550.00

Assistant Superintendent — Comptroller	800.00
Total Out-of-State Travel	$ 1,350.00
Teachers' Retirement — State Employees	2,500.00
Purchasing and Rebinding of Textbooks	691,000.00
Budget Forms and High School Attendance Records	20,000.00
Subscriptions and Organization Dues	150.00
Fixed Charges	136.50
Other Current Expenditures	23,925.00
Capital Outlay — Certification Division	
Photostatic Machine and Supplies	400.00
Shelf Filing Equipment and Supplies	1,324.00
Total Capital Outlay	$ 1,724.00
Total	$877,955.50

*To carry out the provisions of Section 54-305, Arizona Code of 1939.

ARIZONA TEACHERS' RETIREMENT SYSTEM — ACCRUED LIABILITY

Lump Sum Appropriation $378,300.00

This appropriation is made to enable the state to carry out the provisions of Section 54-1730, Arizona Code of 1939, as amended.

Total Superintendent of Public Instruction $1,382,725.50

The balance of the per capita tax, together with the amount of all moneys received from National Forest, interest collected on deferred payments on the purchase of state lands, the income from the investment of permanent funds as prescribed by the Enabling Act and the Constitution, during the fiscal year, and all moneys received by the Superintendent of Public Instruction from whatever source, during the fiscal year, when paid into the State Treasury are hereby appropriated for the apportionment to the various counties in accordance with law. No expenditures shall be made except as specifically authorized above.

Subdivision 49. VOCATIONAL REHABILITATION

From the state general fund, (Section 56-509, subdivision (b)), there is hereby appropriated the following:
Lump Sum Appropriation $ 67,500.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,282.00
Total Appropriation	$ 68,782.00

This appropriation is made to enable the state to cooperate with the Federal Government in carrying out the provisions of an Act of Congress approved June 20, 1920, and subsequent amendments, providing for vocational rehabilitation.

Subdivision 50. EDUCATION FOR CRIPPLED CHILDREN

Maricopa County	$ 5,000.00
Pima County	1,800.00
Total Appropriation	$ 6,800.00

Subdivision 51. JUNIOR COLLEGES

Phoenix Junior College	$ 100,000.00
Eastern Arizona Junior College	100,000.00
Total Appropriation	$ 200,000.00

Subdivision 52. UNIVERSITY OF ARIZONA

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	$ 170,000.00
Lump Sum Appropriation	3,086,057.00
Total Appropriation	$3,256,057.00*

*For salaries and wages; for operation, including dues, assessments or membership fees in societies, associations and organizations; for travel to attend meetings, conferences and for other University purposes; for capital investment; for repairs and replacements.

All collections received by the University during the said fiscal year when paid into the State Treasury are hereby appropriated for personal services, current expenditures, capital outlay and fixed charges; earnings on state lands and interest on the investment of the permanent land funds are appropriated in compliance with the Enabling Act and the Constitution.

Subdivision 53. APPRENTICESHIP COUNCIL

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$ 13,342.50

Subdivision 54. ARIZONA DEPARTMENT OF CIVIL AIR PATROL

Personal Services		
Salaries	$	2,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		132.00
Total Personal Services	$	2,532.00
Other Current Expenditures, Fixed Charges and Capital Outlay		7,600.00
Total Appropriation	$	10,132.00

Subdivision 55. ARIZONA FRUIT AND VEGETABLE STANDARDIZATION ACT

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$	6,120.00

Subdivision 56. BANKING DEPARTMENT

Lump Sum Appropriation	$	42,500.00

Subdivision 57. BOARD OF PEST CONTROL APPLICATORS

From the Pest Control Applicators Fund the following is appropriated:

Personal Services		
Salaries	$	4,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		270.00
Total Personal Services	$	5,170.00
State Travel		800.00
Other Current Expenditures		3,150.00
Capital Outlay — Equipment		200.00
Total Appropriation	$	9,320.00

Subdivision 58. BUREAU OF CRIMINAL IDENTIFICATION

Personal Services		
Superintendent	$	4,800.00
Assistant Superintendent		3,600.00
2 Clerks @ $2,400.00		4,800.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement		726.00
Total Personal Services	$	13,926.00
State Travel		100.00
Office Rental (including utilities)		300.00
Fixed Charges		10.00
Other Current Expenditures		768.00
Capital Outlay — Equipment		500.00
Total Appropriation	$	15,604.00

Subdivision 59. COMMISSION OF AGRICULTURE AND HORTICULTURE

Personal Services		
Salaries	$	265,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		14,624.50
Total Personal Services	$	280,524.50
State Travel		10,700.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		75.00
Other Current Expenditures		19,000.00
Fixed Charges		1,575.00
Capital Outlay		
Equipment		3,000.00
Duncan Inspection Station		14,595.00
Total Capital Outlay	$	17,595.00
Total Appropriation	$	329,769.50

Subdivision 60. CORPORATION COMMISSION ADMINISTRATIVE DIVISION

Personal Services		
Commissioners	$	25,200.00
Employers' contribution for Old Age and Survivors' Insurance		504.00
Total Personal Services	$	25,704.00
State Travel		3,000.00
Out-of-State Travel		600.00
Other Current Expenditures		2,680.00
Subscriptions and Organization Dues		300.00
Fixed Charges		75.00
Total Administrative Division	$	32,359.00

SECURITIES DIVISION

Personal Services		
Director	$	7,200.00
Assistant Director		3,600.00
Secretary to Division		3,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		759.00
Total Personal Services	$	14,559.00
State Travel		600.00
Out-of-State Travel		450.00
Other Current Expenditures		1,810.00
Professional Fees		7,000.00
Witness Fees		1,000.00
Subscriptions and Organization Dues		100.00
Capital Outlay — Equipment		310.00
Total Securities Division	$	25,829.00

INSURANCE DIVISION

Personal Services		
Director	$	8,400.00
Deputy Director and Rate Supervisor		6,600.00
Assistant Director		6,000.00
Chief Examiner		7,200.00
Secretary to Division		4,200.00
Secretary to Deputy Director		3,300.00
Secretary — Statistician		3,000.00
Chief Clerk — License Division		2,940.00
Chief Clerk — Rate Division		2,820.00
Stenographer		2,520.00
Stenographer		2,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		2,716.00
Total Personal Services	$	52,096.00
State Travel		600.00
Out-of-State Travel		300.00
Professional Fees		3,000.00
Subscriptions and Organization Dues		150.00
Printing — Application Forms and Regulations		2,000.00
Other Current Expenditures		6,595.00
Capital Outlay — Equipment		800.00
Total Insurance Division	$	65,541.00

INCORPORATING DIVISION		
Personal Services		
Director	$	4,500.00
Assistant Director		3,300.00
Clerk-typist		2,820.00
Clerk-typist		2,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		716.00
Total Personal Services	$	13,736.00
Other Current Expenditures		2,615.00
Total Incorporating Division	$	16,351.00
MOTOR CARRIER DIVISION		
Personal Services		
Director	$	4,000.00
Assistant Director		3,600.00
Inspectors, 3 @ $3,900.00		11,700.00
Plate and Lease Clerk		2,700.00
Legal Order and Docket Clerk		2,700.00
Clerk		2,700.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,507.00
Total Personal Services	$	28,907.00
State Travel		5,000.00
Professional Fees		5,000.00
Other Current Expenditures		3,025.00
Capital Outlay — Equipment		350.00
Total Motor Carrier Division	$	42,282.00
TARIFF AND RATE DIVISION		
Personal Services		
Director	$	4,300.00
Secretary to Division		3,300.00
Railway Safety Inspector		3,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		632.00
Total Personal Services	$	12,132.00
State Travel		600.00
Out-of-State Travel		450.00
Subscriptions and Organization Dues		50.00
Other Current Expenditures		480.00

Professional Fees		500.00
Capital Outlay — Equipment		950.00
Total Tariff and Rate Division	$	15,162.00

ACCOUNTING AND CASHIER DIVISION

Personal Services		
Chief Accountant and Cashier	$	6,000.00
Senior Accountant and Assistant Cashier		3,900.00
Junior Accountant and Assistant Cashier		3,000.00
Receptionist		3,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		874.00
Total Personal Services	$	16,774.00
Other Current Expenditures		370.00
Bonds of Employees		120.00
Total Accounting and Cashier Division	$	17,264.00

UTILITIES DIVISION

Personal Services		
Director	$	6,000.00
Assistant Director		4,830.00
Engineer		8,400.00
Assistant Attorney General		8,400.00
Secretary to Division		3,600.00
Investigator — Inspector		3,900.00
Field Accountant		4,200.00
Legal Stenographer		2,700.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		2,300.00
Total Personal Services	$	44,330.00
State Travel		6,700.00
Out-of-State Travel		600.00
Other Current Expenditures		3,020.00
Professional Fees		13,100.00
Total Utilities Division	$	67,750.00*
Total Appropriation for Corporation Commission	$	282,538.00

*This appropriation is made to enable the department to carry out the provisions of Section 2, Chapter 19, Laws of 1951, First Regular Session, and is subject to the limitations and conditions imposed therein.

Subdivision 61. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Personal Services	
Salaries	$ 139,600.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	7,678.00
Total Personal Services	$ 147,278.00
State Travel	48,000.00
Out-of-State Travel	300.00
Subscriptions and Organization Dues	500.00
Fixed Charges	2,025.00
Other Current Expenditures	13,100.00
Capital Outlay	
Radio Equipment	10,000.00
Other	8,000.00
Total Capital Outlay	$ 18,000.00
Total Appropriation	$ 229,203.00

Subdivision 62. INDUSTRIAL INSURANCE PREMIUMS

Workmen's Compensation (Exclusive of Highway Department)	$ 150,000.00
Occupational Disease (Exclusive of Highway Department)	3,000.00
Total Appropriation	$ 153,000.00

Subdivision 63. INDUSTRIAL COMMISSION

From the State General Fund:

COMMISSIONERS

Personal Services	
Salaries	$ 25,200.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	1,386.00
Total Commissioners' Appropriation	$ 26,586.00

ENFORCEMENT OF LABOR AND MINIMUM WAGE LAWS

Personal Services	
Salaries	$ 10,020.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement		550.00
Total Personal Services	$	10,570.00
State Travel		2,750.00
Subscriptions and Organization Dues		198.00
Other Current Expenditures		2,970.00
Fixed Charges		15.00
Capital Outlay — Equipment		425.00
Total Enforcement of Labor and Minimum Wage Laws	$	16,928.00
From Funds of the Industrial Commission:		
Rent — Payable to the State of Arizona	$	25,000.00
Total Appropriation	$	68,514.00

Subdivision 64. INSPECTOR OF WEIGHTS AND MEASURES

Personal Services		
Salaries	$	19,500.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,075.00
Total Personal Services	$	20,575.00
State Travel		8,760.00
Out-of-State Travel		
To pick up truck		250.00
Fixed Charges		340.00
Insurance		276.00
Other Current Expenditures		760.00
Capital Outlay		
Truck with scale testing equipment		21,324.00
Truck Replacement		2,500.00
Total Capital Outlay	$	23,824.00
Total Appropriation	$	54,785.00

Subdivision 65. LIVESTOCK SANITARY BOARD

Personal Services		
Salaries	$	266,984.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		14,685.00
Total Personal Services	$	281,669.00

State Travel		51,650.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		25.00
Payment of Bounty		20,000.00
Fixed Charges		600.00
Other Current Expenditures		6,550.00
SPECIAL INVESTIGATION		
Personal Services		
Salaries	$	8,400.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		462.00
Total Personal Services	$	8,862.00
State Travel		2,520.00
Total for the Livestock Sanitary Board	$	372,176.00

HORSEMEAT ENFORCEMENT

All collections received during the fiscal year when paid into the State Treasury are hereby appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay.

ANIMAL HUSBANDRY

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$	20,180.00

This appropriation is made to enable the state to cooperate with the United States Bureau of Animal Industry for the eradication of tuberculosis among cattle.

PREDATORY ANIMAL AND RODENT CONTROL

Lump Sum Appropriation	$	40,000.00

This appropriation is made to enable the state to cooperate with the Federal Wildlife Department for the eradication of predatory animals and control of rodents.

STATE VETERINARIAN

Personal Services		
Salaries	$	6,600.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		363.00
Total Personal Services	$	6,963.00
State Travel		1,000.00
Out-of-State Travel		300.00

Subscriptions and Organization Dues		50.00
Fixed Charges		30.00
Other Current Expenditures		950.00
Capital Outlay — Equipment		300.00
Total State Veterinarian	$	9,593.00

VOLUNTARY BANG'S DISEASE

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement	$	33,370.00

This appropriation is made to enable the state to cooperate with the United States Bureau of Animal Industry for the eradication of Voluntary Bang's Disease among animals.

GARBAGE CONTROL FOR SWINE

Personal Services		
Salaries	$	9,450.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		520.00
Total Personal Services	$	9,970.00
State Travel and Current Expenditures		13,220.00
Total Garbage Control for Swine	$	23,190.00
Total Appropriation for the Livestock Sanitary Board	$	498,509.00

Subdivision 66. NATIONAL GUARD

Personal Services		
Salaries	$	90,300.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		4,970.00
Total Personal Services	$	95,270.00
State Travel		2,700.00
Out-of-State Travel		1,500.00
Subscriptions and Organization Dues		500.00
Medals and Trophies		1,000.00
Officers' Clothing Allowance		20,000.00
Sky Harbor Air Force Service Contract		15,000.00
Unit Allowance		30,000.00
Rent		5,500.00
Fixed Charges		800.00

Other Current Expenditures	41,800.00
Capital Outlay	
Lockers	5,000.00
Buildings and Improvements	10,000.00
Bins and paving — Tucson and Yuma Armories; Alterations of Plans and Specifications of New Yuma Armory	19,000.00
Equipment	2,500.00
Total Capital Outlay	$ 36,500.00
Total Appropriation	$ 250,570.00

Subdivision 67. REAL ESTATE BOARD

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 68. REGISTRAR OF CONTRACTORS

90% of all collections when paid into the State Treasury is hereby appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 69. SHEEP SANITARY COMMISSION

Personal Services	
Salaries	$ 10,800.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	594.00
Total Personal Services	$ 11,394.00
State Travel	3,600.00
Fixed Charges	60.00
Other Current Expenditures	530.00
Total Appropriation	$ 15,584.00

Subdivision 70. AVIATION AUTHORITY

From the General Fund:

Lump Sum Appropriation	$ 1,000.00

In addition to the lump sum appropriation, 50% of all collections when paid into the State Treasury are appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay.

Subdivision 71. BOARD OF ACCOUNTANCY

All collections received when paid into the State Treasury are hereby appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay.

Subdivision 72. STATE BOARD OF TECHNICAL REGISTRATION

90% of all collections received when paid into the State Treasury is hereby appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 73. STATE EGG INSPECTOR

90% of all collections received when paid into the State Treasury is hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay. 10% shall be credited to the general fund.

Subdivision 74. STATE MINE INSPECTOR

Personal Services		
Salaries	$	27,900.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		1,535.00
Total Personal Services	$	29,435.00
State Travel		6,000.00
Fixed Charges		20.00
Other Current Expenditures		875.00
Capital Outlay — Typewriter		150.00
Total Appropriation	$	36,480.00

Subdivision 75. STATE VETERINARY BOARD

Personal Services		
Salaries	$	570.00

Employers' contribution for Old Age and Survivors' Insurance and State Retirement	32.00
Total Personal Services	$ 602.00
State Travel	150.00
Other Current Expenditures	65.00
Total Appropriation	$ 817.00

Subdivision 76. ARIZONA HIGHWAY DEPARTMENT

From any unencumbered balances remaining in the State Highway Fund as of June 30, 1954, there is hereby appropriated:

ADMINISTRATION

Personal Services	$ 338,864.00
State Travel	8,100.00
Out-of-State Travel	750.00
Other Current Expenditures	121,098.00
Subscriptions and Organization Dues	820.00
Reserve for Contingencies	300,000.00*
Industrial Compensation — State Employees	102,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	258,185.00
Capital Outlay	
Scientific and Engineering Equipment	1,000.00
Radio (Engineering)	23,700.00
Other Equipment	10,500.00
Land, Buildings and Improvements	161,481.00
Total Capital Outlay	$ 196,681.00
Total Administration	$1,326,498.00

*This appropriation is exempt from the provisions of Section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

MOTOR VEHICLE

Personal Services	$ 852,707.00
State Travel	17,500.00
Out-of-State Travel	750.00
Other Current Expenditures	194,600.00
Subscriptions and Organization Dues	250.00
Fixed Charges — Equipment Rental	2,430.00

Capital outlay	
Equipment	6,700.00
Land, Building and Improvements	250.00
Total Capital Outlay	$ 6,950.00
Total Motor Vehicle	$1,075,187.00
ENGINEERING	
Personal Services	715,243.00
State Travel	40,650.00
Out-of-State Travel	3,105.00
Other Current Expenditures	$ 59,631.00
Subscriptions and Organization Dues	96.00
Capital Outlay	
Scientific and Engineering Equipment	12,100.00
Other Equipment	81,000.00
Total Capital Outlay	$ 93,100.00
Total Engineering	$ 911,825.00
EQUIPMENT AND SHOPS	
Personal Services	463,341.00
State Travel	8,702.00
Other Current Expenditures	436,016.00
Capital Outlay	
Automotive and Road Equipment	280,400.00
Automotive Equipment — Patrol	71,140.00
Land, Buildings and Improvements	16,400.00
Total Capital Outlay	$ 367,940.00
Total Equipment and Shops	$1,275,999.00
MAINTENANCE	
Personal Services	1,537,936.00
Other Current Expenditures and Fixed Charges	664,300.00
Capital Outlay	50,000.00
Total Maintenance	$2,252,236.00
GUIDE LINE PAINTING	
Personal Services	121,776.00
State Travel	2,400.00
Other Current Expenditures	167,630.00
Total Guide Line Painting	$ 291,806.00

SIGNS AND MARKERS	
Personal Services	$ 59,101.00
State Travel	1,200.00
Other Current Expenditures	25,506.00
Capital Outlay	
Prison Signs	20,000.00
Equipment	2,500.00
Total Capital Outlay	$ 22,500.00
Total Signs and Markers	$ 108,307.00
HIGHWAY PATROL	
Personal Services	599,058.00
State Travel	41,850.00
Out-of-State Travel	600.00
Subscriptions and Organization Dues	100.00
Other Current Expenditures	156,728.00
Capital Outlay	
Office Equipment	1,000.00
Radio Equipment	52,700.00
Other Capital Outlay	13,125.00
Total Capital Outlay	$ 66,825.00
Total Highway Patrol	$ 865,161.00
Patrol Merit System Council	4,000.00
Warehouse Revolving Account	80,000.00
Highway Magazine	
Salary of Director of Publication	8,400.00
Lump Sum Appropriation	91,600.00
Total Highway Magazine	$ 100,000.00*

*In addition to the authorization of $100,000.00 for the Highway Magazine, any unencumbered balance remaining in the Highway Magazine Fund on June 30, 1954, and all receipts from subscriptions and sales during the said fiscal year when paid into the State Treasury, are hereby appropriated for the purposes stated in Section 59-701, Arizona Code of 1939.

Any balances and collections in the State Highway Fund in excess of the specific amounts set forth above for the purposes designated, are hereby appropriated exclusively for construction of state highways, including, (1) state primary system, (2) state secondary system, (3) county secondary (or primary) system, (4) urban area routes; the acquisition of right-of-way; the cost of field administration, field engineering and engineering on construction projects.

Total State Highway Appropriation	$8,291,019.00

Subdivision 77. ARIZONA COPPER TARIFF BOARD

Lump Sum Appropriation (including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$ 5,275.00

Subdivision 78. ARIZONA GAME AND FISH COMMISSION

From the Arizona Game and Fish Protection Fund the following is appropriated:

Personal Services	
Administration	$ 71,990.00
Law Enforcement	164,920.00
Game Management	
Predator Control	24,500.00*
Other Personal Services	12,800.00
Total Game Management	$ 37,300.00
Information and Education	14,160.00
Fisheries	93,355.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	20,995.00
Total Personal Services	$ 402,720.00
State Travel	67,030.00
Out-of-State Travel	2,000.00
Fish Food	70,000.00
Other Current Expenditures	135,230.00
Subscriptions and Organization Dues	$ 375.00
Rent — Payable to the State of Arizona	6,000.00
Fixed Charges	9,100.00
Capital Outlay	
Equipment	62,325.00
Projects	235,000.00
Total Capital Outlay	$ 297,325.00
Dingell-Johnson Act for Fish Restoration	30,000.00**
Pittman-Robertson Act for Wildlife Restoration	95,000.00***
Cooperative Wildlife Research Unit	6,000.00
Total Arizona Game and Fish Commission	$1,120,780.00****

*This appropriation is made to enable the state to cooperate with the Federal Wildlife Department for the eradication of predatory animals.

**This appropriation is made to enable the state to carry out the provisions of Public Law 681, Eighty-first Congress, providing for cooperation with the state in Fish Restoration and Management Projects.

***This appropriation is made to enable the state to cooperate with the Federal Government for the preservation of wildlife restoration.

****This appropriation is exempt from the provisions of Section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

Subdivision 79. ARIZONA INTERSTATE STREAM COMMISSION

Lump Sum Appropriation (Including employers' contribution for Old Age and Survivors' Insurance and State Retirement)	$ 164,529.00

Subdivision 80. DEPARTMENT OF MINERAL RESOURCES

Personal Services	
Salaries	$ 45,350.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	2,494.00
Total Personal Services	$ 47,844.00
State Travel	10,000.00
Out-of-State Travel	500.00
Other Current Expenditures	7,074.00
Subscriptions and Organization Dues	50.00
Fixed Charges	101.00
Capital Outlay	1,000.00
Total Appropriation	$ 66,569.00

Subdivision 81. STATE DAM AND SUPERVISION

All collections paid into the State Treasury are hereby appropriated for current expenditures, (including employers' contribution for Old Age and Survivors' Insurance and State Retirement).

Subdivision 82. STATE LAND DEPARTMENT

FOR THE STATE LAND DEPARTMENT

Personal Services	
Fireguards	$ 3,810.00*
Other Personal Services	109,100.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement	6,210.00
Total Personal Services	$ 119,120.00

State Travel		15,000.00
Out-of-State Travel		1,000.00
Subscriptions and Organization Dues		100.00
Fire Suppression		1,000.00
Tabulating Machine Rental		8,770.00
Fixed Charges		820.00
Professional Services		10,000.00*
Other Current Expenditures		14,600.00
Capital Outlay		
Equipment	$	2,000.00
Buildings and Improvements		3,000.00
Total Capital Outlay	$	5,000.00
Total for the State Land Department	$	175,410.00

*These appropriations are exempt from the provisions of Section 10-925, Arizona Code of 1939, as amended, relating to quarterly allotments.

STREAM GAUGING

Lump Sum Appropriation	$	3,000.00

This appropriation is made to enable the state to cooperate with the Federal Government.

UNDERGROUND WATER DEVELOPMENT

Lump Sum Appropriation	$	40,000.00

BOARD OF APPEALS

Lump Sum Appropriation	$	3,000.00
Total Appropriation — State Land Department	$	248,410.00

Subdivision 83. BOND INTEREST AND REDEMPTION REQUIREMENTS

Interest on Bonded Debt	$	262.00
Redemption of Debt		10,000.00
Total Appropriation	$	10,262.00

Subdivision 84. ARIZONA COMMISSION ON UNIFORM STATE LAWS

National Conference of Commissioners on Uniform State Laws	$	400.00
In and Out-of-State Travel and Other Current Expenditures		900.00
Total Appropriation	$	1,300.00

Subdivision 85. ARIZONA RACING COMMISSION

Personal Services		
Secretary	$	5,000.00
Stenographer		3,300.00
Typist		3,000.00
Janitor		1,000.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		675.00
Total Personal Services	$	12,975.00
State Travel		6,000.00
Out-of-State Travel		300.00
Subscriptions and Organization Dues		800.00
Professional Fees		
Police (Not to exceed $325.00 per month)		15,600.00
Laboratory Expense		12,000.00
Veterinarian Expense		
Maricopa		6,000.00
Pima		3,000.00
Identification		6,000.00
Mutuel Supervision		
Maricopa		6,500.00
Pima		3,600.00
County Fairs		1,500.00
State Stewards		
Maricopa		5,000.00
Pima		2,500.00
County Fairs		3,200.00
State Judges		7,500.00
Total Professional Fees	$	72,400.00
Other Current Expenditures		7,450.00
Fixed Charges		3,550.00
Total Appropriation	$	103,475.00

Subdivision 86. EMPLOYMENT SECURITY COMMISSION

Administrative Expenses	$	7,000.00

This appropriation is made to enable the state to carry out the provisions of section 12-834, Arizona Code of 1939, as amended.

Subdivision 87. PIONEERS' HISTORICAL SOCIETY

Personal Services		
Salaries	$	12,600.00
Employers' contribution for Old Age		

and Survivors' Insurance and State Retirement		693.00
Total Personal Services	$	13,293.00
Other Current Expenditures		2,268.00
Capital Outlay		
Equipment		1,200.00
Buildings and Improvements		1,000.00
Total Capital Outlay	$	2,200.00
Total Appropriation	$	17,761.00

Subdivision 88. PRESCOTT HISTORICAL SOCIETY

Personal Services		
Salaries	$	4,530.00
Employers' contribution for Old Age and Survivors' Insurance and State Retirement		250.00
Total Personal Services	$	4,780.00
Fixed Charges		12.00
Other Current Expenditures		1,270.00
Capital Outlay		
Equipment		4,000.00
Buildings and Improvements		1,350.00
Total Capital Outlay	$	5,350.00
Total Appropriation	$	11,412.00

Subdivision 89. GOVERNOR-ON-THE-JOB-TRAINING

Lump Sum Appropriation	$	2,000.00

Subdivision 90. CIVIL DEFENSE

Lump Sum Appropriation	$	9,000.00

Subdivision 91. ARIZONA STATE FAIR COMMISSION

All collections paid into the State Treasury are hereby appropriated for current expenditures (including employers' contribution for Old Age and Survivors' Insurance and State Retirement), fixed charges and capital outlay.

Sec. 2. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Approved by the Governor—April 15, 1954.

Filed in the Office of the Secretary of State—April 15, 1954.

CHAPTER 159

(House Bill No. 274)

AN ACT

RELATING TO SCHOOL DISTRICT ORGANIZATION, BOUNDARIES, ANNEXATION, AND PRESCRIBING REGULATIONS FOR PETITIONS, ELECTIONS, AND ASSUMPTION OF BONDED INDEBTEDNESS IN CONNECTION THEREWITH; AND AMENDING SECTION 54-408, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. Section 54-408, Arizona Code of 1939, is amended to read:

54-408. ANNEXATION OF COMMON SCHOOL DISTRICT TO HIGH SCHOOL DISTRICT. A common school district contiguous to any high school or union high school district, may annex itself to such district upon the petition of as many electors of the common school district as may be equal to a majority of the number of electors voting at the last preceding school election. Such petition shall be presented to the trustees of the high school district to which they desire to be annexed, setting forth the boundaries of said district to be annexed. Said petition, if approved by the board of trustees of the district to which the annexation is to be made, shall be transmitted with the indorsement of said board of trustees thereon, to the county superintendent of schools. The electors of the high school district have fifteen days thereafter to make and file a protest against such annexation; if such number of such electors as may be equal to a majority of the number of electors voting in such high school district at the last preceding school election shall file such protest, the county school superintendent shall call a special election on the question within ten days of such filing; if a protest is not so made and filed, or the question of annexation is carried by the election, the county superintendent of schools shall make his records of the boundaries of the high school district conform to the petition of the electors of the common school district and notify the board of supervisors thereof, and on and after the first day of July following, said district shall become a part of the high school district thereby formed or presently existing to which it petitioned to be annexed; provided, that if the high school district has an outstanding bonded indebtedness the an-

nexation shall not be made until the question of assuming liability for such bonded indebtedness is approved by a majority of the real property taxpayers, who are otherwise qualified electors of the common school district, voting at a special election called by the superintendent within ten days for that purpose.

Sec. 2. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—April 20, 1954.

Filed in the Office of the Secretary of State—April 20, 1954.

CHAPTER 160

(Senate Bill No. 135)

AN ACT

RELATING TO GROUND WATER; TRANSFERRING THE POWERS AND DUTIES OF THE UNDERGROUNDWATER COMMISSION TO THE STATE LAND DEPARTMENT; RETAINING PREVIOUSLY DECLARED CRITICAL GROUNDWATER AREAS, AND MAKING AN APPROPRIATION.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. TRANSFER OF POWERS AND DUTIES. (a) The jurisdiction, powers and duties vested in the underground water commission relating to the control, supervision, distribution and use of ground waters of the state are vested in and imposed upon the state land department.

(b) As of the effective date of this Act the underground water commission shall be abolished and all records, files and property, including office equipment of the underground water commission, are transferred to the state land department.

Sec. 2. CRITICAL GROUND-WATER AREAS. (a) All areas heretofore designated as critical ground-water areas under the provisions of the groundwater code of 1948 shall remain critical groundwater areas in accordance with the provisions of such code and shall in addition be subject to all of the provisions of this Act.

(b) Immediately upon the enactment of this Act, the commissioner shall promptly publish notices of hearings to designate as a critical groundwater area or as critical groundwater areas the whole or so much of the restricted area described in chapter 42, twenty-first legislature, first regular session, as is not already designated as critical groundwater areas and which appear from factual data not to have sufficient groundwater to provide a reasonably safe supply for irrigation of the cultivated lands therein at current rates of withdrawal, and shall promptly undertake the hearings, proceedings and actions authorized and provided by the groundwater code of 1948 in reference thereto.

(c) No permit shall be issued for drilling a new well for the purpose of irrigating land not already under cultivation, nor shall any permit be issued for any well to irrigate such land when such land lies within the restricted area described in sub-paragraph (b) hereof, pending the completion by the commissioner of the proceedings and actions required by sub-paragraph (b) hereof.

(d) Notwithstanding any provision of this Act or the groundwater code of 1948, no groundwater shall be used for irrigation purposes from any well which was drilled in violation of the provisions of the groundwater code of 1948 or the provisions of chapter 42, twenty-first legislature, first regular session, nor shall groundwater from a well within the definition of "exempted well" as defined in the groundwater code of 1948 be used for irrigation purposes.

Sec. 3. APPROPRIATION. The sum of thirty-five thousand dollars ($35,000.00) is hereby appropriated to the state land department for the purpose of carrying out the general administrative duties imposed by this Act.

Sec. 4. SEVERABILITY. If any section, subsection, phrase or sentence of this Act shall be declared unconstitutional, it shall not affect the constitutionality or validity of the remainder of this Act.

Sec. 5. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Filed in the Office of the Secretary of State—April 22, 1954.

GOVERNOR'S LETTER

OFFICE OF THE GOVERNOR
State House
Phoenix, Arizona

April 22, 1954

Mr. Wesley Bolin
Secretary of State
State Capitol Building
Phoenix, Arizona

Dear Mr. Bolin:

It is with the utmost reluctance that I transmit to you for filing, Senate Bill 135 of the Second Regular Session. Twenty-first Arizona Legislature, entitled "Relating to ground water; transferring the powers and duties of the underground water commission to the state land department; retaining previously declared critical groundwater areas, and making an appropriation."

Having held this bill for 10 days (Sundays excepted) since the Legislature's adjournment, it now becomes law without my approval or signature, in accordance with Article 5, Section 7, of the Constitution.

I could never sign such legislation as this, representing as it does, a sorry, weak, and confused ending to a two-year struggle for an adequate underground water code to protect our entire economy against the dangers of dwindling water supplies.

It is unnecessary to be repetitious; all of the objections that were listed when I reluctantly signed a stop-gap measure, House Bill 367, apply in equal or even greater measure to the present woefully inadequate bill.

It should be reiterated, however, that the Twenty-first Legislature has succeeded in wasting more than 1,000 man-days of largely uncompensated labor on the part of the members of the Underground Water Commission, and more than $130,000 of the taxpayers' money, by doing nothing more than repeating weak legislation that has been on the books for six years.

It is my earnest hope that the people of Arizona will realize the full measure of how shamefully their confidence has been abused in this mockery of the law-making process, and that they will be ever mindful that once again selfish interests have triumphed over the common good.

Sincerely,
/s/ HOWARD PYLE
Governor

HP/fjp
Inc.

MEMORIALS

HOUSE JOINT MEMORIAL NO. 2

A JOINT MEMORIAL

RELATING TO THE ESTABLISHMENT OF AN AIR FORCE ACADEMY IN ARIZONA.

To the President and the Congress of the United States of America:

Your memorialist respectfully represents:

It has long been recognized that in the interest of national defense there is a need for an air force academy comparable to the United States military and naval academies to train career officers for the air force because of the tremendous growth of that service. In 1948 the Secretary of Defense and in 1949 the National Military Establishment's Service Academy Board recommended that an air force academy be established on the same basis as the military and naval academies for the training of future officers of that branch of service.

Between 1949 and 1953, proposals have been introduced in the United States House of Representatives to establish a United States air force academy at the estimated cost of one hundred seventy-one million dollars. In May of last year United States Representative Short, Chairman of the Armed Services Committee, introduced a bill providing for establishment of an academy and that the academy be located at an existing facility until such time as Congress appropriates sufficient funds to build an academy at a site chosen by a commission. The House Armed Services Committee has now recommended that this proposal do pass.

Arizona has numerous existing facilities at which an air academy could flourish either on a temporary or permanent basis. That Arizona is particularly suited as a site for an air academy is shown by its possession of the following important attributes:

1. A climate providing ideal all-year flying conditions, as evidenced by an average wind velocity of about seven miles per hour, an annual average of possible sunshine of about eighty-four per cent, an annual average of about three thousand seven hundred thirty-nine sunshine hours per year, and a low yearly average relative humidity of about thirty-eight per cent;

2. the low cost of acquisition and preparation of land;

3. outstanding educational facilities, including the University of Arizona at Tucson, Arizona State College at Tempe, Arizona State College at Flagstaff, junior colleges, public and private high schools and preparatory schools, and many public and private schools;

4. adequate housing facilities, with all modern utilities and ample public accommodations;

5. excellent cultural facilities, including churches, libraries and museums;

6. transportation facilities by rail, motor carrier and air, including numerous airports, airlines, and air force installations;

7. outstanding recreational facilities of all kinds, both indoor and outdoor; and,

8. numerous thriving communities with populations of from ten thousand to two hundred fifty thousand.

Wherefore your memorialist, the Legislature of the State of Arizona, urgently requests:

1. That the President and the Congress establish a temporary air academy at one of the existing Arizona facilities; and,

2. that the President and the Congress give earnest consideration to the early construction of a permanent air force academy at a suitable location in the state of Arizona.

Passed the House February 26, 1954 by the following vote: 70 Ayes, 0 Nays, 10 Not Voting.

Passed the Senate March 13, 1954 by the following vote: 17 Ayes, 0 Nays, 2 Not Voting.

Approved by the Governor—March 16, 1954.

Filed in the Office of the Secretary of State—March 16, 1954.

HOUSE JOINT MEMORIAL NO. 5

A JOINT MEMORIAL

RELATING TO FREIGHT RATES IN THE MOUNTAIN-PACIFIC TERRITORY.

To the Interstate Commerce Commission and to Senators Carl Hayden and Barry Goldwater and Representatives Harold Patten and John J. Rhodes:

Your memorialist respectfully represents:

Hearings are now being conducted before the Interstate Commerce Commission relative to freight rates to, from and within the Mountain-Pacific Territory. These hearings are designated as Interstate Commerce Commission Docket Numbers 30660 and 30416.

Present freight rates applicable to the Mountain-Pacific Territory are discriminatory and unfair to the people of the state of Arizona and are a severe handicap to the economic growth of the Mountain States.

The scale of class rates shown as the 28300 schedule of freight rates, which is now in effect in the eastern and midwestern areas of the United States is a fair rate structure and should be adopted as the rate schedule in all parts of the nation.

The hearings before the Interstate Commerce Commission relative to this matter were begun in the year 1939 and any further delay in reaching a decision is unjustified and works a hardship on the people of the Mountain States.

Wherefore your memorialist, the Legislature of the State of Arizona, prays:

That an early decision be made by the Interstate Commerce Commission making the 28300 schedule of freight rates applicable to the Mountain-Pacific Territory.

Passed the House March 26, 1954 by the following vote: 67 Ayes, 0 Nays, 13 Not Voting.

Passed the Senate April 1, 1954 by the following vote: 19 Ayes, 0 Nays, 0 Not Voting.

Filed in the Office of the Secretary of State—April 1, 1954.

HOUSE CONCURRENT MEMORIAL NO. 2

A CONCURRENT MEMORIAL

RELATING TO THE ENFORCEMENT OF LIQUOR LAWS ON INDIAN RESERVATIONS.

To the Congress of the United States:

Your memorialist respectfully represents:

Legislation now proposed, if enacted into law, will repeal all laws prohibiting the sale of alcoholic beverages on Indian reservations, and the sale of such beverages on reservations will be lawful if and when the tribal council grants its consent.

It is vitally important that there shall be a proper enforcement of liquor laws on the Indian reservations if such legislation is adopted and if the tribal councils give their consent to the sale of alcoholic beverages.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

That the Congress provide by law that the states may have the right to enter the reservations and enforce state laws relating to alcoholic beverages in the event the sale of such beverages is made lawful on the reservations.

Passed the House March 31, 1954 by the following vote: 68 Ayes, 2 Nays, 10 Not Voting.

Passed the Senate April 5, 1954 by the following vote: 16 Ayes, 0 Nays, 3 Not Voting.

Filed in the Office of the Secretary of State—April 5, 1954.

SENATE CONCURRENT MEMORIAL NO. 1

A CONCURRENT MEMORIAL

Requesting Congress to retain the present formula in allocating federal aid funds to the national system of interstate highways.

To the Senate and House of Representatives of the Congress of the United States:

Your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, respectfully represents:

Section 21 of the Federal Aid Highway Act of 1952, in setting forth a formula for the apportionment of funds for the national system of interstate highways, uses a value basis of one-third for state area, one-third for state population and one-third for total state road mileage. Under this method of distribution, Arizona receives annually, 1.54 per cent or a net of three hundred seventy-four thousand, nine hundred forty-three dollars out of the total twenty-five million dollar appropriation.

Under the proposed Act of 1954, which sets forth a total of two hundred fifty million dollars for interstate highways, the old basis noted above would be abandoned in favor of the population factor alone. This would relegate Arizona to a position in which it would receive the minimum apportionment, .75 per cent of the total, or a net amount of one million eight hundred thirty-eight thousand dollars, whereas if the current formula is retained, Arizona would receive 1.54 per cent or a net amount of three million seven hundred forty-nine thousand four hundred thirty dollars.

The interstate system embraces a total of 37,158.9 miles. Of this figure, 1136.9 miles, or 3.1 per cent of the total, lie within the boundaries of this state. This places Arizona eighth from the top in the number of interstate miles. For an important "bridge" state, and one whose interstate roads are vital to the national defense, the inequity of the proposed formula will be readily discernable to those in positions of authority and experience, and whose understanding embraces logic as well as fairness in matters of highway finance.

In order to cite a comparison which will highlight and emphasize the glaring inequity of the 1954 proposal, attention is directed to the State of Kansas, which has 701.5 miles of interstate mileage, and improvement to the interstate system is fixed at .80 per cent of the total allocation. Under the proposed formula, Kansas will receive a net amount of two million nine hundred nineteen thousand dollars. On the other hand, and in sharp contrast, is Arizona's position under the proposed population formula. As previously pointed out, this state has 1136.9 miles of interstate highways. Arizona's estimated cost of improvement to this system is .82 per cent of the total allocation, but it is scheduled to receive but .75 per cent, or a net amount of one million eight hundred thirty-eight thousand dollars. Here, then is a case where one state, Arizona, has 435.4 more miles to improve, a higher improvement estimate, but more than one million dollars less than the State of Kansas with which to achieve the improvement.

The wisdom and fairness of the current sliding scale formula applicable to states having federal land holdings in excess of five per cent, is fully recognized. The extension of this formula to embrace the interstate system in allocating funds under the two hundred fifty million dollar appropriation would therefore appear to be justified on the basis of a proven formula which has been an outstanding success for more than thirty-five years.

Wherefore, your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, earnestly prays:

1. That the Congress of the United States retain the formula set forth under section 21 of the Federal Aid Highway Act of 1952, and that said present formula be applied to all similar legislation which may be enacted and all appropriations which may be authorized for federal aid to highways, and specifically that it be applied to future interstate allocations.

Passed the Senate February 10, 1954 by the following vote: 18 Ayes, 0 Nays, 1 Not Voting.

Passed the House February 26, 1954 by the following vote: 70 Ayes, 0 Nays, 10 Not Voting.

Filed in the Office of the Secretary of State—March 1, 1954.

SENATE CONCURRENT MEMORIAL NO. 2

A CONCURRENT MEMORIAL

Requesting Congress to increase federal aid allocations for the highways of the nation.

To the Senate and House of Representatives of the Congress of the United States:

Your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, respectfully represents:

Congress in its wisdom has seen fit to enact and perpetuate legislation fixing the federal gasoline excise tax at a rate of two cents per gallon. The results of such legislation have proven highly beneficial in providing improvements to the nation's vast network of highways, and the continuance of such a levy, it is felt, will reflect great annual highway benefits.

However, it is our understanding that the President of the United States, and many others in positions of authority and experience, also recognize the fact that the sum currently allocated to highways in the form of federal aid is substantially inadequate. The insufficient condition of our highway system from the standpoints of safety, comfort and the national defense has for several years been the topic of many discussions. Many theories have been propounded for the alleviation of this condition, and all efforts towards a solution point to a need for added revenue.

The current allocation, even though amounting to the large sum of five hundred seventy-five million dollars annually, still falls far short of the amount received by the federal government in the form of excise taxes on gasoline and oil. The annual revenue from these sources is in the neighborhood of nine hundred million dollars.

It does not appear to be unreasonable to request that funds derived from fuel and oil imposts be returned in full measure to the source of their creation, namely, the highway network of the Nation.

Wherefore, your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, earnestly prays:

1. That the Congress of the United States increase the annual amount of federal aid for highways to nine hundred million dollars.

Passed the Senate February 10, 1954 by the following vote: 18 Ayes, 0 Nays, 1 Not Voting.

Passed the House February 26, 1954 by the following vote: 70 Ayes, 2 Nays, 8 Not Voting.

Filed in the Office of the Secretary of State—March 1, 1954.

SENATE CONCURRENT MEMORIAL NO. 3

A CONCURRENT MEMORIAL

Relating to oil and gas fields which underlie the United States-Mexican boundary.

To the President and Secretary of State of the United States of America:

Your memorialist respectfully represents:

The conservation of oil and gas deposits that are located partly in the United States of America and partly in the Republic of Mexico is vitally important to both Nations.

The adoption and uniform application of the best possible conservation practices in such border oil and gas fields is highly desirable.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the President and the Secretary of State exert every effort to effectuate a convention between the Republic of Mexico and the border states, which convention shall have for its purpose the establishment of mutually acceptable methods of handling the conservation of oil and gas in any boundary oil and gas fields by the prevention of physical waste thereof from any cause.

Passed the Senate February 24, 1954 by the following vote: 19 Ayes, 0 Nays, 0 Not Voting.

Passed the House April 3, 1954 by the following vote: 54 Ayes, 3 Nays, 23 Not Voting.

Filed in the Office of the Secretary of State—April 5, 1954.

RESOLUTIONS

HOUSE RESOLUTION NO. 4

A RESOLUTION

RELATING TO THE DISPOSITION OF SURPLUS PROPERTY.

WHEREAS, many offices and storage rooms of the state capitol and state office buildings are encumbered with superfluous, discarded and antiquated equipment, serving little or no useful purpose, but occupying space seriously needed for the performance of public duties, and

WHEREAS, no steps have been taken toward the removal and disposal of this surplus property, and the situation with respect to available space for the performance of public functions is becoming more and more acute, this means is taken of calling attention to the importance of action designed to relieve the condition referred to.

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives of the State of Arizona:

1. That the state property condemnation board be requested to exercise the powers vested in it by the provisions of section 4-318, Arizona Code of 1939, to condemn and dispose of all surplus property found in the offices or storage rooms of departments of the state, conditioned in each instance upon the approval of the officer having the custody or charge of any such property, and

2. that the post auditor cause to be made, in conformity with the authority of section 10-943, Arizona Code of 1939, an inventory of surplus property as described in paragraph 1 hereof, and to report the same to the property condemnation board.

Passed the House February 19, 1954 by the following vote: 68 Ayes, 0 Nays, 12 Not Voting.

Approved by the Governor—February 23, 1954.

Filed in the Office of the Secretary of State—February 23, 1954.

HOUSE RESOLUTION NO. 5

A RESOLUTION

ON THE DEATH OF HON. DANA T. MILNER.

Whereas, death has summoned the Honorable Dana T. Milner, a former member of the Arizona House of Representatives, on February 24, 1954 in the city of Phoenix, at the age of seventy-one years.

A native of Wilson, in the state of Kansas, Mr. Milner came to Arizona in 1910 and entered the employ of the Arizona Marble Company at Bowie as an auditor. In 1917 he organized the Bank of Bowie which he later consolidated with the Riggs Bank at Willcox under the name of the Bank of Willcox. In 1936 he sold the bank to the Valley National Bank and continued as its manager until retirement in 1946.

It was always Mr. Milner's desire to be of service whenever his fellow man called upon him. He was a past president of the Willcox Rotary Club, member of the Arizona Cattlemens' Association, Future Farmers of America, past master of the Willcox Masonic Lodge, past patron of the Order of Eastern Star, and for more than fifty years was an active member of the Methodist Church.

In 1920, the people of his legislative district in Cochise County gave recognition to his sound judgment and public spiritedness by electing him to serve them in the House of Representatives of the Fifth Legislature. He was made chairman of the committee on Constitutional Amendments and Referendum and was a member of the committees on Banking and Insurance, Public Lands, and Enrolling and Engrossing. In his legislative work he brought to bear the same conscientiousness and sense of duty that distinguished his every activity. Therefore

Be it Resolved by the House of Representatives of the State of Arizona:

The members of this body have learned with sincere regret the passing of Honorable Dana T. Milner, and extend condolences to his widow and surviving relatives.

Adopted by the House February 26, 1954, by the following vote:

Unanimous Ayes, 0 Nays, 0 Not Voting.

Filed in the Office of the Secretary of State—February 26, 1954.

HOUSE CONCURRENT RESOLUTION NO. 22

A CONCURRENT RESOLUTION

Authorizing an examination into alleged irregularities in the operation of the Sales Tax Divsion of the State Tax Commission.

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

Section 1. The appointment is authorized of a joint committee to consist of three members of the Senate, to be appointed by the President of the Senate, and three members of the House of Representatives, to be appointed by the Speaker of the House of Representatives.

Sec. 2. The committee shall make an examination into alleged irregularities in the operation of the Sales Tax Division of the State Tax Commission, referred to under date of January 29, 1954, in letters from the Governor to the President of the Senate and the Speaker of the House of Representatives, and shall render to the Legislature, not later than March 1, 1954, a report of its findings.

Sec. 3. In carrying out the duties imposed under the terms of section 2, the committee shall have the power to compel the attendance of witnesses, administer oaths, and subpoena witnesses, books, records and papers, and may secure the services of such clerical, stenographic, technical and professional assistants as may be deemed necessary or advisable.

Sec. 4. The expenses of the committee in carrying out the provisions of this Resolution shall be paid equally from the contingent funds of the Senate and the House of Representatives.

Passed the House February 3, 1954 by the following vote: 68 Ayes, 7 Nays, 5 Not Voting.

Passed the Senate February 4, 1954 by the following vote: 19 Ayes, 0 Nays, 0 Not Voting.

Approved by the Governor—February 4, 1954.

Filed in the Office of the Secretary of State—February 4, 1954.

HOUSE CONCURRENT RESOLUTION NO. 17

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA RELATING TO INDIANS

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. The following amendment of article 20, constitution of Arizona, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the governor:

(a) Paragraph 3 is amended to read:

3. The introduction of intoxicating liquors for resale purposes into Indian country is prohibited within this State until July 1, 1957.

(b) Paragraph 11 is repealed.

2. The proposed amendment (approved by a majority of the members elected to each house of the legislature, and entered upon the respective journals thereof, together with the ayes and nays thereon) shall be by the secretary of state submitted to the qualified electors at the next regular general election (or at a special election called for that purpose), as provided by article 21, constitution of Arizona.

Passed the House February 12, 1954 by the following vote: 65 Ayes, 7 Nays, 8 Not Voting.

Passed the Senate March 5, 1954 by the following vote: 16 Ayes, 0 Nays, 3 Not Voting.

Filed in the Office of the Secretary of State—April 2, 1954.

HOUSE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION

REQUESTING THE RETURN OF HOUSE BILL NO. 184, DELIVERED TO THE GOVERNOR'S OFFICE MARCH 15, 1954, FOR CORRECTION OF A TYPOGRAPHICAL ERROR.

WHEREAS, in conformity with Section 12, Part 1, Article 4, and Section 7, Article 5, Constitution of Arizona relative to an error in the engrossed copy of House Bill No. 184 sent to the governor's office on March 15, 1954, and

WHEREAS, it appears that a typographical error has been made in the engrossed copy of House Bill No. 184 which must be corrected in order to insure that the measure will carry out the purpose for which it was passed, and

WHEREAS, it is the desire of this body to make such correction, Therefore

Be it Resolved by the Legislature of the State of Arizona:

1. We respectfully request the return of House Bill No. 184 to this body for correction.

Passed the House March 17, 1954 by the following vote: 60 Ayes, 0 Nays, 20 Not Voting.

Passed the Senate March 17, 1954 by the following vote: 18 Ayes, 0 Nays, 1 Not Voting.

Approved by the Governor—March 17, 1954.

Filed in the Office of the Secretary of State—March 17, 1954.

SENATE CONCURRENT RESOLUTION NO. 8

A CONCURRENT RESOLUTION

On the death of Thomas A. Feeney

Whereas, Thomas A. Feeney, a member of the Constitutional Convention of 1910 which formulated Arizona's organic law, departed this life November 14, 1953, aged seventy-seven years, at the State Soldiers' Home at Napa, California.

Born at Montague, Michigan, July 18, 1876, and a resident of that state during the early years of his life, Mr. Feeney enlisted October 31, 1898, at St. Louis, with the First Missouri Volunteers, serving with courage and distinction in the Spanish-American War until December 31, 1900.

Becoming a resident of Arizona in 1907, and settling at Bisbee, he manifested a keen and intelligent interest in public affairs, and when by the Act of Congress of June 20, 1910, Arizona was authorized to formulate a constitution and became a state of the Union, he was chosen by the people of Cochise county as a delegate to the Constitutional Convention. In the work of that body he played an active and significant part, holding membership on three important committees, exercising leadership on subjects affecting the interests of labor and supporting the formulation of a progressive constitution.

In 1911 Mr. Feeney took up his residence at Miami, as foreman for a mining company, later serving as postmaster of that city dur-

ing the administration of President Woodrow Wilson. Ill health overtaking him, he became an occupant of the Soldiers' Home at Sawtelle, California, and was later removed to the California Soldiers' Home at Napa, California, where he passed away. Therefore Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. That the death of Hon. Thomas A. Feeney marks the departure from this life of a colorful and significant figure in the formulation of the structure upon which the laws of Arizona are founded, deserving of the gratitude of the people of this State.

2. The condolences of the members of the Senate, concurred in by the members of the House of Representatives of the State of Arizona, are extended to the bereaved sister and brothers of the deceased, and other surviving relatives.

Passed the Senate February 25, 1954 by the following vote: 19 Ayes, 0 Nays, 0 Not Voting.

Passed the House February 25, 1954 by the following vote: Unanimous Vote Ayes, 0 Nays, 0 Not Voting.

Filed in the Office of the Secretary of State—February 26, 1954.

SENATE JOINT RESOLUTION NO. 1

A JOINT RESOLUTION

On the death of Isabella Greenway King

Whereas, Isabella Greenway King, a distinguished American and a loyal citizen of Arizona, passed away on December 18, 1953, in her home in Tucson.

Mrs. King was born March 22, 1886, in Boone County, Kentucky, and received her education in the public schools of that State and at Miss Chapin's School in New York City. In 1910, she and her family moved to a ranch near Tyrone, New Mexico, and in 1923, established their residence in Tucson.

Mrs. King's ability, abundant vitality and high intellectual attainments led her into many activities, among which may be mentioned: the chairmanship of the Woman's Land Army in New Mexico during World War 1, member of the Mount Rushmore National Memorial Commission, Democratic National Committeewoman for Arizona, and owner and operator of the Arizona Inn at Tucson and of a cattle ranch near Williams, Arizona.

The people of Arizona came to recognize Mrs. King's strong sense of duty as a citizen and conferred upon her the honor of representing the State in the halls of our National Congress. She served with distinction in the 73rd and 74th Congresses from October 3, 1933 to January 3, 1937, voluntarily retiring from office at the close of her second term. In public, as well as in private life, she showed a high degree of courage and sincerity and a great warmth of feeling toward her fellow man. Therefore

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

1. In the death of Isabella Greenway King the State of Arizona and the Nation have suffered an irreparable loss. On behalf of the people of Arizona, the Legislature expresses deep appreciation for the patriotic, loyal and able services rendered the State and Nation by Mrs. King, and extends heartfelt condolences to her family.

Adopted by the Senate January 29, 1954 by the following vote: 17 Ayes, 0 Nays, 2 Not Voting.

Adopted by the House February 1, 1954 by the following vote: 77 Ayes, 0 Nays, 3 Not Voting.

Approved by the Governor—February 4, 1954.

Filed in the Office of the Secretary of State—February 4, 1954.

Concurrent Resolutions

SENATE CONCURRENT RESOLUTION NO. 1

A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT OF THE CONSTITUTION OF ARIZONA RELATING TO THE LEGISLATURE.

Be it Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. The following amendment of subsection (1), section 1, part 2, article IV, Constitution of Arizona, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor:

2. THE LEGISLATURE

(1) The Senate shall consist of two members from each county elected at large.

Beginning with the Twenty-second Legislature the House of Representatives shall be composed of not to exceed eighty members, to be apportioned to the counties according to the number of ballots cast in each county at the preceding general election for governor in the manner herein provided. Such apportionment shall be made every four years and shall be on the basis of one Representative for each county and one additional Representative for each thirty-five hundred and twenty ballots cast at the last preceding general election, according to the official canvass of the votes cast in each county.

In the event that on the basis prescribed the number of Representatives so determined shall exceed eighty, the unit of apportionment shall be increased by ten or such multiple of ten as will reduce the number of Representatives to eighty.

Not less than eight months prior to the regular general election following such apportionment at which Representatives are to be chosen, the secretary of state shall notify the board of supervisors of each county the number of Representatives such county will be entitled to elect, and the board shall not less than six months prior to such election, divide the county into as many legislative districts as there are Representatives to be elected. The district shall have as nearly as may be an equal voting population, be compact in form,

and include no noncontiguous territory. The board shall give not less than thirty days' notice of intention to divide the county into legislative district by publication in two successive issues of a newspaper of general circulation published in the county.

2. The proposed amendment (approved by a majority of the members elected to each house of the legislature, and entered upon the respective journals thereof, together with the ayes and nays thereon) shall be by the secretary of state submitted to the qualified electors at the next regular general election (or at a special election called for that purpose), as provided by article XXI, Constitution of Arizona.

Adopted by the House March 28, 1953 by the following vote: 54 Ayes, 14 Nays, 11 Absent, 1 Excused.

Adopted by the Senate March 28, 1953 by the following vote: 12 Ayes, 7 Nays, 0 Not voting.

Filed in the Office of the Secretary of State — March 30, 1953.

Governor's Proclamation dated October 31, 1953 declaring approval by the following vote: 30,157 yes, 29,713 no.

SENATE CONCURRENT RESOLUTION NO. 4

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE CONSTITUTION OF ARIZONA RELATING TO SALARIES OF PUBLIC OFFICERS.

Be it Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. The following amendment of section 17, part 2, article IV, constitution of Arizona, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor:

Section 17. The Legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into, nor shall the compensation of any public officer, other than a justice of the peace, be increased or diminished during his

term of office; provided, however, that when any legislative increase or decrease in compensation of the members of any court or the clerk thereof, or of any board or commission composed of two or more officers or persons whose respective terms of office are not coterminous, has heretofore or shall hereafter become effective as to any member or clerk of such court, or any member of such board or commission, it shall be effective from such date as to each thereof.

2. The proposed amendment (approved by a majority of the members elected to each house of the legislature, and entered upon the respective journals thereof, together with the ayes and nays thereon) shall be by the secretary of state submitted to the qualified electors at the next regular general election (or at a special election called for that purpose), as provided by article XXI, constitution of Arizona.

Adopted by the House March 27, 1953 by the following vote: 71 Ayes, 0 Nays, 7 Absent, 2 Excused.

Adopted by the Senate March 27, 1953 by the following vote: 19 Ayes, 0 Nays, 0 Not voting.

Filed in the Office of the Secretary of State—March 28, 1953.

Governor's Proclamation dated October 31, 1953 declaring approval by the following vote: 35,039 yes, 24,548 no.

HOUSE CONCURRENT RESOLUTION NO. 7

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE CONSTITUTION OF ARIZONA RELATING TO EDUCATION.

Be it Resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. The following amendment of section 2, and repeal of sections 3 and 4, article XI, Constitution of Arizona, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the governor:

Section 2. The Legislature shall provide by law for the general conduct and supervision of the public school system and for the creation of a Department

of Public Schools, a Commissioner of Education, a State Board of Public Schools, and a governing board or boards for the university and colleges of the State. The office of State Superintendent of Public Instruction is abolished.

Sections 3 and 4, article XI, Constitution of Arizona, are repealed.

2. The proposed amendment (approved by a majority of the members elected to each house of the legislature, and entered upon the respective journals thereof, together with the ayes and nays thereon) shall be by the secretary of state submitted to the qualified electors at the next regular general election (or at a special election called for that purpose), as provided by article XXI, Constitution of Arizona.

Passed the House March 3, 1953 by the following vote: 64 Ayes, 11 Nays, 1 Absent, 4 Excused.

Passed the Senate March 11, 1953 by the following vote: 13 Ayes, 6 Nays, 0 Not voting.

Filed in the Office of the Secretary of State — March 11, 1953.

Governor's Proclamation dated October 31, 1953 declaring disapproval by the following vote: 24,069 yes, 35,652 no.

HOUSE CONCURRENT RESOLUTION NO. 10

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE CONSTITUTION OF ARIZONA RELATING TO EDUCATION.

Be it Resolved by the House of Representatives of the State of Arizona, the Senate Concurring:

1. The following amendment of section 8, article XI, Constitution of Arizona, is proposed, to become valid when approved by a majority of the qualified electors voting thereon and upon proclamation of the governor:

Section 8. A permanent state school fund for the use of the common schools shall be derived from the sale of public school lands or other public lands specified in the Enabling Act approved June 20, 1910;

from all estates or distributive shares of estates that may escheat to the state; from all unclaimed shares and dividends of any corporation incorporated under the laws of Arizona; and from all gifts, devises, or bequests made to the state for general educational purposes.

The income derived from the investment of the permanent state school fund, and from the rental derived from school lands, with such other funds as may be provided by law shall be apportioned annually to the various counties of the state in such manner as may be prescribed by law.

2. The proposed amendment (approved by a majority of the members elected to each house of the legislature, and entered upon the respective journals thereof, together with the ayes and nays thereon) shall be by the secretary of state submitted to the qualified electors at the next regular general election (or at a special election called for that purpose), as provided by article XXI, Constitution of Arizona.

Passed the House March 3, 1953 by the following vote: 71 Ayes, 1 Nays, 4 Absent, 4 Excused.

Passed the Senate March 13, 1953 by the following vote: 18 Ayes, 0 Nays, 1 Not voting.

Filed in the Office of the Secretary of State — March 13, 1953.

Governor's Proclamation dated October 31, 1953 declaring disapproval by the following vote: 25,855 yes, 33,953 no.

Official Canvass

Election Returns

OFFICIAL CANVASS OF VOTE ON REFERENDUM MEASURES

September 29, 1953

CONSTITUTIONAL AMENDMENTS REFERRED BY THE LEGISLATURE

	Apache	Cochise	Coconino	Gila	Graham	Greenlee	Maricopa	Mohave	Navajo	Pima	Pinal	Santa Cruz	Yavapai	Yuma	Total
TOTAL REGISTRATION	3,228	12,882	6,700	9,280	4,726	4,808	134,644	3,009	6,439	57,177	10,113	3,397	11,010	9,791	277,204
VOTE CAST	879	3,533	1,450	2,971	1,300	1,076	30,178	879	1,626	8,917	2,464	739	3,245	2,110	61,367
PER CENT OF VOTES CAST	27.23	27.43	21.64	32.02	27.55	22.38	22.41	29.21	25.25	15.60	24.36	21.75	29.47	21.55	22.14
RELATING TO LEGISLATURE:															
100—Yes	552	1,031	1,023	1,293	904	627	15,028	601	1,213	2,738	1,688	352	1,429	1,678	30,157
100—No	298	2,445	387	1,599	383	434	14,274	267	390	6,041	704	370	1,730	391	29,713
RELATING TO SALARIES—PUBLIC OFFICIALS:															
101—Yes	577	1,621	1,060	1,340	822	477	16,566	534	1,115	5,599	1,635	462	1,760	1,471	35,039
101—No	264	1,847	347	1,548	447	564	12,498	329	481	3,193	768	264	1,413	585	24,548
RELATING TO EDUCATION: (STATE BOARD OF EDUCATION):															
102—Yes	372	637	655	948	529	179	13,212	212	880	3,004	1,011	246	1,047	1,137	24,069
102—No	476	2,834	746	1,943	742	870	16,003	646	715	5,778	1,372	470	2,121	936	35,652
RELATING TO EDUCATION (SCHOOL ATTENDANCE)															
103—Yes	421	533	607	1,007	662	96	14,319	281	986	3,204	1,093	281	1,108	1,257	25,855
103—No	435	2,944	796	1,883	620	953	14,916	583	618	5,591	1,293	433	2,069	819	33,953

OFFICIAL CANVASS — PRIMARY ELECTION — SEPTEMBER 7, 1954

	Apache	Cochise	Coconino	Gila	Graham	Greenlee	Maricopa	Mohave	Navajo	Pima	Pinal	Santa Cruz	Yavapai	Yuma	Total
TOTAL REGISTRATION	2,955	13,011	6,448	10,177	4,511	5,386	145,751	2,735	6,416	53,685	12,760	3,337	10,648	11,131	288,951
TOTAL BALLOTS CAST	2,004	10,594	4,290	8,070	3,732	4,785	71,005	2,209	4,732	28,243	8,589	2,818	7,307	6,870	165,248
PER CENT VOTES CAST	67.82	81.42	66.53	79.30	82.73	88.84	48.72	80.77	73.75	52.61	67.31	84.45	68.62	61.72	57.19
REPRESENTATIVE IN CONGRESS, DISTRICT NO. 1															
Democratic:															
L. S. "Dick" Adams							22,687								22,687
Richard F. "Dick" Harless							18,220								18,220
A. T. Spence							8,184								8,184
Republican:															
John J. Rhodes							14,192								14,192
REPRESENTATIVE IN CONGRESS, DISTRICT NO. 2															
Democratic:															
M. L. Brooks	341	1,488	796	1,537	629	864		427	883	2,642	1,443	320	1,397	523	13,290
A. B. Sieh	40	893	237	839	175	316		209	308	5,235	481	359	675	182	9,949
John C. Smith, Jr.	166	1,941	372	1,188	417	628		414	335	2,437	1,607	508	780	3,774	14,567
Stewart L. Udall	834	3,686	1,364	2,728	1,437	2,024		587	1,766	7,896	2,788	870	1,966	862	28,808
Republican:															
Dr. John McInnes	168	264	441	255	181	95		83	424	2,586	374	63	748	381	6,063
Henry Zipf	111	579	325	178	208	73		38	298	4,819	435	137	513	404	8,118
JUDGE OF SUPREME COURT, Term No. 1															
Democratic:															
Marshall W. Haislip	404	2,441	849	1,777	853	1,275	16,971	496	881	5,778	1,951	707	1,604	1,415	37,402
M. T. Phelps	943	5,447	1,807	4,531	1,810	2,389	25,448	1,117	2,294	6,962	4,445	1,176	3,283	3,350	65,002
JUDGE OF SUPREME COURT, Term No. 2															
Democratic:															
Frank E. Flynn	559	3,152	1,091	2,232	859	1,284	15,195	684	1,252	6,497	2,401	642	2,536	1,585	39,969
Fred C. Struckmeyer, Jr.	741	4,552	1,561	4,068	1,637	2,332	28,674	919	1,834	6,800	3,992	1,263	2,454	3,167	63,994

OFFICIAL CANVASS — PRIMARY ELECTION — SEPTEMBER 7, 1954 (Cont'd.)

	Apache	Cochise	Coconino	Gila	Graham	Greenlee	Maricopa	Mohave	Navajo	Pima	Pinal	Santa Cruz	Yavapai	Yuma	Total
GOVERNOR															
Democratic:															
Wm. F. Kimball	242	2,163	676	1,600	904	883	12,824	388	725	6,328	1,446	536	1,278	961	30,954
Ernest W. McFarland	1,247	6,501	2,273	5,325	2,041	3,252	36,665	1,402	2,734	12,148	5,546	1,713	4,002	4,341	89,190
Republican:															
Howard Pyle	316	922	884	493	393	188	14,928	199	806	7,357	887	213	1,443	887	29,916
SECRETARY OF STATE															
Democratic:															
Wesley Bolin	1,197	7,268	2,394	5,821	2,201	3,415	43,343	1,499	2,923	12,575	5,829	1,691	4,602	4,528	99,286
ATTORNEY GENERAL															
Democratic:															
Jack Choisser	423	2,957	887	2,661	753	1,382	26,173	633	1,539	8,241	2,787	773	1,816	1,685	52,710
Robert Morrison	826	4,840	1,661	3,560	1,804	2,355	17,852	964	1,623	8,083	3,584	1,203	2,957	2,977	54,289
Republican:															
Ross F. Jones	254	795	718	422	317	173	13,875	163	705	6,761	743	159	1,294	769	27,148
STATE AUDITOR															
Democratic:															
Jewel W. (Mrs. Lon) Jordan	1,282	7,738	2,630	6,188	2,254	3,586	44,066	1,604	3,069	13,089	6,067	1,768	4,817	4,537	102,695
STATE TREASURER															
Democratic:															
W. E. Jolly	500	2,464	1,663	1,748	880	878	16,610	622	1,193	4,897	2,163	438	2,014	1,088	37,158
E. T. "Eddie" Williams, Jr.	779	5,395	1,137	4,374	1,568	2,772	26,725	965	1,931	9,419	4,032	1,406	2,728	3,645	66,876
SUPT. OF PUBLIC INSTRUCTION															
Democratic:															
C. L. (Cliff) Harkins	373	3,551	1,559	3,054	358	1,850	26,043	432	1,503	7,587	3,371	865	2,495	3,292	56,333
Lafe Nelson	935	4,294	1,017	2,986	2,588	1,951	16,518	1,265	1,653	6,017	2,767	920	2,117	1,460	46,488
Republican:															
Norman Allderdice	230	724	674	395	274	171	12,826	147	621	6,349	690	169	1,137	680	25,087

OFFICIAL CANVASS — PRIMARY ELECTION — SEPTEMBER 7, 1954 (Cont'd.)

	Apache	Cochise	Coconino	Gila	Graham	Greenlee	Maricopa	Mohave	Navajo	Pima	Pinal	Santa Cruz	Yavapai	Yuma	Total
STATE MINE INSPECTOR:															
Democratic:															
Clifford (Turk) Benson	343	2,032	512	3,128	620	995	10,440	415	744	4,816	1,378	400	784	955	27,562
R. V. (Roy V.) Hersey	277	1,708	575	1,464	781	1,008	15,180	364	791	6,128	3,303	513	1,232	1,357	34,681
Edward (Ed) Massey	595	4,249	1,482	1,957	1,073	1,772	17,117	775	1,531	2,828	1,835	940	2,717	2,204	41,075
CORPORATION COMMISSION, Term ending January 7, 1957															
Democratic:															
John H. Barry	426	2,245	682	1,963	642	1,040	19,348	430	875	5,038	1,991	693	1,286	1,299	37,958
A. P. (Jack) Buzard	322	2,436	619	1,572	614	1,074	7,987	370	755	3,500	1,637	346	1,500	1,244	23,976
Charles H. Collins	242	1,744	526	1,531	685	848	5,204	391	686	3,916	1,490	419	1,008	1,211	19,901
Mark Grumley	134	755	442	634	156	321	8,178	203	281	2,073	631	142	431	395	14,776
L. O. (Larry) Herbst	106	341	179	273	190	303	3,352	85	390	392	329	177	364	270	6,751
Republican:															
Timothy O. Parkman	225	739	675	388	321	164	11,512	143	640	6,438	697	175	1,143	682	23,942
CORPORATION COMMISSION, Term ending January 2, 1961															
Democratic:															
J. W. Kelly	427	3,399	1,182	2,798	765	817	20,906	691	1,386	7,281	3,168	902	2,349	2,491	48,562
Mit Simms	927	4,612	1,297	3,416	2,067	3,062	22,049	887	1,799	6,643	3,104	944	2,517	2,250	55,574
Republican:															
Hersch Collins	216	713	739	388	307	162	12,683	149	629	5,873	705	174	1,147	691	24,576
TAX COMMISSION															
Democratic:															
William E. Stanford	1,162	7,038	2,344	5,433	2,057	3,279	40,360	1,433	2,796	12,644	5,745	1,638	4,388	4,283	94,600
Republican:															
John P. Collin	231	715	701	387	292	153	12,698	158	645	5,872	710	168	1,157	698	24,585

OFFICIAL CANVASS — PRIMARY ELECTION — SEPTEMBER 7, 1954 (Cont'd.)

I, WESLEY BOLIN, Secretary of State of Arizona, do hereby certify that the foregoing table is a true, correct and complete tabulation of the vote cast at the Primary Election held in the State of Arizona on September 7, 1954, showing the name of each person voted for, for a National or State Office in said election, the number of votes received by each person in each County of said State, and total number of votes received by each person in said election, as shown by tabulations received from the Boards of Supervisors of each County in the State of Arizona.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona, this 27th day of September, 1954, at Phoenix, Arizona, the Capital.

(Signed) WESLEY BOLIN,
Secretary of State

(Seal)

PROCLAMATION

STATE OF ARIZONA

EXECUTIVE DEPARTMENT

A PROCLAMATION

BY THE GOVERNOR OF ARIZONA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

WHEREAS, Part 1, Articles IV and XXI of the Constitution of the State of Arizona, and Article 1, Chapter 60, Arizona Code Annotated, 1939, provide that proposed amendments to the Constitution of the State of Arizona shall be submitted to the electors of the State of Arizona at a special or general election, either by initiative petitions or by the Legislature of the State of Arizona, and said Part 1, Article IV of the Constitution of the State of Arizona and said Article 1, Chapter 60, Arizona Code Annotated 1939, further provide that initiative measures and legislative measures against which the referendum is applied shall be submitted to the electors of the State of Arizona; and

WHEREAS, at a special election held on the twenty-ninth day of September, 1953, there was, in accordance with the provisions of said Part 1, Articles IV and XXI of the Constitution of the State of Arizona, and said Article 1, Chapter 60, Arizona Code Annotated 1939, submitted to the electors of the State of Arizona four proposed amendments to the Constitution of the State of Arizona, which said proposed amendments were referred to the people by the Legislature; and

WHEREAS, Sub-section 13, Section 1, Part 1, Article IV, Constitution of the State of Arizona and Section 55-908, Chapter 55 and Section 60-109, Chapter 60, Arizona Code Annotated 1939, provide that when the Canvassing Board of the State of Arizona shall have counted the votes cast at a general or special election, and shall have verified the returns thereof, it shall be the duty of the Governor of the State of Arizona to issue a proclamation giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of these electors voting thereon to be in full force and effect as the law of the State of Arizona, from the date of said proclamation; and

WHEREAS, it appears from the returns of said special election held on the said twenty-ninth day of September,

1953, as canvassed and certified by said Canvassing Board, in accordance with said Part 1, Article IV of the Constitution of the State of Arizona and Section 55-908, Chapter 55, and Section 60-109, Chapter 60, Arizona Code Annotated 1939, that a proposed amendment to the Constitution of the State of Arizona entitled, and in the form and manner following:

SENATE CONCURRENT RESOLUTION NO. 1

TWENTY-FIRST LEGISLATURE,

FIRST REGULAR SESSION

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE CONSTITUTION OF ARIZONA RELATING TO THE LEGISLATURE

was submitted to the electors of the State of Arizona at said special election and that there were of legal votes cast at said special election 30,157 votes cast in favor of said amendment, and 29,713 votes cast against said amendment, and that, therefore, a majority of the legal votes cast at said special election were in favor thereof,

NOW, THEREFORE, I, Howard Pyle, Governor of the State of Arizona, under and by virtue of the authority in me vested by sub-section 13 of Section 1, Part 1 of Article IV of the Constitution of the State of Arizona, and Section 55-908, Chapter 55 and Section 60-109, Chapter 60, Arizona Code Annotated 1939, do hereby declare that said proposed Amendment to the Constitution referred to the people by the Legislature hereinbefore referred to, to have been duly and regularly approved and adopted by the electors of the State of Arizona at said special election so held on said twenty-ninth day of September, 1953, and I do therefore hereby proclaim said amendment to have become and be a part of the laws of the State of Arizona, from and as of the date of these presents.

WHEREAS, it appears from the returns of said special election held on the said twenty-ninth day of September, 1953, as canvassed and certified by said Canvassing Board, in accordance with said Part 1, Article IV of the Constitution of the State of Arizona and Section 55-908, Chapter 55, and Section 60-109, Chapter 60, Arizona Code Annotated 1939, that a proposed amendment to the Constitution of the State of Arizona entitled, and in the form and manner following:

SENATE CONCURRENT RESOLUTION NO. 4

TWENTY-FIRST LEGISLATURE,
FIRST REGULAR SESSION

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE
CONSTITUTION OF ARIZONA
RELATING TO SALARIES OF PUBLIC OFFICERS

was submitted to the electors of the State of Arizona at said special election and that there were of legal votes cast at said special election 35,039 votes cast in favor of said amendment, and 24,548 votes cast against said amendment, and that, therefore, a majority of the legal votes cast at said special election were in favor thereof,

NOW, THEREFORE, I, Howard Pyle, Governor of the State of Arizona, under and by virtue of the authority in me vested by sub-section 13 of Section 1, Part 1 of Article IV of the Constitution of the State of Arizona, and Section 55-908, Chapter 55 and Section 60-109, Chapter 60, Arizona Code Annotated 1939, do hereby declare that said proposed Amendment to the Constitution referred to the people by the Legislature hereinbefore referred to, to have been duly and regularly approved and adopted by the electors of the State of Arizona at said special election so held on said twenty-ninth day of September, 1953, and I do therefore hereby proclaim said amendment to have become and be a part of the laws of the State of Arizona, from and as of the date of these presents.

WHEREAS, it appears from the returns of said special election held on the said twenty-ninth day of September, 1953, as canvassed and certified by said Canvassing Board, in accordance with said Part 1, Article IV of the Constitution of the State of Arizona and Section 55-908, Chapter 55, and Section 60-109, Chapter 60, Arizona Code Annotated 1939, that a proposed amendment to the Constitution of the State of Arizona entitled, and in the form and manner following:

HOUSE CONCURRENT RESOLUTION NO. 7

TWENTY-FIRST LEGISLATURE,
FIRST REGULAR SESSION

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT OF THE
CONSTITUTION OF ARIZONA
RELATING TO EDUCATION

was submitted to the electors of the State of Arizona at

said special election and that there were of legal votes cast at said special election 24,069 votes cast in favor of said amendment, and 35,652 votes cast against said amendment, and that, therefore, a majority of the legal votes cast at said election were opposed thereto,

NOW, THEREFORE, I, Howard Pyle, Governor of the State of Arizona, under and by virtue of the authority in me vested by sub-section 13 of Section 1, Part 1 of Article IV of the Constitution of the State of Arizona, and Section 55-908, Chapter 55 and Section 60-109, Chapter 60, Arizona Code Annotated 1939, do hereby declare that said proposed Amendment to the Constitution referred to the people by the Legislature hereinbefore referred to, to have been duly and regularly rejected by the electors of the State of Arizona at said special election so held on said twenty-ninth day of September, 1953.

WHEREAS, it appears from the returns of said special election held on the said twenty-ninth day of September, 1953, as canvassed and certified by said Canvassing Board, in accordance with said Part 1, Article IV of the Constitution of the State of Arizona and Section 55-908, Chapter 55, and Section 60-109, Chapter 60, Arizona Code Annotated 1939, that a proposed amendment to the Constitution of the State of Arizona entitled, and in the form and manner following:

HOUSE CONCURRENT RESOLUTION NO. 10

TWENTY-FIRST LEGISLATURE,
FIRST REGULAR SESSION

A CONCURRENT RESOLUTION
PROPOSING AN AMENDMENT OF THE
CONSTITUTION OF ARIZONA
RELATING TO EDUCATION

was submitted to the electors of the State of Arizona at said special election and that there were of legal votes cast at said special election 25,855 votes cast in favor of said amendment, and 33,953 votes cast against said amendment, and that, therefore, a majority of the legal votes cast at said election were opposed thereto,

NOW, THEREFORE, I, Howard Pyle, Governor of the State of Arizona, under and by virtue of the authority in me vested by sub-section 13 of Section 1, Part 1 of Article IV of the Constitution of the State of Arizona, and Section 55-908, Chapter 55 and Section 60-109, Chapter 60, Arizona Code Annotated 1939, do hereby declare that said proposed Amendment to the Constitution referred to the people by the Legislature hereinbefore referred to, to have been duly and regularly rejected by the

electors of the State of Arizona at said special election so held on said twenty-ninth day of September, 1953.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arizona to be affixed at Phoenix, the Capital, this thirty-first day of October, in the year of Our Lord One Thousand Nine Hundred and fifty-three.

/s/ HOWARD PYLE
Governor

ATTEST:

/s/ WESLEY BOLIN
Secretary of State

AN ACT

MEMORIALS AND RESOLUTIONS

of the

FIRST SPECIAL SESSION

of the

21st Legislature

of the

STATE OF ARIZONA

1953

FIRST SPECIAL SESSION CONVENED
OCTOBER 13, 1953

FIRST SPECIAL SESSION ADJOURNED SINE DIE
NOVEMBER 3, 1953 AT 5:10 P.M.

Publication Authorized

Section 4-201, Arizona Code of 1939
(Paragraph 23, Article 2, Chapter 2,
Revised Code of 1928)
Chapter 158, Laws of 1954

Second Regular Session, Twentieth Legislature

NOTICE: There are a few misspellings, other errors and punctuation mistakes in the body of this volume, which originated in the original engrossed copies, and had to be duplicated herein so as to conform to such original copies.

AUTHENTICATION

STATE OF ARIZONA
Office of the Secretary of State } ss.

THIS IS TO CERTIFY—That the Acts, Memorials and Resolutions published in this volume are full, true and correct copies of the originals passed at the First Special Session of the Twenty-first Legislature of the State of Arizona, as they appear on file in the office of the Secretary of State of Arizona.

That the First Special Session of the Twenty-first Legislature of the State of Arizona was convened at the Capitol, in the City of Phoenix, October 13, 1953, and adjourned sine die on the 3rd day of November, 1953.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary and affixed the Great Seal of the State of Arizona, this 19th day of May, 1954.

WESLEY BOLIN (Signature)
Secretary of State

PROCLAMATION

CALLING A SPECIAL SESSION

of the

TWENTY-FIRST LEGISLATURE

* * * *

WHEREAS, the Constitution of Arizona (Article IV, Part 2, Section 3) authorizes the Governor to call a special session of the Legislature whenever in his judgment it is advisable; and

WHEREAS, in the judgment of the Governor, certain imperfect revenue laws are impairing the integrity of the state's taxing system and losing millions of dollars in income justly due the State of Arizona,

NOW, THEREFORE, I, Howard Pyle, Governor of Arizona, by virtue of the authority vested in me by the Constitution, call the Twenty-first Arizona Legislature to meet in special session at the Capitol on Tuesday, the thirteenth day of October, 1953, at 10 o'clock A. M., to consider the following subjects:

1. Enactment of a use tax law.
2. Amendment of the Excise Revenue Act of 1935 (privilege sales tax) to increase penalties for non-compliance and evasion thereof, and to provide for annual licenses.
3. Revision or replacement of the Income Tax Act of 1933 to insure compliance and more severaly penalize non-compliance therewith.
4. Amendment of Section 73-1405, Arizona Code Annotated, 1939 (luxury tax) to provide for annual licenses.
5. Revision of laws governing assessment of property for tax purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arizona to be affixed at Phoenix, the Capital, this seventh day of October, in the year of Our Lord One Thousand Nine Hundred and fifty-three.

/s/ HOWARD PYLE
GOVERNOR

ATTEST:

/s/ WESLEY BOLIN
Secretary of State

PROCLAMATION

SPECIFYING ADDITIONAL SUBJECT TO BE CONSIDERED AT FIRST SPECIAL SESSION OF THE TWENTY-FIRST LEGISLATURE

* * * *

WHEREAS, the Constitution of Arizona (Article IV, Part 2, Section 3) authorizes the Governor to call a special session of the Legislature whenever in his judgment it is advisable; and

WHEREAS, by virtue of such authority a call for a special session was issued on the seventh day of October, 1953; and

WHEREAS, in the judgment of the Governor it is advisable that the special session of the Legislature consider an additional subject,

NOW, THEREFORE, I, Howard Pyle, Governor of Arizona, by virtue of the authority vested in me by the Constitution, do hereby specify the following additional subject to be considered at the special session called as aforesaid:

> Supplemental appropriation for the State Health Department.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arizona to be affixed at Phoenix, the Capital, this twenty-seventh day of October, in the year of Our Lord One Thousand Nine Hundred and fifty-three.

/s/ HOWARD PYLE
GOVERNOR

ATTEST:
/s/ WESLEY BOLIN
Secretary of State

MEMBERS OF THE SENATE

TWENTY-FIRST LEGISLATURE OF ARIZONA 1953-54

County	Name and Party	Address
Apache	Bryant Whiting (R)	Springerville
Cochise	Alfred Paul, Jr. (D)	Paul Spur
Cochise	A. R. Spikes (D)	Douglas
Coconino	Robert W. Prochnow (D)	Flagstaff
Gila	Clarence L. Carpenter (D)	Miami
Gila	Wm. A. Sullivan (D)	Globe
Graham	Jim Smith (D)	Central
Greenlee	A. C. Stanton (D)	Clifton
Maricopa	O. D. Miller (R)	Phoenix
Maricopa	William R. Pyper (R)	Phoenix
Mohave	Earle W. Cook (D)	Kingman
Navajo	Clay Simer (D)	Winslow
Pima	Wm. F. Kimball (D)	Tucson
Pinal	James Herron, Jr. (D)	Superior
Santa Cruz	Hubert Merryweather (D)	Tumacacori
Yavapai	Kel M. Fox (D)	Sedona
Yavapai	Charles H. "Chick" Orme, Sr. (D)	Mayer
Yuma	Harold C. Giss (D)	Yuma

MEMBERS OF THE HOUSE

TWENTY-FIRST LEGISLATURE OF ARIZONA 1953-1954

District	Name and Party	Address
	APACHE COUNTY	
	Lorin M. Farr (R)	St. Johns
	COCHISE COUNTY	
1.	Fred Dove (D)	Tombstone Box 53
2.	Evelyn Anderson (D)	Warren Box 733
3.	H. J. "Duffy" Lewis (D)	Douglas 733 12th St.
4.	Charles O. Bloomquist (D)	Douglas 1206 11th St.
5.	W. L. "Tay" Cook (D)	Willcox Box 189
	COCONINO COUNTY	
1.	Dr. John W. Stilley (R)	Flagstaff Box 97
2.	Harry F. Sutherland (R)	Williams Box 333
	GILA COUNTY	
1.	Louis B. Ellsworth, Jr. (D)	Globe 345 Josephine St.
2.	Chas. A. Horne (D)	Miami 1121 Live Oak St.
3.	Edwynne C. Rosenbaum (D)	Hayden Mail: 930 W. McDowell Rd., Phoenix
	GRAHAM COUNTY	
1.	E. L. "Tid" Tidwell (D)	Safford Box 337
2.	Milton Lines (D)	Pima Box 64

GREENLEE COUNTY

M. L. Simms (D) ..... Clifton
Box 518

MARICOPA COUNTY

1. Ed Ellsworth (D) ..... Chandler
Box 75

2. William S. Porter (R) ..... Mesa
15 E. 2nd Ave.

3. Jack Cummard (D) ..... Mesa
424 N. Macdonald

4. L. Max Connolly (D) ..... Tempe
212 E. 14th St.

5. C. S. 'Clint" Anderson (D) ..... Phoenix
Rt. 5, Box 673

6. Sidney Kartus (D) ..... Phoenix
2107 S. 15th Place

7. Robert "Bob" E. Wilson (D) ..... Phoenix
2521 E. Adams

8. D. F. "Doc" Benson (D) ..... Phoenix
1337 E. Monroe

9. Owen A. Kane (D) ..... Phoenix
140 N. 1st St.

10. Sherman R. Dent (D) ..... Phoenix
512 S. 24th St.

11. Ruth White (R) ..... Scottsdale
Box 24

12. Ruth C. Kuntz (R) ..... Phoenix
1429 E. Culver

13. W. W. Franklin (D) ..... Phoenix
1645½ E. Culver

14. Clara S. Haberl (R) ..... Phoenix
3030 N. 7th St.

15. Laura M. McRae (D) ..... Phoenix
929 E. Coronado Road

16. W. H. "Bill" Ridgeway (D) ..... Phoenix
1804 E. Sheridan

17. Robert H. Wallace (R) ..... Phoenix
Box 1870

18. Harold W. Tshudy (R) ..... Phoenix
306 W. Arroyo Vista Dr.

19. Carl Sims, Sr. (D) ..... Phoenix
1304 W. Magnolia

20. Mary Dwyer (D) ..... Phoenix
346 N. 6th Ave.

21. Harry S. Ruppelius (D) ..... Phoenix
1505 N. 15th Ave.

22. L. S. (Dick) Adams (D) ..... Phoenix
418 N. Oakland

23. J. P. "Jess" Stump (D) ..... Phoenix
3154 Westward Blvd.

24. Norman S. (Shorty) Lee (D) ..... Phoenix
3106 West McKinley

25. Richard G. Kleindienst (R) ..... Phoenix
Title & Trust Bldg.

26. Derek Van Dyke (R) ..... Phoenix
1838 Palmcroft Way, N. W.

27. Robert L. Myers (R) ..... Phoenix
5022 N. Arden Drive

28. William Younger Wood (D) ..... Phoenix
416 Security Bldg.

29. Hal Warner (D) ..... Wickenburg
Box 758

30. T. C. "Doc" Rhodes (D) ..... Avondale
Box 146

31. H. C. Armstrong (D) ..... Tolleson
Box 672

32. Walter Hirsch (R) ..... Phoenix
1512 W. McDowell Road

33. C. H. "Hank" Marion (R) ..... Phoenix
4433 N. 7th Ave.

34. *James B. Phillips (R) ..... Phoenix
1303 West Bethany Home Road

35. Isabel Burgess (R) ..... Phoenix
2501 E. Pinchot

36. Sam Joy (R) ..... Glendale
Rt. 3, Box 688

37. Robert "Bob" Brewer (R) ..... Phoenix
3015 W. Palm Lane

MOHAVE COUNTY

Robert Morrow (D) ..... Kingman

NAVAJO COUNTY

1. Wallace H. Larson (R) ..... Lakeside
   Box 238
2. Lee F. Dover (D) ..... Winslow
   1026 Warren Ave.

PIMA COUNTY

1. Oscar C. Cole (D) ..... Ajo
   Box 539
2. Enos P. "Pepe" Schaffer (D) ..... Tucson
   Santa Rita Hotel Mez.
3. **Mrs. Etta Mae Hutcheson (D) ..... Tucson
   337 South 4th Ave.
4. David F. "Lucky" Lindsay (D) ..... Tucson
   415 W. 44th St.
5. John W. McInnes (R) ..... Tucson
   1600 E. Speedway
6. Douglas S. Holsclaw (R) ..... Tucson
   1746 E. 5th St.
7. Julliette C. Willis (R) ..... Tucson
   123 Sierra Vista Dr.
8. V. S. Hostetter (R) ..... Tucson
   100 Calle Encanto
9. Wm. K. Richey (R) ..... Tucson
   1030 E. Prince
10. Alvin Wessler (R) ..... Tucson
    1711 N. Desmond Lane
11. Norval W. Jasper (R) ..... Tucson
    3226 E. 26th St.
12. John H. Haugh (R) ..... Tucson
    N. Campbell Ave.
13. David G. Watkins (D) ..... Tucson
    Rt. 4, Box 309
14. Frank G. Robles (D) ..... Tucson
    Box 2203
15. Harold Burton (R) ..... Tucson
    1825 N. Rosemary Dr.

PINAL COUNTY

1. A. L. Bartlett (D) ..... Coolidge
   Box 156
2. J. Ney Miles (D) ..... Ray
3. E. Blodwen Thode (D) ..... Casa Grande
   913 N. Olive St.

SANTA CRUZ COUNTY

Neilson Brown (D) ..... Nogales
Buena Vista Ranch

YAVAPAI COUNTY

1. ***Mrs. Mabel S. Ellis (D) ..... Prescott
   820 Whipple Street
2. Dick W. Martin (R) ..... Prescott
   Box 1270
3. Dr. Walter V. Edwards (R) ..... Cottonwood
4. A. H. Bisjak (D) ..... Chino Valley
   Box 4

YUMA COUNTY

1. Robert Hodge (D) ..... Yuma
   1200 7th Ave.
2. John C. Smith, Jr. (D) ..... Somerton
   Rt. 1, Box 40
3. E. C. "Johnnie" Johnson (D) ..... Parker
   Box 1538

*Appointed to replace Jack Hays, resigned

**Appointed to replace Larry Woods, resigned

***Appointed to replace Henry Rush, resigned

Governor's Message

October Thirteenth, 1953

Mr. President, Mr. Speaker, Members of the Senate and the House of Representatives of the Twenty-first Legislature, Guests, and Fellow Citizens:

No one of you regrets more than I the necessity for calling you here to meet in special session, and that regret can be tempered only by the knowledge that we were able to give you three full months' notice that there would be a special session in October so that you could plan on giving up an extra three weeks of your time to the service of the people of Arizona.

You are called here to perform a distinct service. The great majority of the taxpayers are entitled to justice which can be theirs only when you provide the means to putting an end to legal deficiencies which permit a minority among us to escape paying a just share of their taxes.

There is no value in belaboring this point. You all are fully aware of every factor involved in the problem. I provided you with a summary of it again in the statement made last Thursday, a copy of which was included in the envelope that brought you the official call for this special session.

In this connection it is only fair to remind you that in January of 1952 I said to the 20th Legislature: "The tragedy of our present position is that we are collecting too much from too few."

Then exactly nine months ago, on January 12th, I said to this 21st Legislature: "In the year that has elapsed this tragedy has been intensified and it's a tragedy we can no longer endure. There can never be raised in these chambers or anywhere else a single valid objection to fair and equitable taxation."

Nothing conclusive happened in either legislative session. This is why I felt compelled to say, on July 6th last, "We can't let this go on any longer," and it's why we are here today.

The loopholes must be plugged . . the indefensible siphoning away of revenues justly due the state must end . . and the tax bills you've only recently received are the best possible proof of this.

Had you acted in the regular session last winter to stop the glaringly visible leaks in our revenue laws, there

wouldn't have been the slightest excuse for a 10-cent increase in the tax rate. Just the money that is eluding us and has been escaping us for many years would have been ample to insure the maintenance of a 90-cent or lower state tax rate.

You are all familiar with the four points which I consider to be the minimum requirements for putting an end to this drain on our government pocketbook. Because some have professed at times to be in doubt about what was meant by "plugging the loopholes," I have here, Mr. President and Mr. Speaker, the drafts of bills that we believe are fashioned precisely to accomplish the results that are desired.

This leads to a few points of which all the taxpayers in Arizona should be aware, and one other of which they, and especially every member of the 21st Legislature, should be aware.

First, the call itself. Until a week ago I had expected to limit the call so as to cover these four bills. The call was, in fact, written. It was at the behest of the duly constituted leadership of this Legislature that I broadened the call somewhat before issuing it.

I was told by the leadership that it had a better income tax bill than I was contemplating and that there had been prepared another type of tax legislation, having to do with assessments, that ought to be considered at this time. I yielded to their request, and have made it possible for these measures to be considered.

So far as the administration bills are concerned — if you can improve them, you are more than welcome to do so and you will have my wholehearted cooperation. It is emphasized, however, that the four bills to which I have made specific reference should be the minimum accomplishment of this legislative session. Anything more than this minimum will be a distinct additional gain for the great majority of Arizona's citizens.

Accomplishment of this minimum will fully justify this session. Every taxpayer ought to be reminded that our best calculations show that the cost of this 20-day session, even if it goes the full 20 days, can be paid entirely by the amount of revenue that is escaping us now approximately every 15 days. We also will gain millions of dollars that will make it much easier for those who do pay their taxes.

The state's taxpayers should be fully aware, too, that I am not asking for a single new tax or the increase of any rates in any of the taxes that now exist.

The use tax that heads your list of requested legislation

is nothing more than a proper section of the sales tax. It ought to have been there all along, and the lack of it is having increasingly consequential and decidedly detrimental effects on the merchants of our state.

I repeat, there are no new or increased taxes involved here.

The point is re-emphasized because we have recently had all too clear an example of the Legislature trying to do something for critically overburdened taxpayers, only to have the propagandist technique of the big lie poison it, in the minds of too many citizens, the implication being that everybody's taxes would be raised. This was not true!

Now, a final point. A number of individuals who for a full year showed a yawning indifference to specific requests I made for the removal of the sales tax from food have suddenly developed a passionate interest in the subject.

In doing so they have conveniently ignored the one condition of the request, and to keep the record straight . . from the very first moment of making this request, I said the sales tax on food could and should be removed at the very first moment after ALL the loopholes, now costing us millions, had been plugged.

To do anything else would be to put the cart before the horse.

We cannot lift a multimillion dollar burden of taxes off food without guaranteeing first that the same amount of money will come from those NOW eluding or escaping or just plain dodging fair and just taxation.

I don't know how many times I have to say this before it's clearly understood, but here it is again: At the first moment you accomplish, fulfill, complete, the minimum needs for blocking presently escaping taxes, I'll be right back here urgently requesting you to take the sales tax off food. Many another state has proved that such a tax is wholly unnecessary in a sound revenue structure.

There are some other rather blunt facts that need to be stated here.

The will of this Legislature in the Finance Department Act, and in certain phases of the referendums on which we voted on September 29th, has been largely discredited by what are alleged to be irregularities in the drawing of the legislation itself.

It's a sad commentary that the good intentions of the

majority of such a branch of government as this Legislature should be threatened with discredit because of technicalities that could and should have been avoided.

As the Governor of this state it is not my business or responsibility to guarantee the technical form of completed legislation. On the other hand, without exception, I have stood with you on fronts that were actually not my direct responsibility because I believed you should be supported in what you were trying to accomplish in behalf of a growing state.

There are those in this room who have done their utmost to build public confidence in our efforts to relieve the overburdened taxpayers of this state. There are others who haven't, otherwise the answers we received September 29th on 102 and 103 could have been different.

The only personal chagrin I feel in this connection is that as a taxpaying citizen of this state, I am convinced that we must still reach the meritorious objectives that have been and continue to be involved. To do so, however, we must begin at once to prevent reversals, technical and otherwise, which are basically the responsibility of this body.

I make these observations not because I want to be critical, but because the time has come when public confidence must be restored by intentions of indisputable merit, along with actions of provable merit.

I will not burden you longer, because you thoroughly understand the nature and the scope of the problem before you. Let me add only that I reiterate again my appreciation of your cooperation in the past, and renew again my earnest assurance that I am ready at all times to discuss any phase of our mutual problems and to work with you in any way that will assist in reaching the goal of tax relief that is so desired and deserved by the people of the State of Arizona.

/s/ HOWARD PYLE
Governor

ACT

CHAPTER 1
(House Bill No. 13)

AN ACT

MAKING A SUPPLEMENTAL APPROPRIATION TO THE STATE DEPARTMENT OF HEALTH.

Be it Enacted by the Legislature of the State of Arizona:

Section 1. APPROPRIATION. The sum of forty-one thousand three hundred twenty-one dollars is appropriated to the state department of health, to be available during the balance of the forty-second fiscal year.

Sec. 2. PURPOSE. The appropriation made under the terms of section 1 is to supplement the appropriation made by subdivision 29, section 1, chapter 132, Laws of 1953, first regular session, and to be available for the following purposes and in the following amounts:

1. For personal services, fifteen thousand one hundred seventy-one dollars as follows: 1a. director of local health, seven hundred fifty dollars per month but not to exceed a total for the balance of the forty-second fiscal year of six thousand dollars; 1b. sanitarian, three hundred thirty-seven dollars fifty cents per month but not to exceed a total for the balance of the forty-second fiscal year of two thousand seven hundred dollars; 1c. two junior bacteriologists, two hundred eighty-one dollars twenty-five cents per month each, but not to exceed a total, for each bacteriologist for the balance of the forty-second fiscal year, of two thousand two hundred fifty dollars, and, 1d. clerk (vital statistics), two hundred forty-six dollars thirty-eight cents per month but not to exceed a total for the balance of the forty-second fiscal year of one thousand nine hundred seventy-one dollars.

2. For other current expenditures, eighteen thousand one hundred fifty dollars, as follows: 2a. biologics for county health work, two thousand dollars; 2b. laboratory supplies, one thousand two hundred dollars; 2c. office forms, including certificates, five thousand four hundred dollars; 2d. photostat supplies, two thousand dollars; 2e. office and mimeograph supplies, three thousand dollars; 2f. postage, telephone and telegrams, one thousand three hundred dollars; 2g. IBM rental and supplies, seven hundred fifty dollars; 2h. machine main-

tenance, six hundred dollars; 2i. maternal and child care publications, one thousand dollars; 2j. health education films, six hundred dollars, and, 2k. binding of birth and death records, three hundred dollars.

3. For travel and other current expenditures, eight thousand dollars, as follows: 3a. for mobile TB bus, six thousand dollars; 3b. for VD clinic, one thousand dollars, and, 3c. for maternal and child health clinics, one thousand dollars.

Sec. 3. EMERGENCY. To preserve the public peace, health, and safety it is necessary that this Act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor — October 31, 1953.

Filed in the Office of the Secretary of State — October 31, 1953.

MEMORIALS

HOUSE JOINT MEMORIAL NO. 1

A JOINT MEMORIAL

RELATING TO THE RAILROAD RETIREMENT ACT, AND REQUESTING FAVORABLE ACTION ON HOUSE OF REPRESENTATIVES BILL 356.

To the Congress of the United States of America:

Your memorialist respectfully represents:

House of Representatives Bill 356, introduced in the United States House of Representatives by Hon. James E. Van Zandt, Representative from Pennsylvania, provides for the repeal of the "dual-benefits-restriction" provision of the railroad retirement act.

This measure passed the United States House of Representatives on July 24, 1953, by an overwhelming voice vote. The measure, as passed by the House, was sent to the Senate and was referred to the Senate Committee on Labor and Public Welfare. Due to the rush of business in the closing days of the first session of the 83rd congress, the Senate committee decided to withhold action on the measure until the second session of the 83rd congress, to convene January, 1954.

The "dual-benefits-restriction" provision provides that the retirement annuity of a retired railroad employee must be reduced by the amount of old-age benefit which he is receiving or "is entitled to receive" under the federal social security act. Thus the amount is deducted even though the annuitant is not receiving social security benefits to which he might be entitled.

As a result of this provision, at the close of 1952, there were an estimated thirty thousand two hundred retired railroad annuitants and ten thousand five hundred wives of retired railroad annuitants who received deductions in their railroad annuities ranging up to eighty-five dollars per month for the retired annuitant and forty dollars for his wife.

In addition to this cut, railroad annuitants found that when, in 1952, the federal congress raised social security benefits, their railroad annuities were again reduced by an amount corresponding to the increase in their social security benefits. The relief intended to be given retired workers to meet increased living costs was passed on to all retired workers with the single exception of retired railroad annuitants.

The inequities and injustice of the "dual-benefits-restriction" provision are contrary to all concepts of fair play and penalize one class of retired workers at a time when the ever-rising cost of living has reduced the living standards of that portion of our population which has, through its own industry, earned the right to a just and adequate compensation.

Wherefore your memorialist, the legislature of the state of Arizona prays:

1. That the Congress enact House of Representatives Bill 356.

Passed the House October 26, 1953 by the following vote: 71 Ayes, O Nays, 9 Not Voting.

Passed the Senate October 31, 1953 by the following vote. Unanimously adopted.

Approved by the Governor — November 10, 1953.

Filed in the Office of the Secretary of State — November 10, 1953.

HOUSE JOINT MEMORIAL NO. 4

A JOINT MEMORIAL

REQUESTING THE CONGRESS TO EXTEND OLD-AGE AND SURVIVORS INSURANCE TO ARIZONA EMPLOYEES IN POSITIONS COVERED BY RETIREMENT SYSTEM.

To Arizona's Senators and Representatives in the Congress; to the Secretary of the Department of Health, Education and Welfare; and to the Congress of the United States:

Your memorialist respectfully represents:

That the 21st Legislature of the State of Arizona at its First Regular Session, being desirous of extending the benefits of Old-Age and Survivors Insurance to all state employees, enacted House Bill No. 195. That said law provided for the termination of the Arizona Teachers' Retirement System and the extension of Old-Age and Survivors Insurance benefits and the Supplemental State Employees' Retirement System to the members of such system as employees of the State of Arizona.

That notwithstanding such legislation, the Secretary of the Department of Health, Education and Welfare refused to permit coverage of persons holding teachers' certificates issued by the State Board of Education who were in positions subject to the Teachers' Retirement Act of 1943 because of the prohibition to such coverage by Section 218 (d) of the Social Security Act.

That the First Session of the 83rd Congress of the United States enacted House Resolution 2062 amending Section 218 (d) of the Social Security Act so as to permit public employees of the State of Wisconsin subject to the Wisconsin retirement system to obtain Old-Age and Survivors Insurance benefits.

Wherefore your memorialist, the legislature of the state of Arizona, respectfully requests:

1. That the Congress of the United States enact legislation amending Section 218 (d) of the Social Security Act so that public employees of the state of Arizona who were in positions subject to a retirement system on the date of the agreement extending Old-Age and Survivors Insurance benefits to their coverage group may have extended to them such benefits in the same manner as was provided by the Congress for the public employees of the state of Wisconsin.

2. That the Arizona Senators and Representatives introduce such legislation in the next session of Congress.

3. That the Secretary of the Department of Health, Education and Welfare recommend to the Congress the adoption of legislation similar to that enacted in behalf of the public employees of the state of Wisconsin.

Passed the House October 28, 1953 by the following vote: 70 Ayes, 4 Nays, 6 Not Voting.

Passed the Senate October 31, 1953 by the following vote: Unanimously adopted.

Approved by the Governor — November 10, 1953.

Filed in the Office of the Secretary of State — November 10, 1953.

SENATE MEMORIAL NO. 2

A MEMORIAL

URGING THE PRESIDENT OF THE UNITED STATES AND THE SECRETARY OF AGRICULTURE TO TAKE STEPS TO RESTORE CONFIDENCE IN THE CATTLE INDUSTRY.

To the President of the United States and the Secretary of Agriculture:

Your memorialist respectfully represents:

Whereas, the condition of the livestock industry is approaching a state of economic disaster; and

Whereas, there are numerous reasons for the decline in the price of both fat and feeder cattle, one of them being the failure of retail prices to come down in proportion to the drop in price of beef on the hoof, two consecutive years of severe losses, and the difficulty of operating on a free market when grains and other commodities fed to cattle are supported.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the President of the United States and the Secretary of Agriculture consider:

A. Placing a support price of ninety per cent of parity on all grades of fat cattle and canner cattle at all major markets until support prices on all grains or agricultural products used in the process of fattening cattle have been removed, or

B. A greatly accelerated, nonspeculative, government meat purchase program.

2. That if the decision is in favor of a support price on cattle that it be installed at once and maintained until such time as Congress convenes and the necessary steps are taken to establish a new agricultural program in which all phases of agriculture would be treated alike.

3. Copies of this Memorial shall be sent to the President of the United States, Secretary of Agriculture, both Houses of Congress, Governor of Arizona, Members of Arizona Congressional Delegation, and all interested persons.

Passed the Senate October 31, 1952 by the following vote: 15 Ayes, 1 Nays, 3 Not Voting.

Filed in the Office of the Secretary of State — November 2, 1953.

SENATE CONCURRENT MEMORIAL NO. 1

A CONCURRENT MEMORIAL

REQUESTING THE MAINTENANCE OF ADEQUATE TARIFF RATES ON COPPER.

To the President, Congress and the Departments of State and Interior of the United States:

Your memorialist respectfully represents:

The mining of copper is one of Arizona's chief industries, an industry so great that in point of copper production Arizona leads all

of the States of the United States, and in fact is responsible for approximately forty per cent of all copper mined in the Nation.

The copper mining industry gives employment to many thousands of miners, artisans, mechanics and craftsmen, whose welfare and prosperity is in very large measure dependent upon this major activity—indeed, the economic welfare of the State is vitally affected by the status of the mining industry.

There are, in addition to the properties now being worked, great areas and bodies of copper ore in the State which are susceptible of development, to the enrichment of the State and the Nation.

Should the price of copper be allowed to be determined by foreign countries with low wage standards and high grade deposits, the result would be a general shut-down of our mines, and a consequent deterioration of the industry both by the heavy damage to the mines and disbandonment of working organizations.

Should the Nation suddenly be caught without the foreign supply and with a war manpower shortage to rehabilitate abandoned mines, the resulting copper shortage could be the cause of defeat to our armed forces.

It is therefore of major importance that the price of copper be maintained on a basis which will insure an active industry with normal production, fair profits, steady employment and a good standard of living for workers in the industry, and from which would result a continuation of the benefits which accrue to the National security and the State's economy by reason of the industry.

This can only be insured through the medium of an adequate import tax on raw copper to equalize the difference between the cost of producing the metal in this country and in the copper producing countries of South America, Africa and elsewhere.
Wherefore your memorialist, the Senate of the State of Arizona,

The House of Representatives concurring, urgently requests:

1. That a two cent per pound tariff be placed on all foreign copper.

Passed the Senate October 30, 1953 by the following vote: Unanimously Adopted.

Passed the House October 31, 1953 by the following vote: 52 Ayes, 10 Nays, 18 Not Voting.

Filed in the Office of the Secretary of State — October 31, 1953.

SENATE CONCURRENT MEMORIAL NO. 2

A CONCURRENT MEMORIAL

URGING THE PRESIDENT OF THE UNITED STATES AND THE SECRETARY OF AGRICULTURE TO GRANT FEDERAL RELIEF TO DROUGHT AREAS.

To the President of the United States and the Secretary of Agriculture:

Your memorialist respectfully represents:

The government of the United States has advanced to drought areas various kinds of feed at reduced prices for the preservation of breeding herds; and

The Governor of Arizona has had statistics compiled of Arizona's drought stricken areas and made recommendations on October 8, 1953, to the President of the United States and the Secretary of Agriculture for relief thereof.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the President of the United States and the Secretary of Agriculture immediately accept the October 8, 1953, recommendation of the Governor of Arizona for drought relief funds and that such relief be granted in accordance with those recommendations.

2. Copies of this memorial shall be sent to the President of the United States, Secretary of Agriculture, both Houses of Congress, Governor of Arizona, Members of Arizona Congressional Delegation, and all interested persons.

Passed the Senate October 30, 1953 by the following vote: Unanimously adopted.

Passed the House October 31, 1953 by the following vote: 55 Ayes, 10 Nays, 15 Not Voting.

Filed in the Office of the Secretary of State—October 31, 1953.

SENATE CONCURRENT RESOLUTION NO. 1

A CONCURRENT RESOLUTION

ON THE DEATH OF HON. JAMES W. EWING

Whereas, James W. Ewing, aged sixty-one years, passed away June 25, 1953, at Tucson, Arizona.

Born June 12, 1891, in Philadelphia, Pennsylvania, Mr. Ewing was for fifteen years associated with the textile industry in the East. He came to Arizona in 1926 and settled in Tucson where he entered actively into the business and civic life of the community. In 1944, in recognition of his abilities and interest in public affairs, Senator Ewing was elected to serve the people of his community in the House of Representatives where he served faithfully until his election by the people of Pima County as a member of the Senate. In the Senate, as in the House of Representatives, Mr. Ewing rapidly became one of the most respected members. He served in the Senate as a member of the powerful committees on Rules and Appropriations, and as Chairman of the Committee on Municipalities.

Senator Ewing will be long remembered for his active, selfless and constructive interest in public affairs. The unfortunate have lost an understanding heart, the youth a guiding hand, and the Legislature a steady head. Therefore

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. This body deeply mourns the passing of this valued citizen and public servant.

2. The sincere sympathy of the members of the Legislature is extended to the surviving widow, son, daughter, and other bereaved relatives.

Passed the Senate October 14, 1953 by the following vote: 19 Ayes, 0 Nays, 0 Not Voting.

Passed the House October 15, 1953 by the following vote: Unanimous Vote Ayes, O Nays, O Not Voting.

Filed in the Office of the Secretary of State—October 16, 1953.

SENATE JOINT MEMORIAL NO. 1

A JOINT MEMORIAL

URGING RELIEF BE GIVEN THE COTTON FARMER OF ARIZONA FROM THE STRINGENT LIMITATIONS OF THE AGRICULTURE ADJUSTMENT ACT OF 1938, BY RAISING THE NATIONAL COTTON ACREAGE ALLOTMENT FROM SEVENTEEN AND ONE HALF-MILLION TO TWENTY-TWO AND ONE-HALF MILLION ACRES, AND BY PROVIDING THAT NO INDIVIDUAL STATE'S ALLOTMENT BE REDUCED THEREUNDER BY MORE THAN TWENTY-SEVEN AND ONE-HALF PER CENT OF 1952 PLANTINGS.

To the President of the United States, Secretary of Agriculture, and the Congress of the United States:

Your memorialist respectfully represents:

With the advancement of man's knowledge, the lands and climate of Arizona have proved Arizona to be one of the portions of the United States best fitted for the efficient and economical production of cotton. The full appreciation of this knowledge is of such recent origin that the major portion of Arizona's cotton production has become a reality only in the last two or three years.

The Agriculture Adjustment Act of 1938, as amended, places limitations upon Arizona's cotton production which are based on an analysis of only the infant stages of our present industry. If these limitations are applied, it will result in an over-all decrease of Arizona's present cotton acreage by fifty-four per cent: A reduction of approximately one hundred million dollars in Arizona's present cotton income, with a corresponding severe blow to Arizona's entire economy.

Rather than correcting farm problems by measures which produce such damaging impact, transition to improve farm programs should be made in an orderly manner so that there will be continuous stability in the process of adjustment.

Wherefore your memorialist, the Legislature of the State of Arizona, urgently requests:

1. That the National cotton acreage allotment be raised from seventeen and one-half million to twenty-two and one-half million acres and that no individual state's allotment be reduced thereunder by more than twenty-seven and one-half per cent of the 1952 plantings.

Passed the Senate October 30, 1953 by the following vote: Unanimously adopted.

Passed the House October 31, 1953 by the following vote: 61 Ayes, 3 Nays, 16 Not Voting.

Approved by the Governor—November 10, 1953.

Filed in the Office of the Secretary of State—November 10, 1953.

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APPENDIX
A

Being Complete Text of

CHAPTER 64
(Senate Bill No. 1)

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Repeals

Section

1. Repeal

State of Arizona
Senate
Twenty-first Legislature
Second Regular Session

CHAPTER 64

S.B. 1

AN ACT

RELATING TO INSURANCE; PROVIDING AN INSURANCE CODE FOR THE STATE OF ARIZONA; REGULATING INSURANCE COMPANIES, THE INSURANCE BUSINESS, AND THE SALE AND SOLICITATION OF INSURANCE; LEVYING CERTAIN TAXES ON INSURANCE BUSINESS AND PROVIDING FOR THE DISPOSITION OF THE PROCEEDS THEREOF; PRESCRIBING PENALTIES; AND REPEALING SECTIONS 1773 TO 1882, INCLUSIVE, REVISED CODE OF 1928, BEING CHAPTER 61, ARIZONA CODE OF 1939, CHAPTER 86, LAWS OF 1933, CHAPTER 68, LAWS OF 1939, CHAPTERS 93 AND 113, LAWS OF 1941, CHAPTERS 36, 70, 78 AND 95, LAWS OF 1943, CHAPTER 100, LAWS OF 1945, CHAPTER 13, LAWS OF 1945 (FIRST SPECIAL SESSION), CHAPTERS 124, 125, 126, 127 AND 138, LAWS OF 1947, CHAPTERS 16 AND 32, LAWS OF 1947 (SECOND SPECIAL SESSION), CHAPTERS 6 AND 7, LAWS OF 1948 (SEVENTH SPECIAL SESSION), CHAPTERS 116 AND 117, LAWS OF 1949, CHAPTERS 121 AND 146, LAWS OF 1951 (FIRST REGULAR SESSION), AND ALL AMENDMENTS TO SAID STATUTES.

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

ARTICLE I. SCOPE OF CODE.

Section 1. SHORT TITLE. This act constitutes the Arizona Insurance Code.

Sec. 2. "INSURANCE" DEFINED. "Insurance" is a contract whereby one undertakes to indemnify another or to pay a specified amount upon determinable contingencies.

Sec. 3. "INSURER" DEFINED. "Insurer" includes every person engaged in the business of making contracts

of insurance.

Sec. 4. "PERSON" DEFINED. "Person" includes an individual, company, insurer, association, organization, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and entity.

Sec. 5. "TRANSACTING" INSURANCE. "Transact" with respect to insurance includes any of the following:

(1) Solicitation and inducement.

(2) Preliminary negotiations.

(3) Effectuation of a contract of insurance.

(4) Transaction of matters subsequent to effecutation of the contract and arising out of it.

Sec. 6. "DIRECTOR" DEFINED. (a) When used with reference to administration of this code, "director" means the director of insurance of the state of Arizona.

(b) When used with reference to a member of the governing body of an insurer, "director" includes "trustee."

Sec. 7. "COMMISSION" DEFINED. Unless the context otherwise requires, "commission" means the corporation commission of Arizona or such other authority as may by law have original jurisdiction over the appointment of the director of insurance.

Sec. 8. COMPLIANCE REQUIRED — PRIVATE TRANSACTIONS. (a) No person shall transact a business of insurance in Arizona, or relative to a subject of insurance resident, located, or to be performed in Arizona, without complying with the applicable provisions of this code.

(b) No provision of this code shall be deemed to require any license or other authority, or impose any penalty or requirement except as provided by section 21 of article 7, of or upon any person for negotiation or procurement of insurance by him upon his own insurable interests, with or from an insurer not authorized to transact insurance in Arizona.

Sec. 9. APPLICATION AS TO PARTICULAR TYPES OF INSURERS. No provision of this code shall apply with respect to:

(a) Hospital and medical service corporations, except as stated in article 25.

(b) Fraternal benefit societies, except as stated in article 26.

(c) Domestic benefit insurers, except as stated in article 27.

(d) Benefit stock insurers, except as stated in article 28.

Sec. 10. EXISTING LICENSES. The expiration dates of certificates of authority and licenses in force immediately prior to the effective date of this code, and lawfully existing under any law repealed by this Act, are hereby extended as follows:

(a) Licenses or certificates of authority of insurers shall expire on the first day of April next succeeding such effective date.

(b) Licenses or certificates of authority of agents, brokers, and solicitors shall expire at midnight the June 30th next succeeding such effective date.

Any such license or certificate may be renewed, and shall be subject to suspension or revocation, as though originally issued under this code.

Sec. 11. EXISTING CONTRACTS. No provision of this code shall be deemed to modify or invalidate any contract heretofore lawfully in force.

Sec. 12. EXISTING FORMS AND FILINGS. Every form of insurance document and every rate or other filing lawfully in use immediately prior to the effective date of this code, may continue to be so used or be effective until the director otherwise prescribes pursuant to this code; except, that before expiration of one year from and after such effective date neither this code nor the director shall prohibit the use of any such document, rate, or filing because of any power, prohibition, or requirement contained in this code which did not exist under laws in force immediately prior to such effective date.

Sec. 13. EXISTING ACTIONS, VIOLATIONS. Repeal by this Act of any law shall not affect or abate any right heretofore accrued, action or proceeding heretofore commenced, or any unlawful act heretofore committed under such laws and punishment or deprivation of license or authority as a consequence thereof as provided by such laws, but all proceedings hereafter taken with respect thereto shall conform to the applicable provisions of this code insofar as possible. All such laws shall be deemed to continue in force to the extent made necessary by this provision.

Sec. 14. EXISTING OFFICES. The individual holding the office of director of insurance immediately prior to the effective date of this code, as such office was heretofore constituted, shall be the director of insurance provided for in section 1 of article 2 until expiration of the term for

which last so heretofore appointed; but such individual shall be subject to earlier removal for cause by the commission and shall likewise be eligible for reappointment by the commission at expiration of such term.

Sec. 15. PARTICULAR PROVISIONS PREVAIL. Provisions of this code relative to a particular kind of insurance or a particular type of insurer or to a particular matter shall prevail over provisions relating to insurance in general or insurers in general or to such matter in general.

Sec. 16. SEVERABILITY. If any provision of this code or the application of such provision to any circumstance is held invalid, the remainder of the code, or the application of the provision to other circumstances, shall not be affected thereby.

Sec. 17. GENERAL PENALTY. In addition to any other penalty which may be applicable thereto, either under this code or otherwise, violation of any provision of this code shall constitute a misdemeanor and shall be punishable as such where no greater penalty is provided therefor.

Sec. 18. EFFECT OF REPEAL. Repeal by this code of any Act shall not have the effect of reviving any prior law theretofore repealed or superseded by such repealed Act.

Sec. 19. EFFECTIVE DATE. Except as otherwise expressly stated herein, this code shall become effective on January 1, 1955.

ARTICLE 2. DIRECTOR OF INSURANCE.

Section 1. OFFICE OF DIRECTOR OF INSURANCE. There shall be a director of insurance of the state of Arizona, who, subject to section 14 of article 1, shall be an individual appointed by the commission, and such appointment shall be subject to approval by the state senate. The term of the director shall be for six years, but he may be removed by the commission for cause. No individual shall be eligible for appointment as director unless he has been a resident of Arizona for at least three years prior thereto, and unless he is well versed in insurance matters.

Sec. 2. DIRECTOR'S SALARY. Any other provision of law to the contrary notwithstanding, the director shall receive a salary at the rate of not more than nine thousand six hundred dollars per year, subject to section 14 of this article.

Sec. 3. GENERAL DUTIES, POWERS. (a) The director shall enforce the provisions of this code, and shall execute the duties imposed upon him by this code.

(b) The director shall have powers and authority expressly conferred upon him by or reasonably implied from the provisions of this code.

(c) The director may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as he may deem proper to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.

Sec. 4. RULES AND REGULATIONS. (a) The director may make reasonable rules and regulations necessary for effectuating any provision of this code. Such rules and regulations shall be subject to the provisions of the administrative procedure act, sections 4-701 to 4-711 of Arizona Code 1939 (Laws 1952, chapter 97).

(b) In addition to any other penalty provided, wilful violation of any such rule or regulation shall constitute a violation of this code.

Sec. 5. DIRECTOR'S SEAL. (a) The director shall have a seal of office consisting of the shield as used in the Great Seal of the State of Arizona encircled by the words "Director of Insurance, State of Arizona."

(b) Every certificate or license issued by the director shall bear his seal.

Sec. 6. CERTIFICATES AS EVIDENCE. (a) Copies of records or documents in his office certified to by the director shall be received in evidence in all courts as if they were the originals.

(b) The director shall furnish, when required, his certificate as to the authority of any person to transact insurance, and such certificate shall be evidence of the facts set forth therein.

Sec. 7. DEPUTIES AND ASSISTANTS. (a) The director shall appoint a supervisor of insurance rates, who shall also serve as chief deputy director of insurance. He shall be subject to removal for cause. The supervisor of insurance rates shall be a person versed in insurance rating procedure and familiar with the operation of insurance companies and rating organizations, and shall have super-

vision, under the director, of the administration of laws pertaining to insurance rates and rating organizations.

(b) The director shall appoint an assistant director of insurance who shall be experienced in the fields of life and disability insurance.

(c) The director shall appoint a chief examiner, who shall have had at least five years' experience as a full-time examiner for a state insurance department or departments, or as a full-time staff member of a public accounting or actuarial firm regularly employed to conduct examinations for a state insurance department.

(d) The director shall appoint such other deputies and assistants, examiners and clerks at salaries to be fixed by him, as may be necessary properly to discharge the duties imposed upon the director under this code.

(e) The director may from time to time contract for and procure, on a fee or part time basis, or both, such actuarial, technical and other professional services as he may require for the operation of his office.

(f) Any other provision of law to the contrary notwithstanding, the compensation of each such deputy, actuary, examiner, assistant, and clerk shall be as fixed by the director, subject to section 14 of this article (salaries, etc. shall not exceed funds made available therefor).

Sec. 8. PROHIBITED INTERESTS, REWARDS. (a) The director or any deputy, examiner, assistant or employee of the director, shall not be financially interested, directly or indirectly, in any insurer, agency, or insurance transaction except as a policyholder or claimant under a policy; except, that as to such matters wherein a conflict of interests does not exist on the part of any such individual, the director may employ from time to time insurance actuaries or other technicians who are independently practicing their professions even though similarly employed by insurers and others.

(b) The director or any deputy or employee of the director shall not be given nor receive any fee, compensation, loan, gift, or other thing of value in addition to the compensation provided by law, for any service rendered or to be rendered as such director, deputy, or employee or in connection therewith.

(c) This section shall not be deemed to prohibit employment by the director of retired or pensioned personnel of insurers or insurance organizations.

Sec. 9. DELEGATION OF AUTHORITY. (a) Any power, duty, or function, whether ministerial or discretionary, vested by this code in the director may be exercised or discharged by any deputy, assistant, or examiner of the director acting in the director's name and by his delegated authority.

(b) The director shall be responsible for the official acts of his deputy, assistant, examiner or employee acting in the director's name and by his authority.

Sec. 10. ORDERS, NOTICES. (a) Orders and notices of the director shall not be effective unless in writing signed by him or by his authority.

(b) Every such order shall state its effective date and shall concisely state:

(1) Its intent or purpose.

(2) The grounds on which based.

(3) The provisions of this code pursuant to which action is so taken or proposed to be taken; but failure to so designate any provision shall not deprive the director of the right to rely thereon.

(c) An order or notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, addressed to him at his principal place of business as last of record in the director's office.

Sec. 11. ENFORCEMENT. (a) If the director has cause to believe that any person has violated any penal provision of this code or other laws relating to insurance, and that prosecution of such person is advisable, he shall certify the facts of such violation to the attorney general of Arizona, and the attorney general shall bring and prosecute such action as may be required for the purpose of punishing such violation.

(b) If the director has cause to believe that any person is violating or is about to violate any provision of this code or any lawful order of the director, he may certify the facts thereof to the attorney general, and the attorney general shall bring and prosecute such action as may be required for the purpose of enjoining such violation.

(c) The attorney general shall prosecute or defend all proceedings brought pursuant to or resulting from enforcement of this code when requested by the director.

Sec. 12. RECORDS. (a) The director shall enter in permanent form records of his official transactions, examinations, investigations, and proceedings, and keep such records in his office. Such records and insurance filings

in his office shall be open to public inspection, except as otherwise provided in this code.

(b) The director may destroy records, papers, and filings which in his judgment are of no further material value to the state; but he shall not destroy any record, paper, or filing on file for less than five years or made, received, or filed during his current term of office.

Sec. 13. ANNUAL REPORT. As early in the calendar year as possible the director shall annually prepare a report for delivery to the commission, the governor, and the legislature, showing, with respect to the preceeding calendar year:

(a) List of authorized insurers transacting insurance in Arizona, with such report of their financial condition as he deems appropriate;

(b) Names of insurers whose business was closed during the year, the cause thereof, and amount of assets and liabilities as ascertainable;

(c) Names of insurers against which delinquency or similar proceedings were instituted, and a concise statement of the facts with reference to each such proceeding;

(d) Name and compensation of each officer, deputy, examiner, assistant, and employee of the office of director, and the whole amount, with reasonable itemization, of the expenses of the office of director; and

(e) Recommendations of the director as to amendment of laws affecting insurance, and as to matters affecting the office of director, and such other pertinent information and matters as the director deems proper.

The director shall cause the report to be printed and delivered for the purpose intended.

Sec. 14. EXPENSES. All salaries, compensation, and other expenses involved in the operation of the office of director shall not exceed the amount from time to time appropriated or otherwise made available therefor by the legislature, including travel expense incurred by the director, his deputies, and assistants within or outside this state in connection with official duties, dues assessed by the national association of insurance commissioners and travel expense incurred by the director and any one or more deputies or assistants designated by him in attendance upon meetings or committee meetings of such association.

Sec. 15. EXAMINATION OF INSURERS. (a) The director shall examine the affairs, transactions, accounts,

records, and assets of each authorized insurer as often as he deems advisable. He shall so examine each domestic insurer not less frequently than every three years. Examination of an alien insurer shall be limited to its insurance transactions in the United States.

(b) The director shall in like manner examine each insurer applying for an initial certificate of authority to do business in this state.

(c) In lieu of making his own examination, the director may accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state, territory, commonwealth, or district of the United States.

Sec. 16. ACCESS TO RECORDS; CORRECTION. (a) Every person being examined, its officers, employees, agents, and representatives shall produce and make freely accessible to the director or his examiners the accounts, records, documents, files, assets, and matters in his possession or control relating to the subject of the examination.

(b) If the director finds accounts to be inadequate, or improperly kept or posted, he may employ experts to rewrite, post or balance them at the expense of the person being examined if such person has failed to complete or correct such accounting after the director has given him notice and a reasonable opportunity to do so.

(c) If the director deems it necessary to value any real estate involved in any such examination, he may employ one or more competent appraisers for the purpose, and the reasonable expense thereof shall be a part of the cost of examination, to be borne by the person being examined.

Sec. 17. EXAMINATION REPORTS. (a) The director shall make a full written report of each examination, certified to by the director or the examiner in charge of the examination.

(b) The director shall furnish a copy of the report to the person examined not less than ten days prior to filing the same in his office. If such person so requests in writing within such ten-day period, the director shall consider the objections of such person to the report as proposed, and shall not so file the report until after such modifications, if any, have been made therein as the director deems proper.

(c) The report, when filed, shall be admissible in evidence in any action or proceeding brought by the director against the person examined, or its officers or agents. The director or his examiners may at any time testify and

offer other proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been either made, served, or filed in the director's office.

(d) The director may withhold from public inspection any examination or investigation report for so long as he deems prudent.

Sec. 18. EXAMINATION EXPENSE. Each insurer shall pay to the examiners and other persons making the examination, the actual travel expenses, reasonable living expense allowance, and per diem compensation, at a reasonable rate customary for such examinations as approved by the director, necessarily incurred on account of the examination, upon presentation of a detailed account of such charges and expenses. No person shall receive or accept any additional emolument on account of any examination.

Sec. 19. WITNESSES OR EVIDENCE. (a) The director may take depositions, subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

(b) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a superior court. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person being examined if such person is found to have been in violation of the law as to the matter with respect to which such witness was so subpoenaed, or by the person, if other than the director, at whose request the hearing is held.

(c) The subpoena shall be served in the same manner as if issued from a superior court. If any individual fails to obey a subpoena lawfully served, the director shall forthwith report such disobedience, together with a copy of the subpoena and proof of service thereof, to the superior court for the county in which the individual was required to appear, and such court shall forthwith cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

(d) Any person who being under oath testifies falsely or makes any false affidavit during the course of any examination, investigation, or hearing, shall upon conviction thereof be guilty of perjury.

Sec. 20. HEARINGS. The director may hold hearings for any purpose deemed by him to be necessary and within the scope of this code. The director shall hold a hearing if required by any provision of this code, or upon written demand therefor by a person aggrieved by any act, threatened act or failure of the director to act, or by any report, rule, regulation or order of the director (other than an order for the holding of a hearing, or an order on hearing or pursuant thereto). Any such demand shall specify the grounds to be relied upon as a basis for the relief to be demanded at the hearing, and unless postponed by mutual consent, such hearing shall be held within thirty days after receipt by the director of demand therefor.

If within such thirty day period the director does not either (a) grant the hearing, or (b) issue his order refusing the hearing, as to such previous report, rule, regulation, or order as to which such person so claims to be aggrieved, then such report, rule, regulation, or order shall thereby be deemed to have been made null and void.

Sec. 21. STAY OF ACTION. (a) Such a demand for a hearing received by the director prior to the effective date of any order issued by him or within ten days after such order is delivered, shall stay the effectiveness of such order pending the hearing and an order made thereon, except as to action taken or proposed (1) under an order on hearing, or (2) under an order pursuant to an order on hearing, or (3) under an order to make good an impairment of the assets of an insurer.

(b) If an automatic stay is not provided for and the director after written request therefor fails to grant a stay, the person aggrieved may apply to the superior court for Maricopa county for a stay of the director's proposed action.

Sec. 22. NOTICE OF HEARING. Not less than ten days in advance the director shall give notice of the time and place of the hearing, stating the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the director shall give such notice to all persons directly affected by such hearing.

Sec. 23. HEARING PROCEDURE. (a) Hearings may be closed to the public at the director's discretion; except that a hearing shall be open to the public if so requested in writing by any principal party to the hearing.

(b) The director shall allow any person affected by the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the director to compel attendance of witnesses and production of evidence in his behalf.

(c) Formal rules of pleading or evidence need not be observed at any hearing.

(d) Upon written request seasonably made by a person affected by the hearing and at such person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent court reporter. If transcribed such record shall be a part of the director's record of the hearing, and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.

(e) Upon written request of a party to a hearing being filed with the director within thirty days after any order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive the same, the director may grant a rehearing or reargument of the matters involved in such hearing, and notice of such rehearing or reargument shall be given as provided in section 22 of this article.

Sec. 24. ORDER ON HEARING. (a) In conducting any such hearing the director shall sit as a quasi judicial officer. Within thirty days after termination of the hearing or of any rehearing thereof or reargument thereon, he shall make his order on hearing, covering matters involved in such hearing and in any rehearing or reargument thereof, and shall give a copy of such order to the same persons given notice of the hearing.

(b) The order shall contain a concise statement of the facts as found by the director, a concise statement of his conclusions therefrom, and the effective date of the order.

(c) The order may affirm, modify, or nullify action theretofore taken or may constitute the taking of new action within the scope of the notice of hearing.

Sec. 25. APPEALS FROM THE DIRECTOR. (a) An appeal from the director shall be taken only from an order on hearing or an order refusing a hearing. Any person aggrieved by any such order may, within thirty days after the

order has been mailed or delivered to the persons entitled to receive the same, or within thirty days after the director's order denying rehearing or reargument has been so mailed or delivered, appeal from such order on hearing or such order refusing a hearing by petition to the superior court for Maricopa county. A copy of such petition shall also forthwith be served upon the director and other parties in interest, if any, and the director shall thereupon certify and file in such court a transcript of the record of such hearing and a copy of the order appealed from.

(b) Upon filing of the petition the court shall have full jurisdiction, and shall determine whether such filing shall operate as a stay of the order appealed from.

(c) The court shall hear the matter de novo, including any intermediate order or matter involving the merits and necessarily affecting the order appealed from, advancing the cause upon its calendar as are other causes to which the state is a party.

(d) After hearing the appeal the court may affirm, modify, or reverse the order or action of the director in whole or in part, or remand the action to the director for further proceedings in accordance with the court's direction.

(e) Costs shall be awarded as in civil actions.

(f) Appeal may be taken to the supreme court from the judgment of the superior court as in other civil cases to which the state is a party. The superior court judgment appealed from shall not be subject to supersedeas, and a stay of the effectiveness of any such judgment may be made only by order of the supreme court upon the giving of such security as that court deems proper.

Sec. 26. FEES AND LICENSES. (a) The director shall collect in advance the following fees and licenses:

(1) For filing charter documents:

(i) Original charter documents, articles of incorporation, bylaws, or record of organization of insurers, or certified copies thereof, required to be filed with the director and not also subject to filing in the office of the corporation commission $25.00

(ii) Amended charter documents 10.00

(iii) No charge or fee shall be required for filing with the director any of such documents also required by law to be filed in the office of the corporation commission.

(2) Certificate of authority:

(i) Issuance:

Fraternal benefit societies	10.00
Medical or hospital service corporations, or domestic benefit insurers	25.00
All other insurers	65.00

(ii) Renewal:

Fraternal benefit societies, or domestic benefit insurers	10.00
Medical or hospital service corporations	25.00
All other insurers	45.00

(3) Filing annual statement:

Fraternal benefit societies, domestic benefit insurers, and medical or hospital service corporations	10.00
All other insurers	25.00

(4) Rating organizations, issuance of license or triennial renewal thereof 25.00

(5) Filing rate manuals, rating schedules and rating plans (including, without additional charge, papers pertaining thereto and corrections and amendments thereof), per year for each such rate manual, rating schedule or rating plan 5.00

(6) Licenses:

Agent's license, each year	5.00
Broker's license, each year	10.00
Solicitor's license, each year	5.00
Limited license as travel insurance agent, each year	2.00
Temporary license as agent	2.00
Temporary license as broker	5.00
Surplus line broker's license, each year	25.00
Adjuster's license, each year	10.00
Managing general agent's license, each year	5.00
Service representative's license, each year	5.00

(7) Examination for license, agents, brokers, and solicitors:

For each examination covering laws and one kind of insurance	5.00
For each examination covering laws and two or more kinds of insurance	10.00

(8) Filing notice of appointment of agent, each year 2.00

(9) Miscellaneous:

Filing other documents required to be filed, each	1.00
Certificate of director, under seal	1.00
Copy of document filed in director's office, per folio	0.20

(b) The director shall remit to the state treasurer, to be placed in the general fund, all fees and licenses so collected.

(c) The license fees prescribed by this section for managing general agents, agents, brokers, solicitors, surplus line brokers, service representatives, and adjusters shall be payment in full with respect thereto of all demands for any and all state, county, district, and municipal license fees, license taxes, business privilege taxes and business privilege fees and charges of every kind.

ARTICLE 3. AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS.

Section 1. "DOMESTIC" INSURER DEFINED. A "domestic" insurer is one formed under the laws of Arizona.

Sec. 2. "FOREIGN" INSURER DEFINED. A "foreign" insurer is one formed under the laws of another state of the United States.

Sec. 3. "ALIEN" INSURER DEFINED. An "alien" insurer is one formed under the laws of a country other than the United States.

Sec. 4. "STATE," "UNITED STATES" DEFINED. (a) "State" means any state, commonwealth, territory, or District of the United States.

(b) "United States" includes the states, territories, districts, and commonwealths thereof.

Sec. 5. "CHARTER" DEFINED. "Charter" means articles of incorporation, of agreement, of association, or other basic constituent document of a corporation, or subscribers' agreement and power of attorney of a reciprocal insurer.

Sec. 6. AUTHORITY TO TRANSACT INSURANCE REQUIRED. (a) No person shall act as an insurer and no insurer shall transact insurance in Arizona except as authorized by a subsisting authority granted to it by the director, except as to such transactions as are expressly otherwise provided for in this code.

(b) No such authority shall be required for an insurer, formerly so authorized, to enable it to investigate and settle losses under its policies lawfully written in Arizona, or to liquidate such assets and liabilities of the insurer

(other than collection of new premiums) as may have resulted from its former authorized operations in Arizona.

(c) An insurer not transacting new insurance business in Arizona but continuing collection of premiums on and servicing of policies remaining in force as to residents of or risks located in Arizona, is transacting insurance in Arizona for the purpose of premium tax requirements only and is not required to have a certificate of authority therefor. This subsection shall not apply to insurers which have withdrawn from Arizona prior to the effective date of this code.

(d) As to an insurance coverage on a subject of insurance not resident, located, or expressly to be performed in Arizona at time of issuance, and solicited, written, and delivered outside Arizona, no such authority shall be required of an insurer as to subsequent transactions in Arizona on account thereof.

Sec. 7. GENERAL QUALIFICATIONS FOR AUTHORITY. To qualify for and hold authority to transact insurance in Arizona an insurer must be otherwise in compliance with the provisions of this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this code; except, that no foreign or alien insurer shall be authorized to transact insurance in Arizona which does not maintain reserves as required by article 8 applicable to the kind or kinds of insurance transacted by such insurer.

Sec. 8. WORKMEN'S COMPENSATION INSURANCE. A casualty insurer shall not be authorized to transact workmen's compensation insurance without first complying with section 56-932, Arizona Code 1939, as amended or hereafter amended. To the extent that the industrial commission of Arizona is vested with regulatory jurisdiction over workmen's compensation insurance, such jurisdiction shall be exclusive, and insurers, as to workmen's compensation insurance, are exempt from compliance with any provision of this code which conflicts with or in any manner duplicates the regulation of such insurance by the industrial commission of Arizona.

Sec. 9. KINDS OF INSURANCE, ONE INSURER. An insurer which otherwise qualifies therefor may be authorzied to transact any one kind or combination of kinds

of insurance as defined in article 4 of this code, except:

(a) A life insurer shall not be authorized to transact any other kind of insurance except disability; except that if immediately prior to the effective date of this code any life insurer lawfully held a subsisting certificate of authority granting it the right to transact in Arizona additional kinds of insurance other than disability, so long as the insurer is otherwise in compliance with this code the director may continue to authorize such insurer to transact the same kinds of insurance as those specified in such prior certificate of authority.

(b) A reciprocal insurer shall not transact life insurance.

(c) A title insurer shall be a stock insurer.

Sec. 10. CAPITAL FUNDS REQUIRED. (a) To qualify for authority to transact any one kind of insurance an insurer shall possess and thereafter maintain paid-in capital stock (if a stock insurer) or surplus (if a foreign or alien mutual or reciprocal insurer) in amount not less than as shown by the applicable portion of the following schedule:

Kind of insurance	Minimum capital or surplus required
Life and/or disability	$100,000
Domestic limited stock life and disability	25,000
Property	200,000
Marine & transportation	200,000
Casualty (including vehicle and other casualty lines)	250,000
Vehicle (exclusive of other casualty lines)	200,000
Surety	250,000
Title	100,000
All insurances except life and title	350,000

(b) As to surplus required for initial qualification to transact one kind of insurance and thereafter to be maintained, domestic mutual insurers shall be governed by article 22, and domestic reciprocal insurers shall be governed by article 23.

Sec. 11. EXPENDABLE SURPLUS REQUIRED, NEW INSURERS. (a) In addition to the minimum paid-in capital (stock insurers) or minimum surplus (mutual and reciprocal insurers) as required by the following sections of this code:

(1) sections 10 and 12 of this article as to all stock insurers and foreign and alien mutual and reciprocal insurers,

(2) section 7 of article 23 and section 12 of this article as to domestic reciprocal insurers, and

(3) column (h) of section 11 of article 22, and section 12 of this article, as to domestic mutual insurers, except as stated in subsection (b), below,

any foreign or alien insurer which has been an authorized insurer for a period of less than five years, in Arizona or elsewhere, and any domestic insurer, shall possess at time of original authorization in Arizona expendable surplus funds in an amount of not less than one-half such minimum paid-in capital or minimum surplus, and each addition of an additional kind of insurance to such certificate of authority within such five year period shall be deemed to be such an original authorization. No other insurer shall be so initially authorized in Arizona unless it then possesses surplus of not less than $50,000 in addition to the paid-in capital (stock insurers) or surplus (mutual and reciprocal insurers) otherwise required.

(b) This section shall not apply to a domestic mutual insurer which qualifies upon the basis of applications for insurance as provided in section 11 of article 22, and which insurer does not within such five year period transact any kind of insurance in addition to that for which it was initially authorized.

Sec. 12. ADDITIONAL KINDS OF INSURANCE, FUNDS REQUIRED. An insurer otherwise qualified therefor may be authorized to transact combinations of kinds of insurance (other than the life and disability combination shown in section 10 of this article) while possessing and maintaining thereafter additional paid-in capital stock (if a stock insurer) or additional surplus funds (if a mutual or reciprocal insurer) not less in amount than that determined as follows:

For any lawful combination add $50,000 for each additional kind of insurance included in the combination, to the amount required under section 10 of this article for that one kind of insurance in the combination for which the largest amount is required under said section 10, except:

(a) Vehicle and disability insurances may be combined with casualty, and in any combination including casualty, without funds in addition to those required because of casualty.

(b) With such paid-in capital or such surplus in the amount of not less than $350,000, an insurer, if otherwise qualified therefor, may be authorized to transact all kinds of insurance except life and title insurance; except, that any domestic stock insurer which on January 1, 1954, was lawfully authorized to transact vehicle insurance (physical damage only), or casualty insurance, and while possessing paid-in capital of not less than $250,000, may be so authorized to transact all kinds of insurance other than life and title insurances.

(c) The amount of such capital or surplus shall not in any event be less than would be required if the insurer proposed to transact in Arizona all those kinds of insurance which it is transacting elsewhere.

Sec. 13. DEPOSIT REQUIREMENTS. The director shall not issue a certificate of authority to any insurer unless it has deposited in trust with the state treasurer through the director's office cash or securities eligible for the investment of capital funds of domestic insurers under this code in an amount not less than the minimum paid-in capital stock (if a stock insurer) or minimum surplus (if a mutual or reciprocal insurer) required pursuant to this article to be maintained for authority to transact the kinds of insurance to be transacted, except:

(a) As to domestic title insurers, the deposit shall be as required by article 20.

(b) As to foreign insurers, other than title insurers, in lieu of such deposit or part thereof in this state, the director shall accept the current certificate in proper form of the public official having supervision over insurers in any other state to the effect that a like deposit or part thereof by such insurer is being maintained in public custody in such state in trust for the purpose, among other reasonable purposes of protection of policyholders and/or creditors, of the protection of all the insurer's policyholders, or of all its policyholders and creditors, in Arizona.

(c) As to alien insurers, other than title insurers, in lieu of such deposit or part thereof in this state, the director shall accept evidence satisfactory to him that the insurer maintains within the United States by way of deposits with public depositaries, or in trust institutions within the United States approved by the director, assets available for discharge of its United States insurance obligations which assets shall be in amount not less than the outstanding liabilities of the insurer arising out of its insur-

ance transactions in the United States, together with the larger of the following sums: (1) The largest deposit required by this code to be made in this state by any type of domestic insurer transacting like kinds of insurance, or (2) $300,000.

Sec. 14. FINANCIAL REQUIREMENTS, EXISTING INSURERS, ESCALATOR PROVISION. If with respect to an insurer lawfully authorized to transact insurance in Arizona immediately prior to the effective date of this code this code requires a greater amount of capital, or surplus, or deposit than required of such insurer immediately prior to such effective date, such insurer shall have a period of one year from and after such effective date within which to comply with any such increased requirement; except, that no such increase shall be required of any domestic stock insurer which as of January 1, 1954, was lawfully authorized to transact in Arizona only automobile physical damage insurance, and for so long as such insurer does not transact any additional insurance.

Sec. 15. APPLICATION FOR AUTHORITY. To apply for an original certificate of authority an insurer shall file with the director its application therefor showing its name, location of its home office or principal office in the United States (if an alien insurer), kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the director may reasonably require, together with the following applicable documents:

(a) If a foreign or alien insurer, a copy of its corporate charter with all amendments thereto certified by the public officer with whom the originals are on file in the state or country of domicile.

(b) A copy of its bylaws as amended, certified by its secretary or other officer having custody thereof.

(c) A copy of its annual statement as of December 31 last preceding.

(d) Copy of report of the last examination, if any, made of the insurer, certified by the insurance supervisory official of its state of domicile or of entry into the United States.

(e) Appointment of the director as its attorney to receive service of legal process, if, as to a domestic insurer, such an appointment is not already on file.

(f) If a foreign or alien insurer, a certificate of the public official having supervision of insurance in its state

or country of domicile showing that it is authorized to transact the kinds of insurance proposed to be transacted in Arizona.

(g) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(h) If a foreign or alien insurer, certificate as to deposit if to be tendered pursuant to section 13 of this article.

Sec. 16. ISSUANCE OR REFUSAL OF AUTHORITY. (a) If upon completion of application the director finds that the insurer has met the requirements for and is entitled thereto under this code, he shall issue to the insurer a proper certificate of authority; if he does not so find, the director shall issue his order refusing such certificate. The director shall act upon an application for a certificate of authority within thirty days after its completion.

(b) The certificate, if issued, shall specify the kind or kinds of insurance the insurer is authorized to transact in Arizona. At the insurer's request, the director may issue a certificate of authority limited to particular types of insurance included within a kind of insurance as defined in this code.

Sec. 17. EXPIRATION, RENEWAL, AMENDMENT OF CERTIFICATE OF AUTHORITY. (a) All certificates of authority shall expire at midnight on the March 31 next following date of issuance or renewal. If the insurer qualifies therefor its certificate shall be renewed annually.

(b) The director may amend a certificate of authority at any time to accord with changes in the insurer's charter or insuring powers.

Sec. 18. MANDATORY REVOCATION OR SUSPENSION. The director shall refuse to renew or shall revoke or suspend an insurer's certificate of authority·

(a) If such action is required by any provision of this code, or

(b) If the insurer no longer meets the requirements for the authority originally granted, on account of deficiency in assets or otherwise.

Sec. 19. DISCRETIONARY REVOCATION OR SUSPENSION. The director may after a hearing refuse to renew, or may revoke or suspend an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer:

(a) Violates any provision of this code other than those as to which refusal, suspension, or revocation is mandatory.

(b) Knowingly fails to comply with any lawful rule, regulation, or order of the director.

(c) Is found by the director to be in unsound condition or in such condition as to render its further transaction of insurance in Arizona hazardous to its policyholders or to the people of Arizona.

(d) Usually compels claimants under its policies to accept less than the amount due them or to bring suit against it to secure full payment thereof.

(e) Refuses to be examined or to produce its accounts, records, and files for examination by the director when required.

(f) Fails to pay any final judgment rendered against it in Arizona within thirty days after the judgment became final.

(g) Is affiliated with and under the same general management or interlocking directorate or ownership as another insurer which transacts direct insurance in Arizona without having a certificate of authority therefor, except as permitted to a surplus line insurer under article 7.

Sec. 20. NAME OF INSURER. (a) No insurer shall be authorized to transact insurance in Arizona which has or uses a name so similar to that of any insurer already so authorized as to cause uncertainty or confusion; except, that in case of conflict of names between two insurers the director may permit or require the newly authorized insurer to use in Arizona such supplementation or modification of its name as may reasonably be necessary to avoid such conflict.

(b) No insurer shall be authorized to transact insurance in Arizona which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

Sec. 21. SUITS AGAINST INSURERS—SERVICE OF PROCESS. (a) Each authorized insurer shall appoint the director as its attorney to receive service of legal process issued against it in Arizona. The appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in Arizona any contract made by the insurer or obligations arising therefrom.

(b) Service of such process against a foreign or alien insurer shall be made only by service of process upon the director. Service of process against a domestic insurer may be made either upon the director or upon the insurer corporation in the manner provided by laws applying to corporations generally, or upon the insurer's attorney-in-fact if a reciprocal insurer.

(c) Each insurer at time of application for a certificate of authority shall file with the director designation of the name and address of the person to whom process against it served upon the director is to be forwarded. The insurer may change such designation by a new filing.

Sec. 22. SERVING PROCESS—TIME TO PLEAD. (a) Duplicate copies of legal process against an insurer for whom the director is attorney shall be served upon him. At the time of service the plaintiff shall pay to the director three dollars, taxable as costs in the action. Upon receiving such service the director shall promptly forward a copy thereof by registered mail to the person last so designated by the insurer to receive the same.

(b) Where process is served upon the director as an insurer's attorney, no further proceedings shall be had against the insurer, and the insurer shall not be required to appear, answer, or plead until expiration of forty days after date of such service upon the director.

(c) Process served upon the director and copy thereof forwarded as in this section provided, shall constitute service thereof upon the insurer.

Sec. 23. ANNUAL STATEMENT. (a) Each authorized insurer shall annually on or before March 31 file with the director a true statement of its financial condition, transactions, and affairs as of the December 31 preceding. The statement shall be in such general form and context as approved by the national association of insurance commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the director.

(b) The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the director requires otherwise. The statement shall be verified by the insurer's United States manager or other officer duly authorized.

(c) The director may refuse to renew, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due or within any ex-

tension of time therefor which the director, for good cause, may have granted.

Sec. 24. PREMIUM TAX. (a) Each authorized insurer, and each formerly authorized insurer referred to in subsection (c) of section 6 of this article, shall file with the director, on or before March 31 each year, a report in form as prescribed by the director showing total direct premium income including policy membership and other fees and all other considerations for insurance from all classes of business whether designated as a premium or otherwise received by it during the preceding calendar year on account of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Arizona, after deducting from such total direct premium income applicable cancellations, returned premiums, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer, all policy dividends, refunds, savings coupons and other similar returns paid or credited to policyholders within this state and not reapplied as premiums for new, additional or extended insurance. No deduction shall be made of the cash surrender values of policies or contracts. Considerations received on annuity contracts, as well as the unabsorbed portion of any premium deposit, shall not be included in total direct premium income, and neither shall be subject to tax.

(b) Coincident with the filing of such tax report each such foreign or alien insurer shall pay to the state treasurer, through the director, a tax of two per cent of such net premiums, and each domestic insurer shall so pay a tax of one per cent of such net premiums.

(c) That portion of the tax paid hereunder by an insurer on account of premiums received for fire insurance shall be separately specified in the report and shall be apportioned in the manner provided by sections 16-1912 and 16-1913, Arizona Code of 1939.

(d) This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 4 of article 20.

Sec. 25. FAILURE TO PAY TAX—PENALTY. (a) Any insurer failing for thirty days after any March 31 to pay the premium tax prescribed by section 24 of this article shall be liable to a fine of $25 for each additional day of delinquency.

(b) The director may refuse to renew the certificate of authority of any insurer failing to pay such tax on or before the date it is due. The director shall revoke the certificate of authority of any insurer failing to pay such tax for more than thirty days after it was due.

Sec. 26. TAX EXCLUSIVE. (a) With respect to authorized insurers the premium tax provided by section 24 of this article shall be payment in full and in lieu of all other demands for any and all state, county, district, municipal, and school taxes, licenses, and excises of whatever kind or character, excepting only the fees prescribed by this code and taxes on real and tangible personal property situate within this state.

(b) The state of Arizona hereby preempts the field of imposing excise, privilege, franchise, income, license, and similar taxes upon insurers and their general agents and agents as such, and on the intangible property of insurers or such agents; and no county, municipality, district, school district, or other political subdivision or agency in Arizona shall levy upon insurers, or upon their general agents and agents as such, any such tax additional to such as are levied by the legislature of Arizona in this code.

Sec. 27. PURPOSE OF TAX. The purpose of the taxes provided by this code is to assist in defraying the cost of state government and to lessen the tax burden upon tangible property. All taxes collected under this code shall be deposited in the state treasury to the credit of the general fund and shall be used, together with revenue from other sources, to pay appropriations for the maintenance of state government, except as provided in subsection (c) of section 24 of this article (firemen's relief and pension fund) and other applicable statutes.

Sec. 28. EXEMPTION OF INSURERS FROM GENERAL CORPORATION REPORTS AND FEES. Other provisions of law notwithstanding, no authorized insurer or surplus line insurer shall be required to file with the Arizona corporation commission the annual report required of corporations by section 53-901, Arizona Code of 1939. Every such insurer shall be exempt from payment of the annual registration fee required by such section, and from the annual report fee required by section 53-108a, Arizona Code of 1939.

Sec. 29. RESIDENT AGENT REQUIRED. (a) No authorized insurer shall issue a policy covering a subject of insurance resident, located, or to be performed in Arizona

unless the policy or countersignature endorsement attached thereto is countersigned by its licensed service representative, managing general agent, or licensed agent, resident in Arizona.

(b) Subsection (a) shall not apply to:

(1) Reinsurance, or to life, disability, or title insurances.

(2) Insurance of the rolling stock, vessels or aircraft of any common carrier in interstate or foreign commerce, or of any vehicle principally garaged and used in another state, or covering any liability or other risks incident to the ownership, maintenance or operation thereof.

(3) Insurance of property in course of transportation interstate or in foreign trade, or any liability or risk incident thereto.

(4) Insurance of ocean marine risks.

(5) With respect to countersignature, to policies issued through salaried agents or issued by insurers not using agents in the general solicitation of business.

(c) Violation of this section shall not invalidate the policy.

Sec. 30. RETALIATION. (a) When by or pursuant to the laws of any other state or foreign country any premium or income or other taxes, or any fees, fines, penalties, licenses, deposit requirements or other material obligations, prohibitions or restrictions are imposed upon Arizona insurers doing business, or that might seek to do business in such other state or country, or upon the agents of such insurers, which in the aggregate are in excess of such taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon similar insurers of such other state or foreign country under the statutes of this state, so long as such laws continue in force or are so applied, the same obligations, prohibitions and restrictions of whatever kind shall be imposed upon similar insurers of such other state or foreign country doing business in Arizona. Any tax, license or other obligation imposed by any city, county or other political subdivision of a state or foreign country on Arizona insurers or their agents shall be deemed to be imposed by such state or foreign country within the meaning of this section. The provisions of this section shall not apply to ad valorem taxes on real or personal property or to personal income taxes.

(b) If an insurer domiciled in Arizona is refused authority to transact in another state insurance upon a plan and in a manner which is permitted for domestic insurers of such other state, notwithstanding that the Arizona insurer be fully qualified for such authority in accordance with the applicable laws of such other state, and if such refusal be not accompanied by a written statement of the grounds therefor, then and thereafter, and for so long as such refusal shall continue, the director may refuse to grant an initial certificate of authority (but not a renewal of an existing certificate of authority) to any insurer domiciled in such other state which may seek to transact in Arizona a like kind or kinds of insurance.

ARTICLE 4. KINDS OF INSURANCE; REINSURANCE; LIMITS OF RISK.

Section 1. DEFINITIONS NOT MUTUALLY EXCLUSIVE. It is intended that certain coverages may come within the definitions of two or more kinds of insurance as set forth in this article, and the fact that such a coverage is included within one definition shall not exclude such coverage as to any other kind of insurance within the definition of which such coverage likewise reasonably is includable.

Sec. 2. "LIFE INSURANCE" DEFINED. "Life insurance" is insurance on human lives and insurance appertaining thereto or connected therewith. The transacting of life insurance includes the granting of endowment benefits, additional benefits in the event of death or dismemberment by accident or accidental means, additional benefits in the event of the disability of the insured, and optional modes of settlement of proceeds of life insurance. An insurer authorized to transact life insurance may also grant annuities.

Sec. 3. "DISABILITY INSURANCE" DEFINED. "Disability insurance" is insurance against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto.

Sec. 4. "PROPERTY INSURANCE" DEFINED. "Property insurance" is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual legal liability for any such loss or damage. Prop-

erty insurance shall also include miscellaneous insurance as defined in section 7 (k) of this article except as to any noncontractual liability coverage includable therein.

Sec. 5. "MARINE AND TRANSPORTATION INSURANCE" DEFINED. "Marine and transportation insurance" includes (a) insurance against any and all kinds of loss or damage to vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builders' risks and all personal property floater risks; (b) insurance against any and all kinds of loss or damage to person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles); (c) insurance against any and all kinds of loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise; (d) insurance against any and all kinds of loss or damage to bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot or civil commotion or any or all of them are the only hazards to be covered; (e) insurance against any and all kinds of loss or damage to piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion and each of them; (f) insurance

against any and all kinds of loss or damage to other aids to navigation and transportation, including dry docks and marine railways, dams and appurtenant facilities for the control of waterways; and (g) marine protection and indemity insurance, which is insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

Sec. 6. "VEHICLE INSURANCE" DEFINED. "Vehicle insurance" is insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability or expense resulting from or incident to ownership, maintenance or use of any such vehicle, aircraft or animal; together with insurance against accidental death or accidental injury to individuals, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft or draft or riding animal, if such insurance is issued as a part of insurance on the vehicle, aircraft or draft or riding animal.

Sec. 7. "CASUALTY INSURANCE" DEFINED. "Casualty insurance" includes vehicle insurance as defined in section 6 of this article, and in addition includes:

(a) Liability insurance. Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance.

(b) Workmen's compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

(c) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt

at any of the foregoing, including supplemental coverages for medical, hospital, surgical, and funeral benefits sustained by the named insured or other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause.

(d) Personal property floater. Insurance upon personal effects against loss or damage from any cause.

(e) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings.

(f) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosion of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured.

(g) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes and containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus.

(h) Credit. Insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(i) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service.

(j) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other

principals.

(k) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this chapter, if such insurance is not disapproved by the director as being contrary to law or public policy.

Sec. 8. "SURETY INSURANCE" DEFINED. "Surety insurance" includes:

(a) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.

(b) Insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings and contracts of suretyship.

(c) Insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to such an insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein, caused by burglary, robbery, theft, vandalism or malicious mischief, or any attempt thereat.

Sec. 9. "TITLE INSURANCE" DEFINED. "Title insurance" is insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title.

Sec. 10. LIMIT OF RISK. (a) No insurer shall retain any risk on any one subject of insurance, whether located or to be performed in Arizona or elsewhere, in an amount exceeding ten percent of its surplus to policyholders; except, that a domestic mutual insurer holding a certificate of authority may retain up to such ten per cent or up to the maximum applicable as set forth in section 11 of article 22, whichever is the larger, and a domestic limited stock insurer may retain up to the maximum applicable as set forth in section 8 of article 22.

(b) A "subject of insurance" for the purposes of this sec-

tion, as to insurance against fire and hazards other than windstorm or earthquake, includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire or other such hazard insured against.

(c) Reinsurance authorized by section 11 of this article shall be deducted in determining risk retained. As to surety risks, deduction shall also be made of the amount assumed by any established incorporated co-surety and the value of any security deposited, pledged, or held subject to the surety's consent and for the surety's protection.

(d) "Surplus to policyholders" for the purpose of this section shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the director or by the last report of examination by the director, whichever is the more recent at time of assumption of such risk.

(e) As to alien insurers, other than life insurers domiciled in the Dominion of Canada, this section shall relate only to risks and surplus to policyholders of the insurer's United States branch.

(f) This section shall not apply to group life or group or blanket disability insurance, title insurance, insurance of ocean marine risks or marine protection and indemnity risks, workmen's compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

Sec. 11. AUTHORIZED REINSURANCE. (a) An insurer shall reinsure its risks, or any part thereof, only in solvent insurers having surplus to policyholders not less in amount than the paid-in capital required under this code of a domestic stock insurer, other than a limited stock insurer, authorized to transact like kinds of insurance. A domestic limited stock life insurer may accept reinsurance of the risks of other such limited stock insurers and of domestic benefit insurers.

(b) An insurer shall so reinsure in such alien insurers only as either (1) are authorized to transact insurance in at least one state of the United States, or (2) have in the United States a duly authorized attorney-in-fact to accept service of legal process against the insurer as to any liability which might arise on account of such reinsurance.

(c) No credit shall be allowed, as an asset or as a deduc-

tion from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer nor unless under the reinsurance contract the liability for such reinsurance is assumed by the assuming insurer or insurers as of the same effective date.

(d) This section shall not apply to insurance of ocean marine risks or marine protection and indemnity risks.

ARTICLE 5. AGENTS, BROKERS, SOLICITORS, AND ADJUSTERS.

Section 1. "AGENT" DEFINED. An "agent" is an individual, firm, or corporation appointed by an insurer to solicit applications for insurance or annuities or to negotiate insurance on its behalf, and if authorized so to do by the insurer, to effectuate and countersign insurance contracts.

Sec. 2. "MANAGING GENERAL AGENT" DEFINED. A "managing general agent" is an individual, firm or corporation appointed, as an independent contractor, by one or more insurers to exercise general supervision over business of the insurer in Arizona, with authority to appoint agents for such insurer and to terminate such appointments.

Sec. 3. "BROKER" DEFINED. A "broker" is an individual, firm, or corporation who for compensation as an independent contractor in any manner solicits, negotiates, or procures insurance or the renewal or continuance thereof, on behalf of insureds or prospective insureds other than himself, and not on behalf of an insurer or agent.

Sec. 4. "SOLICITOR" DEFINED. A "solicitor" is an individual appointed and authorized by an agent or broker to solicit applications for insurance as a representative of such agent or broker, and who offices with such agent or broker. An individual employed on salary only by, and devoting full time to clerical work with incidental taking of insurance applications in the office of, the agent or broker, is not deemed to be a solicitor if his employment or compensation is not contingent upon or related to the volume of such applications, insurance, or premiums.

Sec. 5. SERVICE REPRESENTATIVES. (a) Officers and other individuals regularly employed on salary by an insurer or managing general agent and who work in the field with and assist agents and solicitors in soliciting,

negotiating, and effectuating insurance for such insurer or for the insurers represented by such managing general agent, are deemed to be service representatives.

(b) Salaried nonresident traveling representatives of a reciprocal or mutual insurer not generally using resident agents for the solicitation of business, to whom no commissions are payable, and who inspect risks or solicit insurance in this state, shall be deemed to be service representatives.

(c) No service representative shall act as such unless licensed therefor by the director. The director shall issue such a license upon application of the insurer or managing general agent by whom the service representative is employed and payment of the fee therefor specified in section 26 of article 2. The service representative shall be separately so licensed as to each insurer or general agent by whom so employed. The license shall expire annually at midnight on June 30, and shall be subject to renewal upon request of the employer. The director may suspend or revoke any such license upon any applicable ground provided for suspension or revocation of an agent's license, and pursuant to like procedures.

(d) This section shall not apply as to life and disability insurances.

Sec. 6. "ADJUSTER" DEFINED. An "adjuster" is any person who, for compensation as an independent contractor or as the employee of such an independent contractor, or for fee or commission investigates and negotiates settlement of claims arising under insurance contracts, on behalf of either the insurer or the insured.

A licensed attorney at law who is qualified to practice law in Arizona, or a salaried employee of an insurer or of a managing general agent, or a licensed agent or broker who adjusts or assists in adjustment of losses arising under policies procured through such broker, or issued by the insurer represented by such agent, is not deemed to be an "adjuster" for the purposes of this article.

Sec. 7. SALARIED OFFICERS AND EMPLOYEES —LIFE INSURERS. A regular salaried officer or employee of a life insurer shall not be deemed to be an "agent" by reason of rendering assistance to, or on behalf of a licensed life insurance agent, if such officer or employee devotes substantially all of his time to activities other than the solicitation of applications for life or disability insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business

obtained.

Sec. 8. LICENSE REQUIRED — FORMS. (a) No person shall in Arizona act as or hold himself out to be an agent, general agent, broker, or solicitor unless then licensed therefor pursuant to this article.

(b) No agent, broker, or solicitor or any representative or employee thereof other than a regular salaried office employee, shall solicit or take application for, procure, or place for others any kind of insurance for which he is not then licensed.

(c) No agent shall place any business with any insurer as to which he does not then hold an appointment as agent pursuant to this article, except as provided in section 31 of this article with respect to life insurance agents.

(d) The director shall prescribe and furnish forms required in connection with application for, issuance, or termination of licenses, and appointments.

(e) This section shall not apply to title insurance.

Sec. 9. MANAGING GENERAL AGENTS—LICENSING. (a) No person shall in Arizona act as managing general agent of an insurer or underwriter's department unless licensed therefor by the director. Application for the license shall be made by the insurer upon forms as designated and furnished by the director. The director shall issue the license upon completion and filing of such application and payment of the license fee specified in section 26 of article 2. The managing general agent shall be separately so licensed as to each insurer and underwriter's department so represented.

(b) The license shall expire annually at midnight on June 30, and shall be subject to renewal. The director may suspend or revoke the license or licenses of a managing general agent for any of the same causes and pursuant to like procedures as apply to agents' licenses under this article. The license as to a particular insurer or underwriter's department shall be terminated upon request of either the insurer or the managing general agent.

Sec. 10. GENERAL QUALIFICATIONS — AGENT, BROKER, SOLICITOR LICENSES — OTHER THAN LIFE. For the protection of the people of Arizona, the director shall not issue, renew, or permit to exist any agent, broker, or solicitor license with respect to insurance other than life and disability, except in compliance with this article, or with respect to any individual not qualified therefor as follows:

(a) Must be of age 21 or more.

(b) Must be a resident of Arizona, and, if agent or broker, must have been such resident for not less than the six months immediately preceding application for the license.

(c) Must pass any written examination for the license required under this article.

(d) If for an agent's license, must have been appointed as agent by an authorized insurer, subject to issuance of the license.

(e) If for a solicitor's license, must have been appointed as solicitor by a licensed resident agent or broker.

(f) Must not be a full-time employee of the executive or administrative brancehes of the government of Arizona, or of any county or municipality in Arizona.

(g) Must not use or intend to use the license principally for the purpose of procuring insurance on his property or his insurable interests, or on property or insurable interests of his relatives to the second degree, his employer, employees, or firm, or corporation in which he owns a substantial interest, or of the employees of such firm or corporation, or on property or insurable interests for which the applicant or any such relative, employer, firm, or corporation is the bailee, trustee, or receiver. A vendor's or lender's interest in property sold or being sold under contract or which is the security for any loan, shall not, for the purposes of this provision, be deemed to constitute property or an insurable interest of such vendor or lender.

Sec. 11. GENERAL QUALIFICATIONS — AGENT, BROKER, SOLICITOR LICENSES — LIFE AND DISABILITY. For the protection of the people of Arizona, the director shall not issue, renew, or permit to exist any agent, broker, or solicitor license with respect to life and disability insurances except in compliance with this article, or with respect to any individual not qualified therefor as follows:

(a) Must be of age 18 or more.

(b) Must be a resident of Arizona, and if agent or broker, must have been such resident for not less than the six months immediately preceding application for the license.

(c) Must pass any written examination for the license required under this article.

(d) If for an agent's license, must have been appointed as agent by an authorized insurer, subject to issuance of the license.

(e) If for a solicitor's license, must have been appointed

as solicitor by a licensed resident agent or broker.

(f) Must not use or intend to use the license principally for the purpose of procuring insurance covering himself or members of his family or his relatives to the second degree.

(g) Must not be a full-time employee of the executive or administrative branches of the state government of Arizona, or of any county or municipality in Arizona.

Sec. 12. APPLICATION FOR LICENSE. (a) Application for an agent, broker, or solicitor license shall be made to the director by the applicant. As part of or in connection with the application the applicant shall furnish information concerning his identity, personal history, business record, experience in insurance, purposes for which license is to be used, and other pertinent facts as the director may require.

(b) If for license as a life agent, the application shall also show whether applicant was ever previously licensed to transact any kind of insurance in Arizona or elsewhere; whether any such license was ever refused, suspended, or revoked; whether any insurer or general agent claims applicant is indebted to it, and if so the details thereof; whether applicant ever had an agency contract cancelled, and the facts thereof; and, if applicant is a married woman, like information with respect to her husband.

(c) If the applicant for agent or broker license is a firm or corporation the application shall show, in addition, with respect to himself as part of the application as through the names of all members, officers, and directors, and shall designate each individual who is to exercise the powers to be conferred by the license upon such firm or corporation. Each individual so designated shall furnish information for an individual license.

(d) The director may require any application to be in the applicant's handwriting and under the applicant's oath.

(e) If for an agent's license, the application shall show the kinds of insurance to be transacted, and be accompanied by written appointment of applicant as agent by an authorized insurer to be represented subject to issuance of the license.

(f) If for a solicitor's license, the application shall be accompanied by written appointment of applicant as solicitor by a licensed agent or broker.

(g) All applications shall be accompanied by the applicable license fee as shown in section 26 of article 2, and by

the examination fee unless the applicant is exempt from examination under section 14 of this article.

(h) Wilful misrepresentation of any fact required to be disclosed in any such application or accompanying statement is a violation of this code.

Sec. 13. EXAMINATION. (a) Unless exempted therefrom by section 14 of this article, each applicant for license as agent, broker, or solicitor, prior to issuance of the license shall personally take and pass to the director's satisfaction a written examination given by or under the supervision of the director reasonably testing the applicant's knowledge of the kinds of insurance so proposed to be transacted by him, and of his legal responsibilities as a licensee.

(b) If the applicant is a firm or corporation, the examination shall be so taken by each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the license.

(c) Examination for an agent's license shall cover the kinds of insurance authorized to be transacted in Arizona by the insurer or insurers proposed to be represented by the applicant. The director shall make examination available to applicants for licenses with such frequency as shall meet the reasonable convenience of both the director and applicants, but at least each sixty days. The director may by rule and regulation reasonably prescribe the time, places, and conduct of examinations, and require a reasonable waiting period before examination of an applicant who failed to pass a previous similar examination.

(d) All examinations shall be given, conducted, and graded in a fair and impartial manner, and without unfair discrimination as between individuals examined. Any written examination may be supplemented by oral examination of the applicant at the director's discretion. The director shall inform the applicant of the result of the examination within 30 days thereafter.

(e) The director may appoint an advisory committee with respect to life and disability insurance, and another advisory committee with respect to the other kinds of insurance, to make recommendations to him as to the scope, type, and conduct of written examinations under this article. Such a committee, if appointed, shall consist of qualified persons selected from among officers, employees, general agents, and managers of insurers, and licensed insurance agents and brokers on such basis as to provide fair

representation as to the various types of insurers. The members of such a committee shall serve without pay and without expense to the state of Arizona.

Sec. 14. EXEMPTION FROM EXAMINATION. No such examination shall be required of:

(a) Applicant for timely renewal of license.

(b) Applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed in Arizona, other than under a temporary license, within the six months preceding date of application.

(c) Applicant who is a ticket selling agent or other representative of a common carrier, for limited license covering sale of travel accident ticket policies or baggage insurance.

(d) Applicants for license as nonresident agent or nonresident broker, but subject to reciprocal arrangements as provided for in section 24 of this article.

(e) Applicants for license with respect to bail bonds only.

Sec. 15. ISSUANCE OF LICENSE — CONTENTS. The director shall promptly issue licenses applied for to persons qualified therefor in accordance with this article.

(b) The license shall state the name and address of the licensee, date of issue and expiration, kind or kinds of insurance or subdivisions thereof covered, if applicable, and the conditions of the license.

(c) If the license is as agent for life and/or disability insurance only, the license shall state the name of the insurer to be so represented; if the license is as agent for any other kind or kinds of insurance it shall not state the name of any insurer to be so represented.

(d) If the licensee agent or broker is a firm or corporation the license shall also state the name of each individual authorized thereunder to exercise the license powers.

(e) If the licensee is a solicitor the license shall state the name of the agent or broker to be represented.

Sec. 16. LICENSING FIRMS AND CORPORATIONS. (a) A firm or corporation shall be licensed only as an agent or broker. In the case of a firm each general partner and each other individual to act for the firm under the license, and in the case of a corporation each individual to act for the corporation under the license, shall be named in the license and shall qualify therefor as though an individual licensee. The director shall charge a full additional license fee for each individual so named in a license in excess of one.

(b) A nonresident of Arizona shall not be so named in such a license and shall not have right to exercise the license powers.

(c) A license shall not be issued to a corporation unless organized under Arizona laws and maintaining its principal place of business in Arizona.

(d) License shall not be issued in a trade name except upon proof satisfactory to the director that the trade name has been lawfully registered.

(e) No firm or corporation shall be so licensed unless the business to be transacted thereunder is within the scope of the partnership agreement or articles of incorporation.

(f) The licensee shall promptly notify the director of all changes among its members, directors, and officers, and all other individuals designated in the license.

(g) This section does not apply as to nonresident licensees.

Sec. 17. NUMBER OF LICENSES, AGENTS. (a) An agent licensed as to kinds of insurance other than life and/or disability insurance only, is required to have but one license covering the kinds of insurance to be transacted by him regardless of the number of insurers by whom he is appointed as agent.

(b) With respect to insurers transacting life and/or disability insurance only, the agent shall have one license for each such insurer to be represented as agent. A life insurance agent may concurrently be licensed as to an additional life insurer or insurers upon due application, appointment, and qualification. Upon request therefor filed with the director by the insurer, the director shall notify a life insurer thereof whenever any of its agents licensed as such in Arizona has been likewise licensed at to another life insurer.

Sec. 18. APPOINTMENT OF AGENTS. (a) Each insurer appointing an agent in Arizona shall file with the director the appointment, specifying the kinds of insurance to be transacted by the agent for the insurer, and pay the fee therefor stated in section 26 of article 2.

(b) Subject to annual renewal by the insurer not later than April 1, each such appointment shall remain in effect until the agent's license is revoked or not renewed, unless written notice of earlier termination of the appointment is filed with the director by the insurer or agent. As to agents' licenses covering life and/or disability insurance only, termination of the appointment of the agent shall likewise

terminate the license as to the insurer.

(c) Annually, and prior to April 1 of each year, each insurer shall file with the director an alphabetical list of all its agents whose appointments in Arizona are to remain in effect, accompanied by payment of the annual appointment fee therefor. At the same time the insurer shall also file with the director an alphabetical list of all its agents whose appointments in Arizona are not to remain in effect.

(d) Any information as to the cause of termination of any such appointment furnished the director as part of such notice of termination shall be deemed a privileged communication and shall not be evidence in any action or proceeding.

Sec. 19. SCOPE OF BROKER'S LICENSE. A license as broker shall cover all kinds of insurance. The director shall not issue a broker's license limited to particular kinds of insurance. Except, that a broker's license need not include life insurance and a broker may be separately licensed as to life insurance as either a broker or agent.

Sec. 20. BROKERS'S BOND. (a) Every applicant for a broker's license shall file with the application and shall thereafter maintain in force while so licensed, a bond in favor of the people of the state of Arizona executed by an authorized surety insurer. The bond may be continuous in form and total aggregate liability on the bond may be limited to payment of $1,000. The bond shall be conditioned upon full accounting and due payment to the person entitled thereto, of funds coming into the broker's possession as an incident to insurance transactions under the license.

(b) The bond shall remain in force until released by the director, or until cancelled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon 30 days advance written notice filed with the director.

Sec. 21. BROKER'S AUTHORITY, COMMISSIONS. (a) A broker, as such, is not an agent or other representative of an insurer and does not have power by his own acts to obligate the insurer upon any risk or with reference to any insurance transaction.

(b) An insurer or agent shall have the right to pay to a broker licensed under this article the customary commissions upon insurance placed through the broker.

Sec. 22. AGENT, BROKER LICENSE COMBINATIONS. A licensed agent may be licensed as a broker and be a broker as to insurers for which he is not then licensed

as agent. A licensed broker may be licensed as and be an agent as to insurers appointing him as agent. The sole relationship between a broker and an insurer as to which he is then licensed as an agent shall, as to transactions arising during the existence of such agency appointment, be that of insurer and agent.

Sec. 23. PLACE OF BUSINESS—DISPLAY OF LICENSES—RECORDS. (a) Every agent or broker, other than nonresident licensees, shall have and maintain in Arizona a place of business accessible to the public. Such place of business shall be that wherein the licensee principally conducts transactions under his license. The address of such place shall appear upon the license, and the licensee shall promptly notify the director of any change thereof. Nothing in this section shall prohibit maintenance of such place of business in the licensee's place of residence in Arizona.

(b) The licenses of the licensee, and the licenses of solicitors appointed by the licensee shall be conspicuously displayed in such place of business in a part thereof customarily open to the public.

(c) The agent or broker shall keep at his place of business the usual and customary records pertaining to transactions under his license. All such records as to any particular transaction shall be kept available and open to the inspection of the director at any business time during the three years immediately following date of completion of such transaction.

(d) This section shall not apply as to life and disability insurances.

Sec. 24. NONRESIDENT AGENTS, BROKERS. (a) The director may license as an agent or broker a person who is otherwise qualified therefor under this article but who is not a resident of this state, if pursuant to the laws of the state of his residence or domicile a similar privilege is extended to persons resident or domiciled in Arizona.

(b) Such a licensee shall not have right to solicit Arizona business in Arizona unless pursuant to reciprocal arrangements therefor made by the director with the insurance supervisory official of the licensee's state of residence or domicile. The License shall state the restrictions applicable thereto pursuant to this provision.

(c) By reciprocal agreement with the insurance supervisory official of such other state, the director may waive written examination of an applicant for such a license if

such official certifies that the applicant is licensed in such state as such agent or broker, as the case may be, and has complied with its qualification standards therefor; except, that no such waiver shall be made with respect to examination as to a license to cover life and/or disability insurance only unless such official certifies that the applicant has passed a written examination for his license in such state, or held such license prior to the time a written examination was required.

(d) A nonresident agent shall not sign or countersign policies covering subjects of insurance located or to be performed in Arizona.

(e) Such a nonresident licensee shall be subject to this code as though licensed as a resident, except as otherwise provided.

Sec. 25. SERVICE OF PROCESS AS TO NONRESIDENT LICENSEE. (a) Application for and acceptance of a license as a nonresident agent or broker shall thereby be deemed to constitute irrevocable appointment of the director as the attorney of such licensee for the acceptance of service of process issued in Arizona in any action or proceeding against the licensee arising out of such licensing or out of transactions under the license.

(b) Duplicate copies of any such process shall be served upon the director. The plaintiff at time of service shall pay the director three dollars, taxable as costs in the action. Upon receiving such service the director shall promptly forward a copy thereof by registered mail to the licensee at his address last of record with the director. Process so served upon the director shall constitute service thereof upon the licensee as though such licensee were so personally served with such process in this state.

Sec. 26. RESTRICTIONS AS TO SOLICITORS. (a) A solicitor shall not be appointed or licensed as to more than one agent or broker. The solicitor's license shall cover all the kinds of insurance for which the appointing agent or broker is licensed, except that a solicitor may be separately licensed as such as to life and/or disability insurances.

(b) A solicitor shall not have authority to bind risks or countersign policies.

(c) The transactions of a solicitor under his license shall be in the name of the agent or broker by whom appointed, and such agent or broker shall be responsible for the acts or omissions of the solicitor within the scope of his appointment.

(d) No individual shall be licensed as solicitor unless he intends to make and does make soliciting for insurance applications a principal vocation.

(e) No licensed agent or broker shall concurrently be licensed as a solicitor.

(f) The solicitor's license shall remain in the custody of the agent or broker by whom appointed. Upon termination of the appointment the agent or broker shall give written notice thereof to the director and deliver the license to the director for cancellation.

Sec. 27. INSURANCE VENDING MACHINES. (a) A licensed resident agent may solicit applications for and issue policies by means of mechanical vending machines supervised by him, if:

(1) The director finds that the kind of insurance and form of policy to be so sold is reasonably suited for sale and issuance through vending machines, and that use of such machines therefor would be of convenience to the public, and

(2) The director finds that the type of vending machine to be used is reasonably suitable and practical for the purpose.

(b) The director shall issue to the agent a special vending machine license as to each such machine to be used. The license shall specify name and address of the insurer and agent, kind of insurance and type of policy to be so sold, and the place where the machine is to be in operation. The license shall expire, be renewable, and be suspended or revoked, coincidentally with that of the agent. The license fee shall be five dollars for each year or part thereof for each vending machine. Proof of existence of the license shall be displayed on or about each such machine in such manner as the director may reasonably require.

(c) Policies so sold need not be countersigned.

Sec. 28. TEMPORARY LICENSES. (a) The director may issue a temporary license as resident agent or resident broker, as the case may be, to or with respect to an individual otherwise qualified therefor except as to passing a written examination and as otherwise provided in this section, in the following cases:

(1) To the surviving spouse or next of kin or to the administrator or executor, or the employee of such administrator or executor, of a licensed agent or broker becoming deceased.

(2) To the spouse, next of kin, employee, or legal guar-

dian of a licensed agent or broker disabled by sickness, injury, or insanity.

(3) To a surviving employee of a firm, or surviving officer or employee of a corporation, licensed as agent or broker, upon the death or disability of an individual designated in the license to exercise the powers thereof.

(4) To an individual designated by an agent conducting an established insurance agency in Arizona to replace an agent no longer employed by or associated with such agency.

(5) To a salaried employee of an authorized insurer sent to Arizona by such insurer to take the place of a licensed agent, and whether or not such employee is then a resident of this state.

(6) To the designee of a licensed agent or broker entering upon active service in the armed forces of the United States.

(7) To an applicant for a license as a life insurance agent if the applicant is in good faith taking a course of study and instruction under the supervision of the insurer. The insurer and applicant may assume that the license will be issued in due course, effective as of the date application was filed with the director, unless the director notifies the insurer to the contrary within fifteen days after date of application. Such temporary license may also include disability insurance.

(8) To the branch manager or licensed managing general agent of a life insurer, with respect only to life and/or disability insurances, and prior to completion of the period of residence in Arizona otherwise required.

(b) Each such temporary license shall be for a period of not over 90 days, subject to extension by the director in his discretion for an additional 90 day period; except, that such a license issued to an executor or administrator or the employee thereof pursuant to paragraph (1) of subsection (a), above, shall continue until the executor or administrator disposes of the insurance business, but not to exceed a period of 15 months.

Sec. 29. RIGHTS UNDER TEMPORARY LICENSES. (a) No more than one temporary license shall be issued to or with respect to the same individual within any twelve months period.

(b) As to a temporary agent's license issued on account of the death or disability of an agent, no insurers may be represented by such temporary licensee in addition

to those represented by such deceased or disabled agent.

(c) A temporary licensee shall have the same license powers and obligations as under a permanent license.

(d) The fee paid for the temporary license may be applied upon the fee for any permanent like license issued to the licensee before expiration of the temporary license.

Sec. 30. EXCHANGE OF BUSINESS. An agent may place only a kind or kinds of insurance for which he is licensed, with an insurer for which he is not a licensed agent, by placing such insurance through a licensed agent of such insurer, other than one also licensed as or employed by or associated with the managing general agent of the insurer.

Sec. 31. LIFE AGENT MAY PLACE EXCESS OR REJECTED BUSINESS. In addition to the right to exchange business, as stated in section 30 of this article, a life or disability insurance agent may from time to time place excess or rejected risks in any life or disability insurer authorized to transact insurance in Arizona, with the knowledge and approval of the insurer or insurers as to which the agent is so licensed, without being required to have an additional or separate license.

Sec. 32. PAYMENT OF COMMISSIONS—SHARING COMMISSIONS. (a) No insurer shall pay and no person shall receive any compensation, fee, or commission for services as agent, broker, or solicitor in connection with insurance transacted in Arizona unless such person at the time of such transaction was licensed as such agent, broker, or solicitor pursuant to this article. This provision shall not affect rights to renewal commissions of formerly licensed life insurance agents which rights became vested during the existence of the license.

(b) No licensee shall share his commission or other compensation received on account of transactions under his license with any person not also licensed as an agent, broker, or solicitor under this article for the kind or kinds of insurance involved in such transaction, or licensed as a surplus line broker pursuant to article 7 of this code. This provision shall not affect payment of the regular salaries due employees of the licensee, or the distribution in regular course of business of compensation and profits among members or stockholders if the licensee is a firm or corporation.

Sec. 33. ADJUSTER'S LICENSE — QUALIFICATIONS—EXEMPTIONS. (a) No person shall in Ari-

zona act as or hold himself out to be an adjuster unless then licensed therefor hereunder. Application for license shall be made to the director according to forms as prescribed and furnished by the director, and the director shall issue the license with respect to individuals qualified therefor upon payment of the license fee stated in section 26 of article 2.

(b) To be licensed as an adjuster the applicant must be qualified therefor as follows:

(1) Must be an individual of 21 or more years of age.

(2) Is a resident of Arizona, or is a resident of another state which will permit residents of Arizona to act as adjusters in such other state.

(3) Is a full-time salaried employee of a licensed adjuster or is a graduate of a recognized law school, or has had experience or special education or training with reference to the handling of loss claims under insurance contracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.

(4) Must have and maintain in Arizona an office accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of such office in the home of the licensee.

(c) A firm or corporation, whether or not organized under the laws of Arizona, may be licensed as an adjuster if each individual who is to exercise the license powers is named in the license and is qualified as for an individual license as adjuster. An additional full license fee shall be paid with respect to each individual in excess of one, so named in the license to exercise its powers.

(d) No such adjuster's license or qualifications shall be required with respect to any adjuster who is licensed or permitted to act as such in the state of his domicile, and who is sent into Arizona on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy, or a series of losses resulting from a catastrophe common to all such losses.

Sec. 34. CHANGE OF ADDRESS. Every licensee shall promptly give written notice to the director of any change in his address as shown on the license.

Sec. 35. EXPIRATION, RENEWAL OF LICENSES. (a) All agent, broker, solicitor, and adjuster licenses issued under this article, other than temporary licenses, shall continue in force until expired, suspended, revoked, or term-

inated, but subject to payment to the director before midnight on June 30 of each year of the annual license fee for each such license in the amount specified in section 26 of article 2, accompanied by written application for renewal of such license. Any license as to which such request for renewal and payment of fee is not so received by the director shall be deemed to have expired as of midnight of such June 30.

(b) An application for renewal of a license or appointment which is filed with the director after such June 30 and prior to the following January 1st may be accepted by the director if accompanied by annual renewal fee in twice the amount otherwise required. Any application for renewal of license thereafter received by the director shall be treated by the director as a new application.

Sec. 36. EXPIRATION FOR FAILURE OF APPOINTMENTS. An agent's license shall automatically expire as to kinds of insurance for which the agent no longer holds appointment as agent for an authorized insurer. Upon the director's request the agent shall surrender his license to the director for modification or cancellation in accordance with this provision. This section does not apply to licenses for life and/or disability insurances only.

Sec. 37. SUSPENSION, REVOCATION, REFUSAL OF LICENSE. (a) The director may suspend for not over twelve months, or may revoke, or refuse to renew any license issued under this article or any surplus line broker license if, after notice to the licensee and to the insurer represented (as to an agent) or to the appointing agent or broker (as to a solicitor), and hearing, he finds that as to the licensee any one or more of the following causes exist:

(1) For any cause for which issuance of the license could have been refused had it then existed and been known to the director.

(2) For wilful violation of, or wilful noncompliance with any provision of this code, or any lawful rule, regulation, or order of the director.

(3) For obtaining or attempting to obtain any such license through misrepresentation or fraud.

(4) For misappropriation or conversion to his own use or illegal withholding of moneys belonging to policyholders, or insurers, beneficiaries, or others and received in conduct of business under the license.

(5) Conviction, by final judgment, of a felony involving moral turpitude.

(6) If in the conduct of his affairs under the license the licensee has shown himself to be incompetent or a source of injury and loss to the public.

(b) The license of a firm or corporation may be suspended, revoked, or refused also for any of such causes as relate to any individual designated in the license to exercise its powers.

Sec. 38. PROCEDURE FOLLOWING SUSPENSION, REVOCATION. (a) Upon suspension or revocation of any such license the director shall forthwith serve notice thereof upon the licensee either in person or by mail addressed to the licensee at his address last of record with the director. Notice by mail shall be deemed effectuated when so mailed. The director shall give like notice to the insurers represented by the agent in the case of an agent's license, and to the agent or broker by whom appointed in the case of a solicitor's license.

(b) Revocation or suspension of the license of an agent or broker shall automatically revoke or suspend the licenses of all solicitors appointed by him.

(c) Upon suspension or revocation of the license the licensee shall deliver the license to the director upon the director's request.

(d) The director shall not again issue any license under this code to any person whose license has been revoked, until after expiration of one year and thereafter until such person again qualifies therefor in accordance with the applicable provisions of this code.

(e) If the license of a firm or corporation is so suspended or revoked, no member of such firm, or officer or director of such corporation shall be licensed or be designated in any license to exercise the powers thereof during the period of such suspension or revocation, unless the director determines upon substantial evidence that such member, officer, or corporation director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

Article 6. RATES AND RATING ORGANIZATIONS.

Section 1. PURPOSE OF ARTICLE. The purpose of this article is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and

regulate cooperative action among insurers in rate making and in other matters within the scope of this article. Nothing in this article is intended (a) to prohibit or discourage reasonable competition, or (b) to prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This article shall be liberally interpreted to carry into effect the provisions of this section.

Sec. 2. SCOPE OF ARTICLE. (a) Nothing contained in this article shall apply to:

(1) Life insurance.

(2) Disability insurance.

(3) Reinsurance, except joint reinsurance as provided in section 30 of this article.

(4) Insurance against loss of or damage to aircraft, their hulls, accessories and equipment, or against liability, other than employers' liability, arising out of the ownership, maintenance or use of aircraft.

(5) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies.

(6) Title insurance.

(7) Workmen's compensation insurance, and employers' liability insurance incidental thereto and written in connection therewith.

Sec. 3. DIVISIONS OF ARTICLE. Sections 1, 3 to 16, inclusive, and 22 to 35, inclusive, of this article shall apply to property and marine insurance on risks located in this state. Such sections are designated as the property and marine rate regulatory provisions of this article.

(b) Sections 1, 3, and 17 to 35, inclusive, of this article shall apply to vehicle, casualty and surety insurance on risks or operations in this state. Such sections are designated as the vehicle, casualty and surety rate regulatory provisions of this article.

(c) If any type of insurance, subdivision or combination thereof, or type of coverage is subject to both the property and marine rate regulatory provisions and the vehicle, casualty and surety rate regulatory provisions, an insurer as to which both such groups of provisions are otherwise applicable shall file with the director a designation as to which such group of rate regulatory provisions shall be applicable to it with respect to such kind of insurance, subdivision or

combination thereof, or type of coverage.

Sec. 4. MAKING OF RATES—PROPERTY AND MARINE. (a) Rates for property and marine coverages shall be made in accordance with the following provisions:

(1) Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

(2) Rates shall not be excessive, inadequate or unfairly discriminatory. No rate shall be held to be excessive if the director finds that free competition exists in the area and in the classification covered by such rate.

(3) Due consideration shall be given to past and prospective loss experience within and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by the insurer to its policyholders, members, or subscribers, to past and prospective expenses within and outside this state, and to all other relevant factors within and outside this state; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

(b) Except to the extent necessary to meet the provisions of paragraph (2) of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(c) Rates made in accordance with this section may be used, subject to the property and marine rate regulatory provisions of this article.

(d) Nothing in this article shall be construed to prohibit payment of dividends by insurers issuing policies on the participating plan, or by mutual or reciprocal insurers, provided, however, that in the payment of such dividends there shall be no unfair discrimination between policyholders.

Sec. 5. RATE FILINGS—PROPERTY AND MARINE. (a) Every insurer shall file with the director, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed ef-

fective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the director does not have sufficient information to determine whether such filing meets the requirements of the property and marine rate regulatory provisions of this article, the director may require the insurer to furnish the information upon which it supports such filing, and in such event the waiting period shall commence as of the date such information is furnished. The information in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates specially rated, made by a rating organization, shall be filed with the director.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the director to accept such filings on its behalf, but nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Sec. 6. EFFECTIVE DATE OF FILING. (a) The director shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the property and marine rate regulatory provisions of this article.

(b) Subject to the exception specified in subsection (c) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the director for an additional period not to exceed fifteen days if he gives written notice within such initial waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the director may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of the property and marine rate regulatory provisions of this article unless disapproved by

the director within the waiting period or any extension thereof.

(c) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of the property and marine rate regulatory provisions of this article until such time as the director reviews the filing and for so long thereafter as the filing remains in effect.

Sec. 7. DIRECTOR MAY EXEMPT FROM FILING. Under such rules and regulations as he shall adopt, the director may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which can not practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such examination as he may deem advisable to ascertain whether any rates affected by any such order meet the standards set forth in section 4 of this article.

Sec. 8. EXCESS RATES. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Sec. 9. COMPLIANCE WITH FILINGS. No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for such insurer as provided in the property and marine rate regulatory provisions of this article, or in accordance with sections 7 or 8 of this article. This section shall not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 10. FIRE RATING FACILITIES IN STATE. Every rating organization making rates for fire insurance, and every insurer making its own rates for such insurance, other than rating organizations making rates for fire insurance for fixed operating properties of railroads, shall keep and maintain a service office in this state which shall be equipped with adequate rating facilities, and shall keep and maintain in such office a complete supply of forms, clauses, permits, rules, maps and surveys and such other information and data as will enable it to promulgate rates for fire insurance in accordance with the property and marine rate regulatory provisions of this article.

Sec. 11. DISAPPROVAL OF FILINGS—PROPERTY

AND MARINE. (a) If, within the waiting period or any extension thereof as provided in subsection (b) of section 6 of this article, the director finds that a filing does not meet the requirements of the property and marine rate regulatory provisions of this article, he shall send to the insurer or rating organization which made the filing written notice of disapproval of such filing, specifying therein in what respects he finds that such filing fails to meet such requirements and stating that such filing shall not become effective. Before he shall disapprove any such filing, the director shall give notice and hold a hearing as provided in section 12 of this article.

(b) If, within thirty days after a specific inland marine rate on a risk specially rated by a rating organization has become effective pursuant to subsection (c) of section 6 of this article, the director finds that such filing does not meet the requirements of the property and marine rate regulatory provisions of this article, he shall send to the rating organization which made such filing written notice of disapproval of such filing, specifying therein in what respects he finds that such filing fails to meet such requirements and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Such disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in such notice.

Sec. 12. SUBSEQUENT DISAPPROVAL. If, at any time subsequent to the applicable review period provided for in section 11 of this article, the director finds that a filing does not meet the requirements of the property and marine rate regulatory provisions of this article, he shall, after a hearing held upon not less than ten days' written notice (which notice shall specify the matters to be considered at such hearing) to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet such requirements, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of such order shall be sent to every such insurer and rating organization. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

Sec. 13. APPEAL TO DIRECTOR FROM FILING. Any person aggrieved with respect to any filing which is in effect may make written application to the director for a hearing thereon, but the insurer or rating organization

which made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing. If, after such hearing, the director finds that the filing does not meet the requirements of the property and marine rate regulatory provisions of this article, he shall issue an order specifying in what respects he finds that such filing fails to meet such requirements and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such insurer and rating organization. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

Sec. 14. RESTRICTIONS ON DISAPPROVAL POWER. No manual, minimum, class rate, rating schedule, rating plan, rating rule or any modification of any of the foregoing which has been filed pursuant to the requirements of the fire and marine rate regulatory provisions of this article shall be disapproved if the rates thereby produced meet the requirements of section 4 of this article.

Sec. 15. COOPERATION BETWEEN INSURERS—PROPERTY AND MARINE. Subject to the property and marine rate regulatory provisions of this article, two or more admitted insurers may act in concert with each other, and with others, with respect to all matters pertaining to making rates, rating plans or rating systems or the preparation or making of insurance policy or contract forms, underwriting rules, surveys, inspections and investigations, or the furnishing of loss or expense statistics or other information and data, or carrying on of research.

Sec. 16. DEVIATIONS—PROPERTY AND MARINE. Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the director for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall

specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The director shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the director is advised by the rating organization that it does not desire a hearing, he may, with the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation, the director shall give consideration to the available statisics and the principles for rate making set forth in section 4 of this article. The director shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified, and such deviation shall thereupon become effective. The director shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless sooner terminated with the approval of the director.

Sec. 17. MAKING OF RATES—VEHICLE, CASUALTY AND SURETY. All vehicle, casualty, and surety rates shall be made in accordance with the following provisions:

(a) Rates shall not be excessive, inadequate or unfairly discriminatory. No rate shall be held to be excessive if the director finds that free competition exists in the area and in the classification covered by such rate. No rate shall be held to be inadequate unless the director finds that the loss experience of the insurer in the classification covered by such rate has been adverse for a continuous period of not less than two years immediately preceding the date of such finding.

(b) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses within and outside this state, and to all other relevant factors within and outside this state.

(c) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to

reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(d) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

(e) Rates made in accordance with this section may be used subject to the vehicle, casualty and surety rate regulatory provisions of this article.

(f) Nothing in this article shall be construed to prohibit payment of dividends by insurers issuing policies on the participating plan, or by mutual or reciprocal insurers, provided only that in the payment of such dividends there shall be no unfair discrimination between policyholders.

(g) Except to the extent necessary to meet to the provisions of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

Sec. 18. RATE FILINGS—VEHICLE, CASUALTY AND SURETY. (a) Every insurer shall file with the director the rating systems which it proposes to use. As used in the vehicle, casualty and surety rate regulatory provisions of this article the term "rating systems" includes (1) every manual of classifications, rules and rates, (2) every rating plan, and (3) every modification of any of the foregoing. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the director does not have sufficient information to determine whether such filing meets the vehicle, casualty and surety rate regulatory requirements of this article, he shall require such insurer to furnish the information upon which it supports such filing. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data upon which it relies, (3) the experience of

other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the director to accept on its behalf filings made by such rating organization, but nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) Subject to the exception specified in subsection (d) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective. Upon written application by the insurer or rating organization making the filing, the director may authorize a filing to become effective before the expiration of the waiting period.

(d) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this article until such time as the director reviews the filing and so long thereafter as the filing remains in effect.

(e) Under such rules and regulations as he shall adopt, the director of insurance may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which can not practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such investigation as he may deem advisable to ascertain whether any rates affected by any such order meet the standards set forth in section 17 of this article.

(f) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(g) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for such insurer as provided in the vehicle, casualty and surety rate regulatory provisions of this article, or in accordance with subsections (e) or (f) of this section.

Sec. 19. DISAPPROVAL OF FILINGS OR RATING SYSTEMS—VEHICLE, CASUALTY AND SURETY. (a) If at any time the director finds that a filing or any rating system not filed as provided by subsection (e) of section 18 of this article does not meet the standards set forth in subsection (a) of section 17 of this article, he shall, after a hearing held upon not less than ten days' written notice (which notice shall specify the matters to be considered at such hearing) to every insurer and rating organization which made such filing or uses such rating system, issue an order specifying in what respects he finds that such filing or rating system fails to meet the requirements of the vehicle, casualty and surety rate regulatory provisions of this article, and stating when, within a reasonable period thereafter, such filing or unfiled rating system shall be deemed no longer effective. Copies of such order shall be sent to every such insurer and rating organization. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

(b) Any person or organization aggrieved with respect to any filing or unfiled rating system which is in effect may make written application to the director for a hearing thereon, but the insurer or rating organization which made the filing or uses the rating system shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall within thirty days after receipt of such application hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing or uses such unfiled rating system. If, after such hearing, the director finds that the filing or unfiled rating system does not meet the requirements of the vehicle, casualty and surety rate regulatory provisions of this article, he shall issue an order specifying in what respects he finds that it fails to meet such requirements and stating when, within a reasonable period thereafter, it shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such insurer and rating organization. Such order shall not affect any contract or policy made or issued prior to the expiration of the period set forth therein.

(c) No manual of classifications, rules, rating plan or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which is being used pursuant to the requirements of section 17 of this article, shall be disapproved if the rates thereby produced meet the requirements of the vehicle, casualty and surety rate regulatory provisions of this article.

Sec. 20. DEVIATIONS—VEHICLE, CASUALTY AND SURETY. (a) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of any kind of insurance (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (2) for which separate expense provisions are included in the filings of the rating organization. A copy of the filing shall be sent simultaneously to such rating organization.

(b) Each deviation filed shall be on file for a waiting period of fifteen days before it becomes effective and shall be effective for a period of one year from the effective date unless terminated sooner on the order of or with the approval of the director.

Sec. 21. ASSIGNED RISKS—VEHICLE, CASUALTY AND SURETY. Agreement may be found among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods, and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, with all such agreements and rate modifications to be subject to the approval of the director.

Sec. 22. RATING ORGANIZATIONS — LICENSING. (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the director for a license as a rating organization for such kinds of vehicle, casualty and surety insurance or subdivisions thereof, or for such kinds of property and marine insurance or subdivisions or

classes of risks or parts or combinations thereof as are specified in its application, and shall file therewith (1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state upon whom notices or orders of the director or process affecting such rating organization may be served, and (4) a statement of its qualifications as a rating organization.

(b) If the director finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivisions or classes of risks or parts or combinations thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the director within sixty days of the date of its filing.

(c) Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the director. Such a license may be suspended or revoked by the director, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

Sec. 23. RATING ORGANIZATIONS—NOTICE OF CHANGES. Every rating organization shall notify the director promptly of every change in (1) its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers, and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting such rating organization may be served.

Sec. 24. RATING ORGANIZATIONS—SUBSCRIBERS. (a) Subject to rules and regulations which have been approved by the director as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of vehicle, casualty and surety insurance or subdivision thereof, or for any kind of property and marine insurance or sub-

division or class of risk or part or combination thereof, for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers.

(b) Each rating organization shall furnish its rating services without discrimination to its members and subscribers.

(c) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber shall, at the request of any subscriber or any such insurer, be reviewed by the director at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the director finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers.

(d) If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the director as if the application had been rejected. If the director finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

Sec. 25. EXAMINATION OF POLICIES—TECHNICAL SERVICES. (a) Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidence of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the director thereof. All information so submitted shall be confidential.

(b) Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

Sec. 26. COOPERATION IN RATE MAKING. Co-

operation among rating organizations and among rating organizations and insurers in rate making and in other matters within the scope of this article is hereby authorized, provided that the filings resulting from such cooperation shall be subject to the provisions of this article. The director may review such co-operative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

Sec. 27. APPEAL BY MINORITY. (a) Any member of or subscriber to a rating organization may appeal to the director from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization, and the director shall, after a hearing held upon not less than ten days' written notice to the applicant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the director may, in the event that he shall find that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings of the director, within a reasonable time after the issuance of such order.

(b) In the case of surety, casualty or vehicle insurance to which this article applies, if such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs from the system of expense provisions included in a filing made by the rating organization, the director shall, if he grants the appeal, order the rating organization to make the requested filing for use by the applicant. In deciding such appeal the director shall apply the standards set forth in section 17 of this article.

Sec. 28. INFORMATION TO BE FURNISHED INSUREDS—HEARING AND APPEALS OF INSUREDS. (a) Every rating organization and every insurer which

makes its own rates shall, within a reasonable time after receiving a written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(b) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it has been made, the applicant may proceed in the same manner as if his application had been rejected.

(c) Any party affected by the action of such rating organization or such insurer on a request made pursuant to this section may, within thirty days after written notice of such action, appeal to the director, who, after a hearing held upon not less than ten days' written notice to the applicant and to such rating organization or insurer, may affirm or reverse such action.

Sec. 29. ADVISORY ORGANIZATIONS. (a) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations but which does not make filings under this article, shall be known as an advisory organization.

(b) Every advisory organization shall file with the director (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state upon whom notices or orders of the director or process affecting such advisory organization may be served, and (4) an agreement that the director may examine such advisory organization in accordance with the provisions of section 31 of this article.

(c) If, after a hearing, the director finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise in-

consistent with the provisions of this article, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations furnished to it by an advisory organization which has not complied with this section or with an order of the director involving such statistics or recommendations issued under subsection (c) of this section. If the director finds such insurer or rating organization to be in violation of this subsection, he may issue an order requiring the discontinuance of such violation.

Sec. 30. JOINT UNDERWRITING OR JOINT REINSURANCE. (a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting to all other provisions of this article, and with respect to joint reinsurance to the provisions of sections 31 and 35 of this article.

(b) If, after a hearing the director finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article and requiring the discontinuance of such activity or practice.

Sec. 31. EXAMINATIONS. (a) The director shall, at least once in every five years, make or cause to be made an examination of each rating organization licensed in this state and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 29 of this article, and of each group, association or other organization referred to in section 30 of this article. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization or group, association or other organization examined upon presentation to it of a detailed account of such cost.

(b) The officers, managers, agents and employees of such rating organization, advisory organization or group, association or other organization may be examined at any

time under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation.

(c) The director shall furnish two copies of the examination report to the organization, group or association examined and shall notify such organization, group or association that it may, within twenty days thereafter, request a hearing on said report or on any facts or recommendations therein. Before filing any such report for public inspection, the director shall grant a hearing to the organization, group or association examined.

(d) The report of any such examination, when filed for public inspection, shall be admissable in evidence in any action or proceeding brought by the director against the organization, group or association examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein.

(e) The director may withhold the report of any such examination from public inspection for such time as he may deem proper.

(f) In lieu of any such examination, the director may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

Sec. 32. RATE ADMINISTRATION. (a) Recording and Reporting of Loss and Expense Experience. The director shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience in order that the experience of all insurers may be made available, at least annually, in such form and detail as may be necessary, to aid the director in determining whether rating systems comply with the standards set forth in this article. Such rules and plans may also provide for the recording and reporting of expense experience items which are especially applicable to this state and are not susceptible of determination by prorating of countrywide expense experience.

In promulgating such rules and plans, the director shall give due consideration to the rating systems on file with him, and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of plans used for such rating systems in oth-

er states.

No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

The director may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available subject to reasonable rules promulgated by the director, to insurers and rating organizations, but no insurer shall be required to file its experience with an organization of which it is not a member or subscriber.

(b) Interchange of Rating Plan Data. Reasonable rules and plans may be promulgated by the director for the interchange of data necessary for the application of rating plans.

(c) Consultation with Other States. In order to further uniform administration of rate regulatory laws, the director and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

Sec. 33 FALSE OR MISLEADING INFORMATION. No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the director, any statistical agency designated by the director, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this article.

Sec. 34. COMMISSIONS AND FEES. Nothing in this article shall abridge or restrict the freedom of contract of insurers, agents, or brokers with reference to the amount of commissions or fees to be paid to such agents or brokers by insurers, and such payments are expressly authorized.

Sec. 35. REVOCATION AND SUSPENSION OF LICENSES. The director may suspend the license of any rating organization or the certificate of authority of any insurer which fails to comply with an order of the director made pursuant to this article within the time limited by such order, or any extension thereof which may be granted by the director. The director shall not suspend the license of any rating organization or the certificate of authority of any insurer for failure to comply with an order until the time prescribed for a review thereof has expired, or if a review has been sought, until such order has been affirmed.

The director may determine when a suspension of license or certificate shall become effective, and it shall remain in effect for the period fixed by him, unless he shall modify or rescind such suspension, or until the order upon which suspension is based is modified, rescinded or reversed. No license or certificate shall be suspended or revoked except upon the written order of the director stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization, specifying the alleged violation.

ARTICLE 7. UNAUTHORIZED INSURERS.

Sec. 1. REPRESENTATION OF UNAUTHORIZED INSURERS PROHIBITED. (a) No person in Arizona shall in any manner:

(1) Represent or assist any insurer not then duly authorized to transact insurance in Arizona, in the soliciting, procuring, placing, or maintenance of any insurance coverage upon or with relation to any subject of insurance resident, located, or to be performed in Arizona.

(2) Inspect or examine any risk or collect or receive any premium on behalf of such insurer.

(b) Any person transacting insurance in violation of this section shall be liable to the insured for the performance of any contract between the insured and the insurer resulting from such transaction.

(c) This section shall not apply as to reinsurance, to surplus line insurance lawfully procured pursuant to this article, to transactions exempt under section 6 of article 3, or to professional services of an adjuster or attorney-at-law from time to time with respect to claims under policies lawfully solicited, issued, and delivered outside of Arizona.

Sec. 2. VALIDITY OF CONTRACTS ILLEGALLY EFFECTUATED. A contract of insurance effectuated by an unauthorized insurer in violation of this code shall be voidable except at the instance of the insurer.

Sec. 3. SERVICE OF PROCESS ON UNAUTHORIZED INSURERS. (a) Delivery, effectuation, or solicitation of any insurance contract, by mail or otherwise, within Arizona by an unauthorized insurer, or the performance within Arizona of any other service or transaction connected with such insurance by or on behalf of such insurer, shall be deemed to constitute an appointment by such insurer of the director and his successors in office as its attorney, upon whom may be served all lawful process issued within Arizona in any action or proceeding against such insurer aris-

ing out of any such contract or transaction.

(b) Such service of process shall be made by delivering to and leaving with the director two copies thereof. At time of such service the plaintiff shall pay three dollars to the director, taxable as costs in the action. The director shall forthwith mail by registered mail one of the copies of such process to the defendant at its principal place of business as last known to the director, and shall keep a record of all process so served.

(c) In addition to such service upon the director, notice of such service and a copy of such process within ten days thereafter shall be sent by plaintiff's attorney to defendant insurer at its last known principal place of business by registered mail. Defendant insurer's receipt, or registry receipt as to such mailing issued by the post office where registered, showing the name of the sender and name and address of the addressee, and the affidavit of plaintiff's attorney showing compliance with this subsection, shall be filed in the court wherein such action is pending on or before the date the defendant insurer is required to appear, or within such further time as the court may allow. No judgment by default against such insurer may be taken under this section prior to expiration of thirty days after date of filing of such affidavit of compliance.

(d) Service of process in any such action or proceeding, in addition to the manner provided hereinabove, shall also be valid if served upon any person within Arizona who, in this state on behalf of such insurer, is soliciting insurance, or making, issuing, or delivering any insurance policy, or collecting or receiving any premium, membership fee, assessment, or other consideration for insurance. The requirements of subsection (c), above, shall likewise apply with respect to such service of process.

(e) Service of process upon such an insurer in accordance with this section shall be as valid and effective as if served upon a defendant personally present in Arizona.

(f) Means provided in this section for service of process upon such insurer shall not be deemed to prevent service of process upon such insurer by any other lawful means.

(g) An insurer which has been so served with process, subject to section 5 of this article, shall have the right to appear in and defend such action and employ attorneys and other persons in Arizona to assist in its defense thereto or settlement thereof.

Sec. 4. EXEMPTIONS FROM SERVICE OF PROCESS

PROVISIONS. Sections 3, 5, and 6 of this article shall not apply to surplus line insurance lawfully effectuated under this article, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of

(a) Ocean marine and foreign trade insurance,

(b) Insurance on subjects located, resident, or to be performed wholly outside this state, or on vehicles or aircraft owned and principally garaged outside this state,

(c) Insurance on property or operations of railroads engaged in interstate commerce, or

(d) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft,

where the policy or contract contains a provision designating the director as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Sec. 5. DEFENSE OF ACTION BY UNAUTHORIZED INSURER. (a) Before an unauthorized insurer shall file or cause to be filed any pleading in any action or proceeding instituted against it under section 3 of this article, such insurer shall (1) procure a certificate of authority to transact insurance in this state, or (2) deposit with the clerk of the court in which such action or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action. The court may in its discretion make an order dispensing with such deposit or bond where the insurer makes a showing satisfactory to the court that it maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final judgment which may be entered in such action or proceeding, and that the insurer will pay any final judgment entered therein without requiring suit to be brought on such judgment in the state where such funds or securities are located.

(b) The court in any action or proceeding in which service is made in the manner provided in subsections (b) and (c) or (d) of section 3 of this article may, in its discretion, order such postponement as may be necessary to afford the

defendant reasonable opportunity to comply with the provisions of subsection (a), above, and to defend such action.

(c) Nothing in subsection (a), above, is to be construed to prevent an unauthorized insurer from filing a motion to quash or to set aside the service of any process made in the manner provided in subsections (b) and (c) or (d) of section 3, hereof on the ground either (1) that such unauthorized insurer has not done any of the acts enumerated in subsection (a) of section 3, or (2) that the person on whom service was made pursuant to subsection (d) of section 3 was not doing any of the acts therein enumerated.

Sec. 6. ATTORNEYS FEES. In any action against an unauthorized insurer pursuant to section 3 of this article, if the insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract of insurance, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney's fee and include such fee in any judgment that may be rendered in such action. Such fee shall not exceed one-third of the amount which the court or jury finds the plaintiff is entitled to recover against the insurer, but in no event shall such a fee be less than one hundred dollars. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

Sec. 7. SURPLUS LINES. Any portion or all of an insurance coverage which cannot be procured from authorized insurers, which coverages are hereinafter designated as "surplus line," may be procured from unauthorized insurers subject to the following conditions:

(a) The insurance must be procured through a licensed surplus line broker, hereinafter in this article referred to as the "broker."

(b) The insurance coverage must not be procurable, after diligent effort has been made to do so, from among a substantial number of insurers authorized to transact that kind of insurance in this state, or has been procured to the full extent such insurers are willing to insure, and the placing of insurance with an unauthorized insurer must not be for the purpose of securing advantages either as to premium rate or terms of the insurance contract.

Sec. 8. BROKER'S AFFIDAVIT AND REPORT. At the time of procuring any surplus line insurance, the broker shall execute and file with the director his report thereof in

duplicate and under oath, setting forth facts from which it may be determined whether the requirements of section 7 of this article have been met, and in addition thereto the following:

(a) Name and address of the insurer, and name and address of the person named in the policy pursuant to section 19 of this article to whom the director shall send copies of legal process.

(b) Number of the policy issued.

(c) Name and address of the insured.

(d) Nature and amount of liability assumed by the insurer.

(e) Premium, and premium rate if applicable.

(f) Other information reasonably required by the director.

The director shall prescribe and furnish the required report form.

Sec. 9. RECOGNIZED SURPLUS LINES. (a) If after a hearing thereon the director finds that a particular insurance coverage or type, class, or kind of coverage is not readily procurable from authorized insurers, he may by order declare such coverage or coverages to be recognized surplus lines until the director's further order. The broker's affidavit provided for in section 8 of this article shall not be required as to coverages while so recognized.

(b) Any such order shall be subject to modification, and the director shall so modify as to any coverage found by him to be no longer entitled to such recognition after a hearing held upon his own initiative or upon request of any insurance agent, surplus line broker, broker, insurer, rating or advisory organization, or other person.

Sec. 10. SURPLUS LINE INSURANCE VALID. Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this article shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

Sec. 11. LICENSING OF SURPLUS LINE BROKER. (a) Any licensed insurance agent or broker deemed by the director to be competent and trustworthy for the purpose, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker.

(b) The license shall be valid for one year from its date, and shall be subject to renewal. The license fee shall be as stated in section 26 of article 2.

(c) Prior to issuance of the license, the applicant therefor shall file with the director and thereafter maintain in force for so long as the license or any renewal thereof remains in effect, a bond in favor of the state of Arizona in the penal sum of $2,500, with authorized corporate sureties approved by the director, conditioned that he will conduct business under the license in accordance with this article, that he will promptly remit the taxes provided by section 16 of this article, and that he will properly account to the person entitled thereto for funds received by him through transactions under the license. No such bond shall be terminated unless at least thirty days' prior written notice thereof is filed with the director.

Sec. 12. MAY ACCEPT BUSINESS FROM AGENTS. A licensed surplus line broker may accept and place surplus line business from any insurance agent or broker licensed in this state for the kind of insurance involved, and may compensate such agent or broker therefor. The broker shall have the right to receive from the insurer the customary commission.

Sec. 13. SOLVENT INSURER REQUIRED. (a) A surplus line broker shall not knowingly place any such coverage in an insurer which is in an unsound financial condition.

(b) For violation of this section, in addition to any other penalty provided by law, the broker's license shall be revoked, and the broker shall not again be so licensed within a period of two years thereafter.

Sec. 14. RECORDS OF SURPLUS LINE BROKERS. Each surplus line broker shall keep in his office in this state a full and true record of each surplus line contract procured by him, and such record may be examined at any time within three years thereafter by the director. The record shall include such of the following items as are applicable:

(a) Name and address of the insurer,

(b) Name and address of the insured,

(c) Amount of insurance,

(d) Gross premium charged,

(e) Return premium paid, if any,

(f) Rate of premium charged on the several items of coverage,

(g) Effective date of the contract and the terms thereof, and

(h) Brief general description of the risks insured against

and the property insured.

Sec. 15. BROKER'S ANNUAL STATEMENT. (a) Each surplus line broker shall on or before the first day of April of each year file with the director a verified statement of all surplus line insurance transacted by him during the preceding calendar year.

(b) The statement shall be on a form prescribed and furnished by the director and shall show:

(1) Gross amount of each kind of insurance transacted,

(2) Aggregate gross premiums charged,

(3) Aggregate of return premiums paid to insureds,

(4) Aggregate of net premiums, and

(5) Such additional information as may reasonably be required by the director.

Sec. 16. TAX ON SURPLUS LINES. (a) On or before the first day of April of each year, each surplus line broker shall remit to the state treasurer through the director a tax on the premiums, exclusive of sums collected to cover Federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him during the preceding calendar year, as shown by his annual statement filed with the director. Such tax shall be at the rate of three percent of the gross premiums less premiums returned on account of cancellation or reduction of premium, and shall exclude gross premiums and returned premiums upon business exempted from surplus line provisions under section 20 of this article.

(b) Except as provided in subsection (c) hereof, for the purpose of determining the surplus line tax, the total premium charged for surplus line insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, shall be allocated to this state in such proportion as the total premium on the insured properties or operations in this state, computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where such insurance applies, bears to the total premium so computed in all such states or countries.

(c) The surplus line tax on insurance on motor transit operations conducted between this and other states shall be paid on the total premium charged on all surplus line insurance less (1) the portion of the premium determined as provided in subsection (b) hereof charged for operations in other states taxing such premium of an insured maintain-

ing its headquarters office in this state, or (2) the premium for operations outside of this state of an insured maintaining its headquarters office outside of this state and branch office in this state.

(d) Such tax shall be apportioned in the manner provided by subsection (c) of section 24 of article 3 of this code.

Sec. 17. PENALTY FOR FAILURE TO REMIT TAX. If any surplus line broker fails to remit the surplus line tax provided for by section 16 of this article for more than thirty days after the first day of any April, he shall be liable to a fine of not to exceed $25 for each additional day of delinquency. The director shall collect the tax by distraint and shall recover the fine by an action in the name of the state of Arizona. All fines shall be paid into the general fund of the state.

Sec. 18. REVOCATION OR SUSPENSION OF LICENSE. (a) The director shall revoke or suspend any surplus line broker's license:

(1) If the broker fails to file his annual statement or to remit the tax on or before the date required by this article;

(2) If the broker fails to maintain an office in this state or to keep the records required by this article, or to allow the director to examine his records; or

(3) For any of the causes for which an agent's license may be revoked or suspended.

(b) The procedures provided by this code for the suspension or revocation of agent's license shall be applicable to suspension or revocation of a surplus line broker's license.

Sec. 19. LEGAL PROCESS AGAINST SURPLUS LINE INSURER. (a) Every unauthorized insurer issuing or delivering a surplus line policy through a surplus line broker in this state shall conclusively be deemed thereby to have irrevocably appointed the director as its attorney for acceptance of service of all legal process issued in this state in any action or proceeding under or arising out of such policy, and service of such process upon the director shall be lawful personal service upon such insurer.

(b) Each surplus line policy shall contain a provision stating the substance of subsection (a), above, and designating the person to whom the director shall mail process as provided in subsection (c), below.

(c) Duplicate copies of legal process against such an insurer shall be served upon the director, and at time of service the plaintiff shall pay to the director three dollars, tax-

able as costs in the action. The director shall forthwith mail one copy of the process so served to the person designated by the insurer in the policy for the purpose, by registered mail with return receipt requested. The insurer shall have forty days after such date of mailing within which to plead, answer, or otherwise defend the action.

Sec. 20. EXEMPTIONS FROM SURPLUS LINES PROVISIONS. (a) The sections of this article relative to surplus line coverages shall not apply to reinsurance, nor to the following classes of insurance when placed by licensed agents or brokers of this state:

(1) Ocean marine and foreign trade insurance.

(2) Insurance on subjects located, resident, or to be performed wholly outside this state, or on vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on property or operations of railroads engaged in interstate commerce.

(4) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft.

(b) Agents and brokers so placing any such insurance with an unauthorized insurer shall keep a record of each such coverage in detail as required of surplus line insurance by section 14 of this article. The record shall be preserved for not less than three years from the effective date of the insurance, and shall be so kept available in this state and open to the examination of the director.

Sec. 21. RECORDS OF INSUREDS. Upon the director's request any person in Arizona who is the insured under any policy issued by an unauthorized insurer upon a subject of insurance resident, located, or to be performed in Arizona at the time the policy was issued, shall produce for examination all policies and other documents evidencing and relating to the insurance, and shall disclose the amount of the gross premiums paid or agreed to be paid for the insurance, through whom the insurance was procured, and such other information relative to the placing of such insurance as may reasonably be required.

Sec. 22. ALIEN INSURANCE FOR COVERAGE IN MEXICO. (a) No person shall in Arizona solicit or accept applications for vehicle insurance, which insurance is to be effective in Mexico and only outside the geographical limits of Arizona and is to be issued by an alien insurer or insurers not authorized to transact insurance in Arizona, unless such person is a duly licensed surplus line broker.

(b) Such insurance shall be deemed to be surplus line insurance for the purposes hereof, and shall be subject to the applicable provisions of this article relative to surplus line insurance, including but not limited to provisions for licensing of surplus line brokers, broker's records, annual statement, taxation of the premiums on such surplus line insurance and payment of such tax, and legal process against any such surplus line insurer. The director may, pursuant to section 9 of this article, treat such insurance as a recognized surplus line. Section 20 of this article (exemptions from surplus line provisions) shall not apply with respect to this section.

Article 8. ASSETS AND LIABILITIES.

Sec. 1. "ASSETS" DEFINED. In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(a) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(b) Investments, securities, properties and loans acquired or held in accordance with this code, and in connection therewith the following items:

(1) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(2) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(3) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(4) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the director a collectible asset.

(5) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of 18 months be allowed as an asset.

(6) Rent due or accrued on real property if such rent is not in arrears for more than three months, and rent more than three months in arrears if the payment of such

rent be adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral.

(7) The unaccrued portion of taxes paid prior to the due date on real property.

(c) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy.

(d) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer.

(e) Premiums in the course of collection, other than for life insurance, not more than three months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States government or by any of its instrumentalities.

(f) Instalment premiums other than life insurance premiums, in accordance with regulations prescribed by the director consistent with practice formulated or adopted by the national association of insurance commissioners.

(g) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon.

(h) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under section 11 of article 4.

(i) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty.

(j) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the director available for the payment of losses and claims and at values to be determined by him.

(k) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the national association of insurance commissioners for the kinds of insurance to be reported upon therein.

(l) Other assets, not inconsistent with the provisions of this section, deemed by the director to be available for the payment of losses and claims, at values to be determined by

him.

Sec. 2. ASSETS AS DEDUCTIONS FROM LIABILITIES, ETC. Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets, and deductions from assets may be charged as liabilities, in accordance with the form of annual statement applicable to such insurer as prescribed by the director, or otherwise in his discretion.

Sec. 3. ASSETS NOT ALLOWED. In addition to assets impliedly excluded by the provisions of section 1 of this article, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(a) Good will, trade names and other like intangible assets.

(b) Advances to officers (other than policy loans) whether secured or not, and advances to employees, agents and other persons on personal security only.

(c) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(d) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies, except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under article 20 of this code and except, in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to article 9 of this code, or which is acquired through foreclosure of chattel mortgages acquired pursuant to section 24 of article 9 of this code, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office and similar purposes.

(e) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

Sec. 4. REPORTING ASSETS NOT ALLOWED. All assets not allowed and all other assets of doubtful value or character included as assets in any statement by an insurer to the director, or in any examiner's report to him, shall also be reported, to the extent of the value disallowed, as deduc-

tions from the gross assets of such insurer except where the director permits a reserve to be carried among the liabilities of such insurer in lieu of any such deduction.

Sec. 5. LIABILITIES. In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(a) The amount of its capital stock outstanding, if any;

(b) The amount, estimated consistent with the provisions of this code, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof;

(c) With reference to life and disability insurance and annuity contracts:

(1) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this code which are applicable thereto,

(2) Reserves for disability benefits, for both active and disabled lives,

(3) Reserves for accidental death benefits, and

(4) Any additional reserves which may be required by the director consistent with practice formulated or approved by the national association of insurance commissioners, on account of such insurance.

(d) With reference to insurance other than specified in subsection (c) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this article.

(e) Taxes, expenses and other obligations due or accrued at the date of the statement.

Sec. 6. UNEARNED PREMIUM RESERVE. (a) With reference to insurance against loss or damage to property (except as provided in section 7 of this article) and with reference to all general casualty insurance, disability insurance (except as provided in sections 8 and 10 of this article), and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

(b) The director may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue. If the director does not so require, the portions of the

gross premium in force, less reinsurance in solvent insurers to be held as a premium reserve, shall be computed according to the following table:

Term for Which Policy Was Written	Reserve for Unearned Premium	
1 year or less		1/2
2 years	1st year	3/4
	2nd year	1/4
3 years	1st year	5/6
	2nd year	1/2
	3rd year	1/6
4 years	1st year	7/8
	2nd year	5/8
	3rd year	3/8
	4th year	1/8
5 years	1st year	9/10
	2nd year	7/10
	3rd year	1/2
	4th year	3/10
	5th year	1/10
Over 5 years	pro rata	

(c) In lieu of computation according to the foregoing table, all of such reserves may be computed, at the option of the insurer, on a monthly or more frequent pro rata basis.

(d) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the director.

(e) This section does not apply to title insurance.

Sec. 7. UNEARNED PREMIUM RESERVE — MARINE. With reference to marine insurance, premiums on trip risks not terminated shall be deemed unearned, and the director may require the insurer to carry a reserve thereon equal to one hundred percent on trip risks written during the month ended as of the date of statement.

Sec. 8. RESERVES — NONCANCELLABLE DISABILITY INSURANCE. (a) The legal minimum standard for computing the active life reserve, including the unearned premium reserve, on noncancellable disability policies shall be based on conference modification of class three disability experience with interest at not to exceed three and one-half percent per annum on the full preliminary term basis.

(b) For policies with a waiting period of less than three months or providing benefits at ages beyond the limits of conference modification of class three disability experience,

the table shall be extended to cover the provisions of such policies on such basis as the director may approve.

(c) The reserve for losses under noncancellable disability policies shall be based on conference modification of class three disability experience, except that for claims of less than twenty-seven months' duration, the reserve may be taken as equivalent to the prospective claim payments for three and one-half times the elapsed time of disability, but in no case shall the reserve be less than the equivalent of seven weeks' claim payments.

(d) The director shall modify the application of the tables and requirements described in this section to policies or claims arising under policies in accordance with the waiting period contained in such policies and in accordance with any limitation as to the time for which indemnity is payable.

Sec. 9. INCREASED RESERVES. (a) If the director determines that an insurer's unearned premium reserve however computed, is inadequate, he may require the insurer to compute such reserve or any part thereof according to such other method or methods as are prescribed in this article.

(b) If the loss experience of an insurer shows that its loss reserves, however estimated, are inadequate, the director shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate.

Sec. 10. STANDARD VALUATION LAW — LIFE.

(a) This section shall be known as the standard valuation law.

(b) Annual valuation: The director shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, except that in the case of an alien insurer, such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In calculating such reserves, the director may use group methods and approximate averages for fractions of a year or otherwise. He may accept in his discretion the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made or caused to be

made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided, and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the director when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

(c) The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of section 31 of article 12 of this code shall be as provided by the laws in effect immediately prior to the effective date of this code.

(d) The minimum standard for the valuation of all life insurance policies and annuity or pure endowment contracts issued on or after the operative date of section 31 of article 12 of this code shall be the commissioners reserve valuation method defined in subsections (e) and (f) of this section, three and one-half percent interest and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 standard industrial mortality table.

(3) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 standard annuity mortality table.

(4) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, class three disability table (1926) which, for active lives shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(5) For accidental death benefits in or supplementary to policies, the intercompany double indemnity mortality table combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the director as being sufficient with

relation to the benefits provided by such policies.

(e) Commissioners Reserve Valuation Method (1). Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits (excluding extra premiums on a sub-standard policy) that the present value at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (1) over (2) as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(2) A net one-year term premium for such benefits provided for in the first policy year.

(f) Commissioners Reserve Valuation Method (2). Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) annuity and pure endowment contracts, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of subsection (e) of this section.

(g) Minimum Aggregate Reserves. In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 31 of article 12 of this code, be less than the aggregate reserves calculated in accordance with the method set forth in subsec-

tions (e) and (f) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(h) Optional Reserve Basis (1). Reserves for all policies and contracts issued prior to the operative date of section 31 of article 12 of this code may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(i) Optional Reserve Bases (2). For any category of policies, contracts or benefits specified in subsection (d) of this section, issued on or after the operative date of section 31 of article 12 of this code, reserves may be calculated, at the option of the insurer, according to any standard or standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein, provided, however, that reserves for participating life insurance policies issued on or after the operative date of section 31 of article 12 of this code, may, with the consent of the director, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half of one percent, the insurer issuing such policy shall file with the director a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the director shall approve.

(j) Lower Valuations. An insurer which at any time had adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the director, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(k) Deficiency Reserve. If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to

all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Sec. 11. VALUATION OF BONDS. (a) All bonds or other evidences of debt having a fixed term and rate of interest held by any insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.

(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at the earliest date callable at par or at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the director.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(4) Unless otherwise provided by valuation established or approved by the national association of insurance commissioners, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(b) The director shall have full discretion in determining the method of calculating values according to the rules set forth in this section and not inconsistent with any such methods then currently formulated or approved by the national association of insurance commissioners.

Sec. 12. VALUATION OF OTHER SECURITIES. (a) Securities, other than those referred to in section 11 of this article, held by an insurer shall be valued, in the discretion of the director, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value, all consistent with any current method for the valuation of any such security formulated or approved by the national association of insurance commissioners.

(b) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the director and in accordance with such method of computation as he may ap-

prove.

Sec. 13. VALUATION OF PROPERTY. (a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the director to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

(b) Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than three years old, the director may at his discretion call for and require a new appraisal in order to determine fair value.

(c) Personal property acquired pursuant to chattel mortgages made in accordance with section 24 of article 9 shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition, together with taxes and expenses incurred in connection with such acquisition, or the fair value of such property, whichever amount is the lesser.

Sec. 14. VALUATION OF PURCHASE MONEY MORTGAGES. Purchase money mortgages on real property referred to in subsection (a) of section 13 of this article shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or ninety percent of the fair value of such real property, whichever is less.

Article 9. INVESTMENTS.

Sec. 1. SCOPE OF ARTICLE. Except as to section 28 hereof, this article applies to domestic insurers only. This article shall apply to domestic title insurers except as provided in article 20.

Sec. 2. ELIGIBLE INVESTMENTS. (a) Insurers shall invest in or loan their funds on the security of, and shall hold as assets, only eligible investments as prescribed in this article.

(b) Any particular investment held by an insurer on the effective date of this code, and which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately prior to such effec-

tive date, shall be deemed to be an eligible investment.

(c) The eligibility of an investment shall be determined as of the date of its making or acquisition.

(d) Any investment limitation based upon the amount of the insurer's assets or particular funds shall relate to assets or funds as shown by the insurer's annual statement as of the December 31 last preceding date of investment.

Sec. 3. GENERAL QUALIFICATIONS. (a) No security or investment (other than real and personal property acquired pursuant to section 25 of this article) shall be eligible for acquisition unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon. Defaults in interest or income occurring subsequent to acquisition of an investment shall not affect allowance thereof as an asset.

(b) No security or investment shall be eligible for purchase at a price above its market value.

(c) No provision of this article shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so acquired through bulk reinsurance, merger, or consolidation, which is not otherwise eligible under this article, shall be disposed of pursuant to section 27 of this article if personal property or securities, or pursuant to section 26 of this article if real property.

Sec. 4. APPROVAL OF INVESTMENT. No investment or loan shall be made by an insurer unless the same has been authorized or approved by the insurer's board of directors or by a committee authorized thereby and charged with the duty of supervising or making such investment or loan. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors. This section does not apply to loans made by a life insurer on policies or annuity contracts.

Sec. 5. INVESTMENTS IN ANY ONE PERSON. An insurer shall not, except with the consent of the director, have at any one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one person, institution, corporation, or municipal corporation, aggregating an amount exceeding

ten percent of the insurer's assets. This restriction shall not apply to investments in or loans upon the security of general obligations of the United States or any state of the United States or include policy loans made under section 19 of this article.

Sec. 6. REQUIRED CAPITAL INVESTMENTS—CLASS LIMITATIONS. (a) Every insurer shall invest and maintain invested funds to the amount of the minimum paid-in capital required under this code of a like domestic stock insurer transacting like kinds of insurance, only in cash and the securities described in the following sections of this article: Section 7 (securities of or guaranteed by the United States), section 8 (securities of states, counties, municipalities, school districts), and section 22 (mortgage loans on real estate).

(b) Except with the director's consent, an insurer shall not have invested at any one time more than twenty percent of its assets in the classes of securities described in any one of the following sections of this article: Section 14 (corporate obligations), exclusive of obligations of public utilities; section 15 (preferred or guaranteed stock).

(c) Except with the director's consent, an insurer shall not have invested at any one time more than ten percent of its assets in the classes of securities described in any one of the following sections of this article: Section 18 (trustee's, receiver's obligations); section 17 (equipment trust certificates); section 13 (acceptances, bills of exchange); section 12(Canadian securities); section 16 (common stocks); section 24 (chattel mortgages).

Sec. 7. U. S. GOVERNMENT OBLIGATIONS. An insurer may invest any of its funds in:

(a) Bonds or other evidences of indebtedness of the United States of America or of any of its agencies or instrumentalities when such obligations are guaranteed as to principal and interest by the United States of America or any agency or instrumentality thereof.

(b) Bonds or other evidences of indebtedness which are guaranteed as to principal and interest by the United States of America or by any agency or instrumentality of the United States of America.

Sec. 8. STATE, COUNTY, MUNICIPAL, ETC. OBLIGATIONS. An insurer may invest any of its funds in bonds or other evidences of indebtedness of any state of the United States, or of any of the counties or incorporated cities, towns or duly organized school districts of any state

or territory of the United States.

Sec. 9. LOAN GUARANTEED BY UNITED STATES. An insurer may invest any of its funds in loans guaranteed as to principal and interest by the United States of America or by any agency or instrumentality of the United States of America, to the extent of such guaranty.

Sec. 10. MUNICIPAL OR COUNTY UTILITIES. An insurer may invest in bonds, notes or evidences of indebtedness of any municipal or county utility within the United States or Canada, which are payable from revenues or earnings specifically pledged for the payment of the principal and interest on such obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment therein, or if such obligations were issued less than five years prior to the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor on any other obligations of the issuer within five years of such investment.

Sec. 11. IMPROVEMENT DISTRICT OBLIGATIONS. An insurer may invest in bonds, notes or evidences of indebtedness issued by any local improvement district in this or any other state to finance local improvements authorized by law, if the principal and interest of such obligations is payable from assessments on real property within such local improvement district. No such investment shall be made unless the face value of all such obligations, and similar obligations outstanding do not exceed fifty percent of the market value of the real property and improvements upon which such bonds or the assessments for the payment of principal and interest thereon are liens inferior only to the liens for general ad valorem property taxes. No such investment shall be made unless no default in payment of principal or interest on the obligations to be purchased has accurred within five years of the date of investment therein, or if such obligations were issued less than five years prior to the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased or on any other obligation of the issuer within five years of such investment.

Sec. 12. CANADIAN PUBLIC OBLIGATIONS. An insurer may invest in bonds, notes or other evidences of indebtedness which are valid and legally authorized obliga-

tions issued, assumed, or guaranteed by the Dominion of Canada, or any province thereof, and which are not in default as to principal or interest.

Sec. 13. ACCEPTANCES AND BILLS OF EXCHANGE. An insurer may invest in bank and bankers' acceptances and other bills of exchange of the kind and maturity made eligible pursuant to law for purchase in the open market by federal reserve banks.

Sec. 14. CORPORATE OBLIGATIONS. (a) An insurer may invest in bonds, debentures, notes and other evidences of indebtedness issued, assumed or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, district or territory thereof, which are not in default as to principal or interest and which are secured by collateral worth at least fifty percent more than the par value of the entire issue of such obligations, but only if not more than one-third of the total value of such required collateral shall consist of common stock.

(b) An insurer may invest in fixed interest bearing obligations, other than those described in subsection (a), above, of such institutions if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by such insurer have average per year not less than one and one-half times its averaged annual fixed charges applicable to such period and if during either of the last two years of such period such net earnings have been not less than one and one-half times its fixed charges for such year.

Sec. 15 PREFERRED OR GUARANTEED STOCK. An insurer may invest in preferred or guaranteed stocks or shares of any solvent institution created or existing under the laws of the United States or of any state, district or territory thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition by such insurer are eligible as investments under this section and if the net earnings of such institution available for its fixed charges during either of the last two years shall have been, and during each of the last five years shall have averaged, not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purposes of this section, such computation shall refer to the fiscal years immediately preceding the date of acquisition

by the insurer, and the term "preferred dividend requirement" shall be deemed to mean cumulative or noncumulative dividends, whether paid or not.

Sec. 16. COMMON STOCKS—INSURANCE STOCKS. (a) An insurer may invest in nonassessable (except for taxes or wages) common stocks or shares of any solvent institution, created or existing under the laws of the United States or of any state, district or territory thereof, if:

(1) Such institution is not a national or state bank,

(2) All the obligations and preferred stock, if any, of such institution are eligible as investments under this article, and

(3) Such institution has paid cash dividends of not less than four percent per annum on the par value of such common stock or shares for a period of five fiscal years next preceding the date of acquisition by such insurer or shall have earned, during such period, an aggregate sum applicable to dividends on its common stock or shares equal at least to an aggregate sum which would have been sufficient to pay dividends of four percent per annum on the par value (or in case of common stocks or shares having no par value, then upon the value upon which stocks or shares were issued) of all its common stocks or shares outstanding during such period.

(b) In addition to such insurance stocks as may be eligible under subsection (a), above, an insurer may, with the consent of the director of insurance, use its funds for the purchase of the controlling capital stock interest or of all the outstanding capital stock of another insurer.

Sec. 17. EQUIPMENT TRUST CERTIFICATES. An insurer may invest in equipment trust obligations or certificates which in the opinion of the director are adequately secured, or other instruments so secured and evidencing an interest in transportation equipment, wholly or in part within the United States, which carry the right to receive determined portions of rental, purchase, or other fixed obligatory payments to be made for the use or purchase of such transportation equipment.

Sec. 18. TRUSTEES' OBLIGATIONS — MISCELLANEOUS. (a) An insurer may invest in certificates, notes or other obligations issued by trustees or receivers of any institution created or existing under the laws of the United States or of any state, district or territory thereof, which, or the assets of which, are being administered under the direction of any court having jurisdiction, if such obli-

gation in the opinion of the director is adequately secured as to principal and interest.

(b) An insurer may make loans or investments not otherwise qualifying or permitted under this article to an amount not exceeding in the aggregate five percent of the insurer's assets, and not exceeding one percent of such assets as to any one such loan or investment. But no such loan or investment shall be represented by:

(1) Any item described in section 3 of article 8 (assets not allowed), or any loan or investment otherwise specifically prohibited.

(2) Any loan or investment eligible under any other provision of this article.

(3) Any asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this article.

The insurer shall keep a separate record of all loans and investments made under this subsection.

Sec. 19. POLICY LOANS. A life insurer may lend to its policyholder upon pledge of the policy as collateral security a sum not exceeding the applicable cash surrender value specified in the policy.

Sec. 20. DEPOSITS—SAVINGS & LOAN—INTERNATIONAL BANK. (a) An insurer may have any of its cash funds on deposit in checking or savings accounts, under certificates of deposit, or in any other form in solvent banks or trust companies.

(b) An insurer may invest or deposit any of its funds in share or saving accounts of savings and loan associations which are eligible for the protection afforded by the Federal Savings and Loan Insurance Corporation, but in any one such institution only to the extent that such an account is insured by such Federal Savings and Loan Insurance Corporation.

(c) An insurer may invest in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development.

Sec. 21. FOREIGN SECURITIES. An insurer authorized to transact insurance in a foreign country may make surplus funds investments, in aggregate amount not exceeding its deposit and reserve obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to those required pursuant to this article for investments in the United States.

Sec. 22 MORTGAGES ON REAL ESTATE. (a) An

insurer may invest any of its funds in bonds, notes or other evidences of indebtedness which are secured by first mortgages or deeds of trust upon improved, unencumbered real property located in the United States, or which are secured by first mortgages or deeds of trust upon leasehold estates having an unexpired term of not less than twenty-one years (inclusive of the term which may be provided by an enforceable option of renewal) in improved, unencumbered real property located in the United States.

(b) Real property shall not be deemed to be encumbered within the meaning of this section by reason of the existence of instruments reserving mineral, oil or timber rights, rights-of-way, sewer rights, rights in walls, nor by reason of any liens for taxes or assessments not delinquent, nor by reason of building restrictions or other restrictive covenants, nor when such real property is subject to lease under which rents or profits are reserved to the owner, if in any event the security for such loan is a first lien upon such real property and if there is no condition or right of re-entry or forfeiture under which, in the case of real property other than leaseholds, such lien can be cut off, subordinated, or otherwise disturbed or under which, in the case of leaseholds, the insurer is unable to continue the lease in force for the duration of the loan.

(c) No such mortgage loan or loans made or acquired by an insurer on any one property shall, at the time of investment by the insurer, exceed two-thirds of the value of the real property or leasehold securing the same, except that such loan or loans may equal the amount of any guaranty by the United States of America or by any agency or instrumentality of the United States of America.

(d) No such mortgage loan or loans shall be made or acquired by an insurer except after an appraisal made by a qualified appraiser for the purpose of such investment.

(e) No such mortgage loan made or acquired by an insurer which is a participation or a part of a series or issue secured by the same mortgage or deed of trust shall be a lawful investment under this section unless the entire series or issue which is secured by the same mortgage or deed of trust is held by such insurer, or unless the insurer holds a senior participation in such mortgage or deed of trust giving it substantially the rights of a first mortgagee.

(f) No mortgage loan upon a leasehold shall be made or acquired pursuant to this section unless the terms thereof shall provide for amortization payments to be made by the

borrower on the principal thereof at least once in each year in amounts sufficient completely to amortize the loan within a period of four-fifths of the term of the leasehold, inclusive of the term which may be provided by an enforceable option of renewal, which is unexpired at the time the loan is made, but in no event exceeding thirty-five years.

Sec. 23. PURCHASE MONEY MORTGAGES. An insurer may invest in purchase money mortgages or like securities, received by it upon the sale or exchange of real property theretofore owned by it.

Sec. 24. CHATTEL MORTGAGES. (a) In connection with a mortgage loan on the security of real property designed and used primarily for residential purposes only, which mortgage loan was acquired pursuant to section 22 of this article, an insurer may lend or invest an amount not exceeding twenty percent of the amount loaned on or invested in such real property mortgage on the security of a chattel mortgage for a term of not more than five years, representing a first and prior lien, except for taxes not then delinquent, on personal property constituting durable equipment owned by the mortgagor and kept and used in the mortgaged premises.

(b) For the purposes of this section, the term "durable equipment" shall include only mechanical refrigerators, air conditioning equipment, mechanical laundering machines, heating and cooking stoves and ranges, and in addition, in the case of apartment houses and hotels, room furniture and furnishings.

(c) Prior to the acquisition of a chattel mortgage hereunder, items of property to be included therein shall be separately appraised by a qualified appraiser and the fair market value thereof determined. No such chattel mortgage loan shall exceed in amount the same ratio of loan to the value of the property as is applicable to the companion loan on the real property.

Sec. 25. REAL PROPERTY. An insurer may invest in real property only if acquired or used for the following purposes and in the following manner:

(a) The land and the building thereon in which it has its principal office, and such other real property as shall be requisite for its convenient accommodation in the transaction of its business, but no such investments shall aggregate more than an amount equal to the excess of the insurer's assets over (1) its required policy reserves plus (2) fifty percent of the surplus to policyholders required under this

code for initial authorization for the kinds of insurance it is transacting at the time such investment is made.

(b) Such real property as has been acquired in satisfaction of loans, mortgages, liens, judgments, decrees or debts previously owing to the insurer in the course of its business.

(c) Such real property as has been acquired in part payment of the consideration on the sale of real property owned by it, if each transaction shall have effected a net reduction in the insurer's investment in real property.

(d) Such real property, or any interest therein, other than property to be used primarily for agricultural, horticultural, ranch, mining, recreational, amusement or club purposes, as may be acquired as an investment for the production of income, or as may be acquired to be improved or developed for such investment purpose, pursuant to an existing program therefor. An insurer shall not, except with the director's consent, have at any one time over ten percent of its assets invested in all its investments pursuant to this paragraph, nor more than five percent of its assets so invested in any single parcel or related parcels of real property.

(e) The seller's interest in real property subject to an agreement of purchase or sale, but the sum invested in any such parcel of real property shall not exceed two-thirds of the market value of such parcel.

(f) Additional real property and equipment incident to real property, if necessary or convenient for the purpose of enhancing the sale or other value of real property previously acquired or held by it, pursuant to the provisions of paragraphs (b), (c) or (d) of this section. An insurer shall not, except with the director's consent, have at any time invested in excess of ten percent of its assets in the investments authorized by this paragraph, and all property so acquired shall be subject to the provisions, if any, of section 26 of this article respecting disposition and sale of the real property for the purpose of enhancing the value of which the same was acquired.

Sec. 26. TIME LIMIT FOR DISPOSAL OF REAL PROPERTY. Real property acquired pursuant to paragraph (a) of section 25 of this article shall be disposed of within five years after it has ceased to be necessary for the convenient accommodation of the insurer in the transaction of its business, and real property acquired pursuant to paragraphs (b) or (c) of section 25 of this article shall be disposed of within five years after the date of acquisition, un-

less in either case the director shall certify upon due proof that the interests of the insurer will suffer materially by the forced sale thereof, in which event the time for disposal of such real property may be extended for such time as the director prescribes in such certificate, or unless in either case the insurer owning such property elects to hold the same pursuant to the provisions of paragraph (d) of section 25 of this article, in which event thereafter such property shall be deemed to have been acquired at a cost equal to its book value at the time of such election and to be held pursuant to, and shall be subject to, the provisions of said paragraph.

Sec. 27. TIME LIMIT FOR DISPOSAL OF OTHER INELIGIBLE PROPERTY AND SECURITIES — PENALTY. (a) Any personal property or securities lawfully acquired by an insurer, which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of within three years from date of acquisition, unless within such period the security has attained to the standard of eligibility; except, that any security or property acquired under any agreement of bulk reinsurance, merger, or consolidation, may be retained for a longer period than such three years if so provided in such plan for the reinsurance, merger, or consolidation as was approved by the director pursuant to this code. The director, upon application and proof that forced sale of any such property or security would be against the best interests of the insurer, may extend the disposal period for an additional reasonable time.

(b) Any such property or security held by an insurer after expiration of the period for disposal thereof or any extension of such period granted by the director, shall not be allowed as an asset of the insurer.

(c) Any ineligible investment unlawfully acquired by an insurer shall be disposed of forthwith, and for failure so to do within such reasonable time as may be specified in the order of the director requiring such disposal, the director may revoke or suspend the insurer's certificate of authority.

Sec. 28. INVESTMENTS OF FOREIGN, ALIEN INSURERS. (a) Foreign and alien insurers transacting insurance in Arizona shall have assets of the same general character and quality, and have invested in home office real property as permitted under subsection (a) of section 25 of this article, all as specified herein for domestic in-

surers, except that other investments authorized by the law of such an insurer's state or country of domicile may be recognized as assets in the discretion of the director.

(b) A foreign insurer domiciled in a state that requires Arizona-domiciled insurers to invest in the securities of such state a stipulated precentage or amount of its reserves under its policies in force in such state, shall likewise be required to invest in similar securities of Arizona a like percentage or amount of its reserves under its policies in force in Arizona, and shall from time to time furnish proof of such investments as required by the director.

Article 10. ADMINISTRATION OF DEPOSITS.

Section 1. DEPOSITS OF INSURERS. The state treasurer of Arizona shall accept and hold in trust, when made through the director, deposits of securities or funds by insurers as follows:

(a) Deposits required for authority to transact insurance in Arizona.

(b) Deposits of domestic, foreign, or alien insurers when made pursuant to the laws of other states, provinces, and countries as prerequiste for authority to transact insurance in such state, province, or country.

(c) Deposits in such additional amounts as are permitted to be made by section 6 of this article.

Sec. 2. PURPOSE OF DEPOSITS. Such deposits shall be held for purposes as follows:

(a) When the deposit is required for authority to transact insurance in Arizona the deposit shall be held for the protection of all the insurer's policyholders and creditors within the United States.

(b) When the deposit is required pursuant to the laws of another state, province, or country, the deposit shall be held for such purposes as is required by such laws, and as specified by the director at the time the deposit is made.

(c) When the deposit is required pursuant to the retaliatory provision, section 30 of article 3, the deposit shall be held for purposes as specified in the director's order requiring the deposit.

Sec. 3. ASSETS ELIGIBLE FOR DEPOSIT. (a) All such deposits required for authority to transact insurance in Arizona shall consist of cash or any combination of the securities described in the following sections of article 9 of this code: Section 7 (securities of or guaranteed by the United States), section 8 (securities of states, counties, municipalities, school districts), and section 20 (b) (shares

of savings and loan institutions).

(b) All such deposits required pursuant to the laws of another state, province, or country, or pursuant to the retaliatory provision, section 30 of article 3, shall consist of such assets as are required or permitted by such laws, or as required pursuant to such retaliatory provision.

Sec. 4. TRUST COMPANIES AS DEPOSITARIES—STATE OF ARIZONA RESPONSIBLE. (a) Upon request of the insurer, the state treasurer may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state as the treasurer's depositary to receive and hold any such deposit. Any such deposit so held shall be at the expense of the insurer.

(b) The state of Arizona shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this code with the state treasurer or in any depositary so designated by him.

Sec. 5 RIGHTS OF INSURER DURING SOLVENCY. So long as the insurer remains solvent and complies with this code it may:

(a) Demand, receive, sue for and recover the income from the securities or cash deposited,

(b) Exchange and substitute for the deposited cash or securities, or any part thereof, cash or eligible securities of equivalent or greater value, and

(c) Inspect, at reasonable times, any such deposit.

Sec. 6. EXCESS DEPOSITS. An insurer may so deposit cash or eligible securities in an amount exceeding its deposit required or otherwise permitted under this code by not more than one hundred thousand dollars, for the purpose of absorbing fluctuations in the value of securities held in its deposit, and to facilitate the exchange and substitution of securities deposited. During the solvency of the insurer any such excess deposit or part thereof shall be released to the insurer upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section 7 of this article.

Sec. 7. RELEASE OF DEPOSITS. Any deposit made in this state under this code shall be released and returned:

(a) To the insurer upon extinguishment by reinsurance or otherwise of substantially all liability of the insurer for the security of which the deposit is held;

(b) To the insurer to the extent such deposit is in excess of the amount required; or

(c) Upon proper order of a court of competent jurisdic-

tion to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

Sec. 8. RELEASE ONLY ON ORDER. No such release of deposited funds shall be made except upon application to and the written order of the director. The director shall have no personal liability for any such release of any such deposit or part thereof so made by him in good faith.

Sec. 9. DEPOSIT NOT SUBJECT TO LEVY. No judgment creditor or other claimant of an insurer shall levy upon any deposit held pursuant to this code, or upon any part thereof; except, that such levy may be permitted if so specified in the director's order requiring the deposit pursuant to the retaliatory provision, section 30 of article 3.

Article 11. THE INSURANCE CONTRACT.

Section 1. SCOPE OF ARTICLE. This article shall not apply to:

(a) Reinsurance.

(b) Policies or contracts not issued for delivery in Arizona nor delivered in Arizona, except as provided in subsection (e) of section 10 of this article (approval of forms for delivery in jurisdictions where local approval not provided for).

(c) Ocean marine and foreign trade insurances.

(d) Title insurance, except as to section 16 of this article.

Sec. 2. "POLICY" DEFINED. "Policy" means contract of or agreement for or effecting insurance, or the certificate thereof, by whatever name called, and includes all clauses, riders, endorsements and papers attached thereto and a part thereof.

Sec. 3. "PREMIUM" DEFINED. "Premium" is the consideration for insurance, by whatever name called.

Sec. 4. INSURABLE INTEREST, PERSONAL INSURANCE. (a) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(b) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the

insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

(c) "Insurable interest" with reference to personal insurance includes only interests as follows:

(1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection.

(2) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.

(3) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

Sec. 5. INSURABLE INTEREST, PROPERTY AND INTERESTS. (a) No insurance contract on property or of any interest therein or arising therefrom shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured.

(b) "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

(c) The measure of an insurable interest in property is the extent to which the insured might be damnified by loss, injury, or impairment thereof.

Sec. 6. POWER TO CONTRACT—MINORITY. (a) Any person of competent legal capacity may contract for insurance.

(b) A minor not less than fifteen years of age as at nearest birthday may, notwithstanding such minority, contract for life or disabilty insurance on his own life or body, for his own benefit or for the benefit of his father or mother, spouse, child, brother, sister or grandparents. Such

a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under any contract of life or disabilty insurance on his own life or body, as though of full legal age, and may surrender his interest therein and give a valid discharge for any benefit accruing or money payable thereunder. The minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate any exercise of a right or privilage thereunder, except that such minor, not otherwise emancipated, shall not be bound by any unperformed agreement to pay, by promissory note or otherwise, any premium on any such insurance contract.

Sec. 7. APPLICATION REQUIRED. No life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or consents thereto, except in the following cases:

(a) A spouse may effectuate such insurance upon the other spouse.

(b) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

Sec. 8. APPLICATION AS EVIDENCE. (a) No application for the issuance of any life or disability insurance policy or contract shall be admissible in evidence in any action relative to such policy or contract, unless a true copy of the application was attached to or otherwise made a part of the policy when issued and delivered. This provision shall not apply to industrial life insurance policies.

(b) If any policy of life or disability insurance delivered in this state is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within thirty days after receipt of such request at its home office or at any of its branch offices, deliver or mail to the person making such request a copy of such application. If such copy is not so delivered or mailed after having been so requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or

renewal.

(c) As to kinds of insurance other than life insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at expiration of thirty days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

Sec. 9. REPRESENTATIONS IN APPLICATIONS. All statements and descriptions in any application for an insurance policy or in negotiations therefor, by or in behalf of the insured, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy unless:

(a) Fraudulent; or

(b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or

(c) The insurer in good faith would either not have issued the policy, or would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or otherwise.

Sec. 10. APPROVAL OF FORMS. (a) No life or disability insurance policy form, no life or disability insurance application form where written application is required and is to be made a part of the policy, and no printed rider or endorsement form, shall be delivered or issued for delivery in this state by a life or disability insurer unless it has been filed with and approved by the director. The director may also require that proof of death or loss forms, or advertising matter for use in the sale of any such policy, shall be filed with and approved by the director. This section shall not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies, and are used at the request of the individual policyholder, contract holder, or certificate holder.

(b) Every such filing shall be made not less than thirty days in advance of any such delivery. At the expiration of

such thirty days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the director. Approval of any such form by the director shall constitute a waiver of any unexpired portion of such waiting period. The director may extend by not more than an additional thirty days the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial thirty day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The director may at any time, after notice and for cause shown, withdraw any such approval.

(c) Any order of the director disapproving any such form or withdrawing a previous approval shall state the grounds therefor.

(d) The director may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) This section shall apply also to any such form used by domestic insurers for delivery in a jurisdiction outside Arizona, if the insurance supervisory official of such jurisdiction informs the director that such form is not subject to approval or disapproval by such official, and upon the director's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to such forms as apply to forms for domestic use.

Sec. 11. GROUNDS FOR DISAPPROVAL. (a) The director shall disapprove any such form of policy, application, rider or endorsement or withdraw any previous approval thereof only:

(1) If it is in any respect in violation of or does not comply with this code.

(2) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(3) If it has any title, heading, or other indication of its provisions which is misleading.

(4) If the purchase of such policy is being solicited by

deceptive advertising.

(b) The director may disapprove any such proof of death or loss form only if it imposes unreasonable requirements, or is in violation of this code, or contains deceptive or ambiguous matter.

(c) The director may disapprove any such advertising which is in violation of this code.

Sec. 12. STANDARD PROVISIONS. (a) Insurance contracts shall contain such standard provisions as are required by the applicable provisions of this code pertaining to contracts of particular kinds of insurance. The director may waive the required use of a particular standard provision in a particular insurance policy form if (1) he finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and (2) the policy is otherwise approved by him.

(b) No policy shall contain any provision inconsistent with or contradictory to any standard provision used or required to be used, but the director may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the standard provisions or optional standard provisions otherwise required.

(c) In lieu of the standard provisions required by the provisions of this code for contracts for particular kinds of insurance, substantially similar standard provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the director.

(d) This section does not apply with respect to the Arizona standard fire policy.

Sec. 13. CONTENTS OF POLICIES IN GENERAL. (a) The written instrument in which a contract of insurance is set forth is the policy.

(b) Every policy shall specify:

(1) The names of the parties to the contract.

(2) The insurer's name.

(3) The subject of the insurance.

(4) The risks insured against.

(5) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.

(6) The premium.

(7) The conditions pertaining to the insurance.

(c) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the

premium is to be determined and paid shall be included.

(d) This section shall not apply to surety contracts, or to group insurance policies.

Sec. 14. ADDITIONAL CONTENTS. A policy may contain additional provisions not inconsistent with this code and which are:

(a) Required to be inserted by the laws of the insurer's domicile;

(b) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract; or

(c) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein.

Sec. 15. CHARTER, BYLAW PROVISIONS. No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

Sec. 16. POLICY RESTRICTIONS VOIDED. No policy delivered or issued for delivery in Arizona and covering a subject of insurance resident, located, or to be performed in Arizona, shall contain any condition, stipulation or agreement (a) requiring such policy to be construed according to the laws of any other state or country, except as necessary to meet the requirements of the motor vehicle financial responsibility laws or compulsory disability benefit laws of such other state or country, or (b) preventing the bringing of an action against any such insurer for more than six months after the cause of action accrues, or (c) limiting the time within which an action may be brought to a period of less than two years from the time the cause of action accrues in connection with all insurances other than property and marine and transportation insurances; in property and marine and transportation policies such time shall not be limited to less than one year from the date of occurrence of the event resulting in the loss. Any such condition, stipulation or agreement shall be void, but such voidance shall not affect the validity of the other provisions of the policy.

Sec. 17. EXECUTION OF POLICIES. (a) Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer.

(b) A facsimile signature of any such executing individual may be used in lieu of an original signature.

(c) No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy, if the policy is countersigned with the original signature or initial of an individual then so authorized.

Sec. 18. UNDERWRITERS' AND COMBINATION POLICIES. (a) Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

(b) Two or more insurers may, with the approval of the director, issue a combination policy which shall contain provisions substantially as follows:

(1) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

(2) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(c) This section shall not apply to co-surety obligations.

Sec. 19. VALIDITY OF NONCOMPLYING FORMS. Any insurance policy, rider, or endorsement hereafter issued and otherwise valid which contains any condition or provision not in compliance with the requirements of this code, shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this code.

Sec. 20. CONSTRUCTION OF POLICIES. Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application attached to and made a part of the policy.

Sec. 21. BINDERS. (a) Binders or other contracts for

temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(b) No binder shall be valid beyond the issuance of the policy with respect to which it was given, or beyond ninety days from its effective date, whichever period is the shorter.

(c) If the policy has not been issued a binder may be extended or renewed beyond such ninety days with the written approval of the director, or in accordance with such rules and regulations relative thereto as the director may promulgate.

(d) This section shall not apply to life or disability insurances.

Sec. 22. RENEWAL BY CERTIFICATE. Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor for a specific additional period or periods by certificate or by endorsement of the policy, and without requiring the issuance of a new policy.

Sec. 23. ASSIGNMENT OF POLICIES. A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or disability policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured, may be assigned either by pledge or transfer of title, by an assignment executed by the insured alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

Sec. 24. ANNULMENT OF LIABILITY POLICIES. No insurance contract insuring against loss or damage through legal liability for the bodily injury or death by accident of any individual, or for damage to the property of any person, shall be retroactively annulled by any agree-

ment between the insurer and the insured after the occurrence of any such injury, death, or damage for which the insured may be liable, and any such attempted annulment shall be void.

Sec. 25. PAYMENT DISCHARGES INSURER. Whenever the proceeds of or payments under a life or disability insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

Sec. 26. MINOR MAY GIVE ACQUITTANCE. Any minor domeciled in this state who has attained the age of eighteen years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding $2,000 in any one year made by a life insurer as benefits payable to such minor in compliance with the provisions of an insurance policy, annuity contract or settlement agreement. No such minor shall be deemed competent to alienate the right to or to anticipate such payments. This section shall not be deemed to restrict the rights of minors set forth in subsection (b) of section 6 of this article.

Sec. 27. SIMULTANEOUS DEATHS. Where the individual insured or the annuitant and the beneficiary designated in a life insurance policy or policy insuring against accidental death or in an annuity contract have died and there is not sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy or contract shall be distributed as if the insured or annuitant had survived the beneficiary, unless otherwise specifically provided in the policy or contract.

Sec. 28. SPOUSES' RIGHTS IN LIFE OR DISABILITY POLICY. (a) The benefits payable upon the death of the insured and provided in any life or disability insurance

policy heretofore or hereafter made payable to or for the benefit of the spouse of the insured shall, unless contrary to the terms of the policy, inure upon their becoming payable, to the separate use and benefit of such spouse, but until such benefits become payable the insurer shall be entitled to deal with the insured or person designated in the policy as having control thereof with respect to such policy and all benefits thereof, including loan and cash surrender values, without first securing the consent of such spouse.

(b) The beneficial interest of a spouse in a life or disability insurance policy as to which a child of the spouse is the insured shall be deemed to be a community and not a separate interest unless expressly otherwise provided in the policy, but if the premiums paid to maintain such policy have been paid with separate funds or partly with separate and partly with community funds, the proceeds and avails of the policy shall constitute separate property in that proportion which the separate premiums paid bear to the total premiums paid.

(c) In any life or disability insurance policy heretofore or hereafter issued upon the life of a spouse, the designation heretofore or hereafter made by such spouse of a beneficiary in accordance with the terms of the policy shall create a presumption that such beneficiary was so designated with the consent of the other spouse, but only as to any beneficiary who is the child, grandchild, parent, brother or sister of either of the spouses. The insurer may in good faith rely upon the representations made by the insured as to the relationship to him of any such beneficiary.

Sec. 29. FORMS FOR PROOF OF LOSS TO BE FURNISHED. An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

Sec. 30. CLAIMS ADMINISTRATION NOT WAIVER. Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(a) Acknowledgement of the receipt of notice of loss or

claim under the policy.

(b) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(c) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Sec. 31. EXEMPTION OF LIFE INSURANCE PROCEEDS FROM CREDITORS. (a) When a policy of life insurance is effected by any person on his own life or on another life in favor of some person other than himself having an insurable interest therein, or made payable by assignment, change of beneficiary or other means to a third person, the lawful beneficiary thereof or such third person, other than the person effecting the insurance or his legal representatives, shall be entitled to its proceeds against the creditors and representatives of the person effecting the same.

(b) Subject to the statute of limitations, the amount of any premiums for such insurance paid in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, but the insurer issuing the policy shall be discharged of all liability thereon by payment of the proceeds in accordance with its terms, unless before such payment the insurer received written notice by or in behalf of some creditor, with specification of the amount claimed, claiming to recover for certain premiums paid in fraud of creditors.

(c) For the purposes of subsection (a), above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

Sec. 32. EXEMPTION OF PROCEEDS, GROUP LIFE. (a) A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the

estate of the individual insured for the payment of his debts.

(b) This section shall not apply to group life insurance issued pursuant to article 13 to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

Article 12. LIFE INSURANCE AND ANNUITIES.

Section 1. Scope of article. This article applies to contracts of life insurance and annuities, other than reinsurance, group life insurance, group annuities, and industrial life insurance; except that sections 17 (contestability as to excluded or restricted coverage), 26 (limitation of liability), 27 (incontestability after reinstatement), 30 (dual pay policies), and 31 (standard nonforfeiture law) of this article shall apply to industrial life insurance also.

Sec. 2. STANDARD PROVISIONS REQUIRED. (a) No policy of life insurance other than industrial, group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in Arizona unless it contains in substance all of the provisions required by sections 3 to 16, inclusive, of this article. This section shall not apply to annuity contracts nor to any provision of a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(b) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

Sec. 3. GRACE PERIOD. There shall be a provision that a grace period of thirty days, or, at the option of the insurer, of one month of not less than thirty days, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace before the overdue premium is paid the amount of such premium may be deducted from the policy proceeds.

Sec. 4. INCONTESTABILITY. There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 5. ENTIRE CONTRACT. There shall be a pro-

vision that the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Sec. 6. MISSTATEMENT OF AGE. There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 7. DIVIDENDS. There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend so apportioned shall at the option of the party entitled to elect such option be either (a) payable in cash or (b) applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (a) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six years from the date of apportionment and that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

Sec. 8. POLICY LOAN, OLD POLICIES. In the case of policies issued prior to the operative date of section 31 of this article, there shall be a provision that after three full years' premiums have been paid, the insurer at any

time while the policy is in force will advance on proper assignment or pledge of the policy and on the sole security thereof at a specified rate of interest not to exceed six percent per annum, a sum equal to, or at the option of the owner of the policy less than, the reserve at the end of the current policy year on the policy and on any dividend addition thereto, computed according to any mortality table, rate of interest and the method of valuation permitted by the provisions of this code (the policy to specify the mortality table and rate of interest adopted for computing such reserve) less a sum not more than two and one-half percent of the amount insured by the policy and of any dividend additions thereto; and that the insurer shall deduct from such loan value any existing indebtness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. An insurer may, in lieu of the provisions hereinabove permitted for the deduction from a loan on the policy of a sum not more than two and one-half percent of the amount insured by the policy and of any dividend additions thereto, insert in the policy a provision that one-fifth of the entire reserve may be deducted in case of a loan under the policy, or may provide therein that the deduction may be the said two and one-half percent or the one-fifth of the said entire reserve at the option of the insurer. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor is made. The policy, at the insurer's option, may provide for an automatic premium loan, subject to an election of the party entitled to elect.

This provision shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

In ascertaining the indebtedness due from policy loans, the interest, if not paid when due, shall be added to the principal of such loans and shall bear interest at the rate specified in the note or loan agreement.

Sec. 9. POLICY LOAN, NEW POLICIES. In case of policies issued on and after the operative date of section 31 of this article, there shall be a provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment,

the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding six percent per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemented policy provision.

Sec. 10. NONFORFEITURE OPTIONS, OLD POLICIES. There shall be a provision specifying the option to which the policyholder is entitled in the event of default in a premium payment after three full annual premiums shall have been paid. This provision shall not be required in term insurance of twenty years or less, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount. A provision may also be inserted in the policy that in the event of default in a premium payment before such options become available the reserve on any dividend addition then in force may at the option of the insurer be paid in cash or applied as a net premium to the purchase of paid-up term insurance for any amount not in excess of the face of the original policy.

This section shall not apply to policies issued on or after the operative date of section 31 of this article.

Sec. 11. TABLE OF VALUES. There shall be a table showing in figures the loan value and the options available under the policy each year upon default in premium payments, during the first twenty years or during the term of the policy, whichever is shorter.

Sec. 12. TABLE OF INSTALMENTS. In case the policy provides that the proceeds may be payable in instalments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed instalments.

Sec. 13. REINSTATEMENT. There shall be a provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six percent per annum compounded annually.

Sec. 14. PAYMENT OF PREMIUMS. There shall be a provision that all premiums after the first shall be payable in advance.

Sec. 15. PAYMENT OF CLAIMS. There shall be a provision that when a policy shall become a claim by the death of the insured settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months from the receipt of such proofs.

Sec. 16. TITLE. There shall be a title on the face and on the back of the policy, briefly describing the same.

Sec. 17. EXCLUDED OR RESTRICTED COVERAGE. A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

Sec. 18. STANDARD PROVISIONS — ANNUITY AND PURE ENDOWMENT CONTRACTS. (a) No an-

nuity or pure endowment contract, other than reversionary annuities, survivorship annuities or group annuities and except as stated herein, shall be delivered or issued for delivery in this state unless it contains in substance each of the provisions specified in sections 19 to 24, inclusive, of this article. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

(b) This section shall not apply to contracts for deferred annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 19. GRACE PERIOD—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship or group annuity, there shall be a provision that there shall be a period of grace of one month, but not less than thirty days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six percent per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

Sec. 20. INCONTESTABILITY — ANNUITIES. If any statements, other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, and subject to section 22 of this article, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

Sec. 21. ENTIRE CONTRACT—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

Sec. 22. MISSTATEMENT OF AGE—ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age; and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding six percent per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

Sec. 23. DIVIDENDS—ANNUITIES. If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

Sec. 24. REINSTATEMENT — ANNUITIES. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

Sec. 25. STANDARD PROVISIONS — REVERSIONARY ANNUITIES. (a) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this state unless it contains in sub-

stance each of the following provisions:

(1) Any such reversionary annuity contract shall contain the provisions specified in sections 19, 20, 21, 22, and 23 of this article, except that under said section 19 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(2) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six percent per annum compounded annually.

(b) This section shall not apply to group annuities or to annuities included in life insurance policies, and any of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

Sec. 26. LIMITATION OF LIABILITY. (a) No policy of life insurance shall be delivered or issued for delivery in this state if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occuring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(1) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(2) Death as a result of aviation;

(3) Death as a result of a specified hazardous occupation or occupations;

(4) Death while the insured is outside continental United States and Canada;

(5) Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

(b) A policy which contains any exclusion or restriction pursuant to subsection (a) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(c) This section shall not apply to group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

Sec. 27. INCONTESTABILITY AFTER REINSTATEMENT. The reinstatement of any policy of life insurance or annuity contract hereafter delivered or issued for delivery in this state may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

Sec. 28. POLICY SETTLEMENTS. Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

Sec. 29. INDEBTEDNESS DEDUCTED FROM PROCEEDS. In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

(a) Any unpaid premiums or instalments thereof for the current policy year due under the terms of the policy, and of

(b) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.

Sec. 30. PROHIBITION OF DUAL OR MULTIPLE PAY POLICIES. No life insurance policy shall be issued or delivered in this state if it provides that on the death of anyone not specifically named therein, the owner or beneficiary of the policy shall receive the payment or granting of anything of value.

Sec. 31. STANDARD NONFORFEITURE LAW — LIFE INSURANCE. (a) This section shall be known as the standard nonforfeiture law.

(b) Nonforfeiture provisions — Life: In the case of policies issued on or after the operative date of this section as defined in subsection (k) of this section, no policy of life insurance, except as set forth in subsection (j) of this section, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder:

(1) That in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(2) That upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance, and five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the

premium in default.

(4) That if the policy shall have become paid up by completion of all premium payments, or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance, or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of this state; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(c) Any of the provisions or portions thereof set forth in subparagraphs (1) through (6) of the foregoing subsection (b) which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the

policy.

(d) Cash surrender value — Life: Any cash surrender value available under the policy in the event of default in the premium payment due on any policy anniversary, whether or not required by subsection (b) of this section, shall be an amount not less than the excess, if any, of the present value on such anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions if there had been no default, over the sum of (1) the then present value of the adjusted premiums as defined in subsection (f) of this section, corresponding to premiums which would have fallen due on and after such anniversary, and (2) the amount of any indebtedness to the insurer on account of or secured by the policy. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments, or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such subsection (b), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

(e) Paid-up nonforfeiture benefits—Life: Any paid-up nonforfeiture benefit available under the policy in the event of default in the premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the conditions that premiums shall have been paid for at least a specified period.

(f) The adjusted premium — Life: The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) two percent of the amount of the insurance if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined,

if the amount of insurance varies with the duration of the policy; (3) forty percent of the adjusted premium for the first policy year; (4) twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less, provided, however, that in applying the percentages specified in subparts (3) and (4) above, no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy.

(g) In the case of a policy providing an amount of insurance varying with the duration of the policy, the equivalent uniform amount thereof for the purpose of the preceding subsection (f) shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided, however, that in the case of a policy for a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

(h) All adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1941 standard ordinary mortality table for ordinary insurance and the 1941 standard industrial mortality table for industrial insurance, and the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality

assumed may be not more than one hundred thirty percent of the rates of mortality according to such applicable table, provided further that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the director.

(i) Calculation of Values — Life: Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsection (d), (e), (f), (g) and (h) of this section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (d) of this section, additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, and (5) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(j) Exceptions. This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (f), (g) and (h) of this section, is less than the adjusted premiums so calculated on such fifteen year term policy issued at the same age and for the same initial amount of insurance,

nor to any policy which shall be delivered outside this state through an agent or other representative of the insurer issuing the policy.

(k) Operative Date. After the effective date of this code, any insurer may file with the director a written notice of its election to comply with the provisions of this section after a specified date before July 1, 1956. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer) this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be July 1, 1956.

Article 13. Group Life Insurance and Group Annuity Contracts.

Section 1. Contracts Must Meet Group Requirements. (a) No life insurance policy shall be delivered in this state insuring the lives of more than one individual unless to one of the groups as provided for in sections 2 to 5, inclusive, of this article, and unless in compliance with the other applicable provisions of those sections.

(b) Subsection (a), above, shall not apply to life insurance policies:

(1) Insuring only individuals related by marriage, blood or legal adoption;

(2) Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

(3) Insuring only individuals otherwise having an insurable interest in each other's lives.

(c) Nothing in this article validates any charge or practice illegal under any rule of law or regulation governing usury, small loans, retail installment sales, or the like, or extends the application of any such rule of law or regulation to any transaction not otherwise subject thereto.

Sec. 2. Employee Groups. The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the

policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least ten employees at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

Sec. 3. Debtor Groups. The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in instalments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require

evidence of individual insurability if less than seventy-five percent of the new entrants become insured.

(d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in instalments to the creditor, or $5,000, whichever is less.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

Sec. 4. Labor Union Groups. The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five percent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least twenty-five members at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selec-

tion either by the members or by the union.

Sec. 5. Trustee Groups. The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established in this state by two or more employers in the same industry, provided a majority of the employees to be insured of each employer are located within this state, or to the trustees of a fund established by one or more labor unions, or by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duites are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, except in the case of a policy issued to the trustees of a fund established wholly by two or more employers, partly from such funds and partly from funds contributed by the insured persons. No policy may be issued to the trustees of a fund established wholly by two or more employers

on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one hundred persons and not less than an average of five persons, other than individual proprietors or partners, per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if (1) either (i) the participating employers constitute at date of issue at least sixty percent of those employer members whose employees are not already covered for group life insurance, or (ii) the total number of persons covered at date of issue exceeds six hundred; and (2) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers or unions.

Sec. 6. LIMIT AS TO AMOUNT. No such policy of group life insurance may be issued to an employer, or to a labor union, or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds $20,000, unless one hundred and fifty percent of the annual

compensation of such person from his employer or employers exceeds $20,000, in which event all such term insurance shall not exceed $40,000 or one hundred and fifty percent of such annual compensation, whichever is the lesser.

Sec. 7. DEPENDENT COVERAGE. (a) Insurance under any group life insurance policy issued pursuant to sections 2 (employee groups), 4 (labor union groups), or 5 (trustee groups) of this article may, if seventy-five percent of the persons then insured under any such policy shall so elect, be extended to insure the dependents, or any class or classes thereof of each insured person who so elects, in amounts in accordance with a plan which precludes individual selection by the insured persons or by the policyholder and which on the life of any one dependent of an insured person shall not be in excess of fifty percent of the insurance on the life of such insured person, or $1,000, whichever is less, nor, in the case of a dependent whose age at death is under six months, in excess of $100.

(b) For the purposes of this section, only the spouse and minor children of a person insured under a group life insurance policy shall be deemed to be his dependents.

(c) Premiums for any dependent coverage issued pursuant to this section shall be paid by the policyholder, from the policyholder's funds, from funds contributed by the policyholder, or from funds contributed by the persons insured under the group policy, or from any or all of such sources.

(d) A dependent insured pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested by the terms of the group policy in the persons insured thereunder.

Sec. 8. GROUP LIFE INSURANCE—STANDARD PROVISIONS. (a) Except as set forth in subsection (b), below, no policy of group life insurance shall be delivered in this state unless it contains in substance the standard provisions as required by sections 9 to 18, inclusive, of this article, or provisions which in the opinion of the director are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder.

(b) The provisions of sections 14 to 18, inclusive, of this article shall not apply to policies issued to a creditor to insure debtors of such creditor. The standard provisions required for individual life insurance policies shall not apply to group life insurance policies. If the group life insurance

policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the director is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

Sec. 9. GRACE PERIOD. In group life policies there shall be a provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

Sec. 10. INCONTESTABILITY. In group life policies there shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him.

Sec. 11. APPLICATIONS—REPRESENTATIONS. In group life policies there shall be a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

Sec. 12. INSURABILITY. In group life policies there shall be a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

Sec. 13. MISSTATEMENT OF AGE. In group life

policies there shall be a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

Sec. 14. BENEFICIARY. In group life policies there shall be a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding $250 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

Sec. 15. CERTIFICATES. In group life policies there shall be a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 16, 17, and 18 of this article.

Sec. 16. CONVERSION ON TERMINATION OF ELIGIBILITY. In group life policies there shall be a provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided that application for the individual policy shall have been made, and the first premium paid to the insurer, within thirty-one days after such termination, and provided further that:

(a) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(b) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, less, in the case of a person whose membership in the class or classes eligible for

coverage terminates but who continues in employment in another class, the amount of any life insurance for which such person is or becomes eligible under any other group policy within thirty-one days after such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in instalments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(c) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

Sec. 17. CONVERSION ON TERMINATION OF POLICY. In group life policies there shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, each person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 16 of this article, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and (b) $2,000.

Sec. 18. DEATH PENDING CONVERSION. In group life policies there shall be a provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections 16 or 17 of this article and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy

or the payment of the first premium therefor has been made.

Sec. 19. NOTICE AS TO CONVERSION RIGHT. If any individual insured under a group life insurance policy hereafter delivered in this state becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to the making of application and payment of the first premium within a period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen days prior to the expiration date of such period, then notwithstanding the terms of the policy the individual shall have an additional period within which to exercise such right. Such additional period shall expire fifteen days next after the individual is given such notice, but in no event shall such additional period extend beyond sixty days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section, and nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy.

Sec. 20. GROUP ANNUITY CONTRACTS—STANDARD PROVISIONS. No group annuity contract shall be delivered or issued for delivery in this state and no certificate shall be used in connection therewith unless it contains in substance the provisions set forth in sections 21 to 25, inclusive, of this article, to the extent that such provisions are applicable to such contract or to such certificate, as the case may be, or provisions which in the opinion of the director are more favorable to annuitants, or not less favorable to annuitants and more favorable to the holders.

Sec. 21. GROUP ANNUITY — GRACE PERIOD. In group annuity contracts there shall be a provision that there shall be a period of grace, either of thirty days or of one month, within which any stipulated payment to be remitted by the holder to the insurer, falling due after one year from date of issue, may be made, subject, at the option of the insurer, to an interest charge thereon at a rate to be specified in the contract, which shall not exceed six percent per annum for the number of days of grace elapsing before such payment.

Sec. 22. GROUP ANNUITY—ENTIRE CONTRACT. In group annuity contracts there shall be a provision specifying the document or documents which shall constitute the entire contract between parties. The document or documents so specified shall be only (a) the contract, (b) the contract together with the application of the holder of which a copy is attached thereto, or (c) the contract together with the application of the holder of which a copy is attached thereto, and the individual applications of annuitants on file with the insurer and referred to therein.

Sec. 23. GROUP ANNUITY — MISSTATEMENTS. In group annuity contracts there shall be a provision, with an appropriate reference thereto in the certificate, for the equitable adjustment of the benefits payable under the contract or of the stipulated payments thereunder, if it be found that the sex, age, service, salary or any other fact determining the amount of any stipulated payment or the amount or date or dates of payment of any benefit with respect to any annuitant covered thereby has been misstated.

Sec. 24. GROUP ANNUITY — NONFORFEITURE BENEFITS. In group annuity contracts there shall be a provision or provisions, with an appropriate reference thereto in the certificate, specifying the nature and basis of ascertainment of the benefits which will be available to an annuitant who contributes to the cost of the annuity and the conditions of payment thereof in the event of either the termination of employment of the annuitant, except by death, or the discontinuance of stipulated payments under the contract. Such provision or provisions shall, in either of such events, make available to an annuitant who contributes to the cost of the annuity a paid-up annuity payable commencing at a fixed date in an amount at least equal to that purchased by the contributions of the annuitant, determinable as of the respective dates of payment of the several contributions, as shown by a schedule in the contract for that purpose, based upon the same mortality table, rate of interest and loading formula used in computing the stipulated payments under such contract. Such provision or provisions may, by way of exception to the foregoing, provide that if the amount of the annuity determined as aforesaid from such fixed commencement date would be less than $120 annually, the insurer may at its option, in lieu of granting such paid-up annuity, pay a cash surrender value at least equal to that hereinafter provided.

If a cash surrender value, in lieu of such paid-up annuity, is allowed to the annuitant by the terms of such contract, it may be either in a single sum or in equal instalments over a period of not more than twelve months and it shall at least equal either (a) or (b), whichever is less:

(a) The amount of reserve attributable to the annuitant's contributions less a surrender charge not exceeding thirty-five percent of the average annual contribution made by the annuitant; or

(b) The amount which would be payable as a death benefit at the date of surrender.

Such contract shall also provide that in case of the death of an annuitant before the commencement date of the annuity, the insurer shall pay a death benefit at least equal to the aggregate amount of the annuitant's contributions without interest. If any benefits are available to the holder in either of such events, the contract shall contain a provision or provisions specifying the nature and basis of ascertainment of such benefits.

Sec. 25. GROUP ANNUITY — CERTIFICATES. In group annuity contracts there shall be a provision that the insurer will issue to the holder of the contract for delivery to each annuitant who contributes thereunder an individual certificate setting forth a statement in substance of the benefits to which he is entitled under such contract.

Sec. 26. "EMPLOYEE LIFE INSURANCE" DEFINED. "Employee life insurance" is that plan of life insurance, other than salary savings life insurance or pension trust insurance and annuities, under which individual policies are issued to the employees of any employer and where such policies are issued on the lives of not less than ten nor more than forty-nine employees at date of issue. Premiums for such policies shall be paid by the employer or the trustee of a fund established by the employer either wholly from the employer's funds, or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees.

Article 14. Industrial Life Insurance.

SECTION 1. SCOPE OF ARTICLE. The provisions of this article apply only to industrial life insurance policies. Sections 17 (contestability as to excluded or restricted coverage), 26 (limitation of liability), 27 (incontestability after reinstatement), 30 (dual pay policies), and 31 (standard nonforfeiture law) of article 12 shall also apply to industrial life insurance.

Sec. 2. REQUIRED PROVISIONS. No policy of industrial life insurance shall be delivered or be issued for delivery in this state unless it contains in substance the applicable provisions set forth in sections 3 to 16, inclusive, of this article.

Sec. 3. GRACE PERIOD. There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premiums after the first may be made, except that in policies the premiums for which are payable monthly, the period of grace shall be one month, but not less than thirty days, and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

Sec. 4. ENTIRE CONTRACT—STATEMENTS IN APPLICATION. There shall be a provision that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

Sec. 5. INCONTESTABILITY. There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 6. MISSTATEMENT OF AGE. There shall be a provision that if it is found that the age of the individual insured, or the age of any other individual considered in determining the premium, has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 7. DIVIDENDS. If a participating policy, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy, except that at the option of the insurer such participation may be deferred to the end of the fifth policy year. This provision shall not prohibit the payment of additional divi-

dends on default of payment of premiums or termination of the policy.

Sec. 8. NONFORFEITURE BENEFITS. There shall be provisions for nonforfeiture benefits and cash surrender values as required by section 31 of article 12.

Sec. 9. REINSTATEMENT. There shall be a provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within two years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six percent per annum compounded annually.

Sec. 10. SETTLEMENT. There shall be a provision that when the policy becomes a claim by the death of the insured, settlement shall be made upon surrender of the policy and receipt of due proof of death.

Sec. 11. AUTHORITY TO ALTER CONTRACT. There shall be a provision that no agent shall have the power or authority to waive, change or alter any of the terms or conditions of any policy, except that at the option of the insurer the terms or conditions may be changed by an endorsement signed by a duly authorized officer of the insurer.

Sec. 12. BENEFICIARY—FACILITY OF PAYMENT.

(a) Each such policy shall have a space on the front or back page of the policy for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy.

(b) The policy may also provide that no designation or change of beneficiary shall be binding on the insurer unless endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. Such a policy may also provide that if the beneficiary designated in the policy does not surrender the policy with due proof of death within the period stated in the policy, which shall be not less than thirty days after the death of the insured, or if the beneficiary is the estate of the insured or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make payment

thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. Such policy may also include a similar provision applicable to any other payment due under the policy.

Sec. 13. DIRECT PAYMENT OF PREMIUMS. In the case of weekly premium policies, there may be a provision that upon proper notice to the insurer, while premiums on the policy are not in default beyond the grace period, of the intention to pay future premiums directly to the insurer at its home office or any office designated by the insurer for the purpose, the insurer will, at the end of each period of a year from the due date of the first premium so paid, for which period such premiums are so paid continuously without default beyond the grace period, refund a stated percentage of the premiums in an amount which fairly represents the savings in collection expense.

Sec. 14. CONVERSION—WEEKLY POLICIES. There shall be a provision in the case of weekly premium policies granting to the insured, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting a weekly premium industrial insurance policy to any form of life insurance with less frequent premium payments regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's weekly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance with less frequent premium payments issued by the insurer at the age of the insured on the plan of industrial or ordinary insurance desired.

Sec. 15. CONVERSION—MONTHLY POLICIES. There shall be a provision, in the case of monthly premium industrial policies, granting, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting a

monthly premium industrial insurance policy to any form of ordinary life insurance regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's monthly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of ordinary insurance issued by the insurer at the age of the insured on the plan of ordinary insurance desired.

Sec. 16. TITLE. There shall be a title on the face of each such policy briefly describing its form.

Sec. 17. APPLICATION TO TERM AND SPECIFIED INSURANCE. Any of the provisions required by section 3 to 16, inclusive, of this article or any portion thereof which are not applicable to single premium or term policies or to policies issued or granted pursuant to nonforfeiture provisions shall to that extent not be incorporated therein.

Sec. 18. PROHIBITED PROVISIONS. No policy of industrial insurance shall contain any of the following provisions:

(a) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

(b) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

(c) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insured to make such con-

tract.

Article 15. DISABILITY INSURANCE.

Section 1. SCOPE OF ARTICLE. Nothing in this article shall apply to or affect:

(a) Any policy of liability or workmen's compensation insurance with or without supplementary expense coverage therein.

(b) Any group or blanket policy.

(c) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to disability insurance as (1) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (2) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(d) Reinsurance.

Sec. 2. SCOPE, FORMAT OF POLICY. No policy of disability insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this code, and complies with the following:

(a) The entire money and other considerations therefor shall be expressed therein;

(b) The time when the insurance takes effect and terminates shall be expressed therein;

(c) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of the head of a family or his spouse, who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder;

(d) The style, arrangement and over-all appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten point with a lower case unspaced alphabet length not less than one hundred and twenty point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy,

the brief description, if any, and captions and subcaptions);

(e) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in sections 5 to 28, inclusive, of this article, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(f) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof;

(g) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the director.

Sec. 3. POLICIES ISSUED FOR DELIVERY IN ANOTHER STATE. If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the director that any such policy is not subject to approval or disapproval by such official, the director may by ruling require that such policy meet applicable standards set forth in this article and in article 11 of this code.

Sec. 4. POLICY PROVISIONS REQUIRED — CAPTIONS—OMISSIONS, SUBSTITUTIONS. (a) Except as provided in subsection (b), below, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in sections 5 to 16, inclusive, of this article, in the words in which the same appear; except, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the director which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate indi-

vidual or group captions or subcaptions as the director may approve.

(b) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the director, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 5. ENTIRE CONTRACT — CHANGES. There shall be a provision as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

Sec. 6. TIME LIMIT ON DEFENSES. There shall be a provision as follows:

"Time Limit on Certain Defenses: (a) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three-year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three-year period, nor to limit the application of sections 18, 19, 20, 21, and 22 of this article in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "Incontestable":

"After this policy has been in force for a period of

three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.)

"(b) No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

Sec. 7. GRACE PERIOD. There shall be a provision as follows:

"Grace Period: A grace period of . . . . (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

A policy which contains a cancellation provision may add, at the end of the above provision,

"subject to the right of the insurer to cancel in accordance with the cancellation provision hereof."

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

"Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted,".

Sec. 8. REINSTATEMENT. There shall be a provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy, provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day

following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue.

Sec. 9. NOTICE OF CLAIM. There shall be a provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at . . . . (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing

of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given."

Sec. 10. CLAIM FORMS. There shall be a provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

Sec. 11. PROOFS OF LOSS. There shall be a provision as follows:

"Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required."

Sec. 12. TIME OF PAYMENT OF CLAIMS. There shall be a provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid . . . . (insert period for payment which must not be less frequently than monthly)

and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

Sec. 13. PAYMENT OF CLAIMS. There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

"If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $ . . . . (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

"Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proof of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

Sec. 14. PHYSICAL EXAMINATION, AUTOPSY. There shall be a provision as follows:

"Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death

where it is not forbidden by law."

Sec. 15. LEGAL ACTIONS. There shall be a provision as follows:

"Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of two years after the time written proof of loss is required to be furnished."

Sec. 16. CHANGE OF BENEFICIARY. There shall be a provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change a beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

(The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

Sec. 17. OPTIONAL POLICY PROVISIONS. Except as provided in subsection (b) of section 4 of this article, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth in sections 18 to 28, inclusive, of this article unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the director which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the director may approve.

Sec. 18. CHANGE OF OCCUPATION. There may be a provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so

classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

Sec. 19. MISSTATEMENT OF AGE. There may be a provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

Sec. 20. OTHER INSURANCE IN THIS INSURER. There may be a provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for .... (insert type of coverage or coverages) in excess of $ .... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will

return all premiums paid for all other such policies."

Sec. 21. INSURANCE WITH OTHER INSURERS (Provision of Service or Expense Incurred Basis). (a) There may be a provision as follows:

"INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage."

(b) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 22 of this article there shall be added to the caption of the foregoing provision the phrase "—Expense Incurred Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the director which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the director. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's com-

pensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 22. INSURANCE WITH OTHER INSURERS. (a) There may be a provision as follows:

"Insurance With Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."

(b) If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 21 of this article there shall be added to the caption of the foregoing provision the phrase "—Other Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the director, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the director. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage

shall be included as "other valid coverage."

Sec. 23. RELATION OF EARNINGS TO INSURANCE. (a) There may be a provision as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

(b) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the director, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the Untied States or any province of Canada, or to any other coverage the inclusion of which may be approved by the director or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by

union welfare plans or by employer or employee benefit organizations.

Sec. 24. UNPAID PREMIUM. There may be a provision as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

Sec. 25. CANCELLATION. There may be a provision as follows:

"Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

Sec. 26. CONFORMITY WITH STATUTES. There may be a provision as follows:

"Conformity with Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state, District of Columbia or territory in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

Sec. 27. ILLEGAL OCCUPATION. There may be a provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

Sec. 28. INTOXICANTS AND NARCOTICS. There

may be a provision as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence ence of any narcotic unless administered on the advice of a physician."

Sec. 29. Order of Certain Provisions. The provisions which are the subject of section 5 to 28, inclusive, of this article, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued.

Sec. 30. THIRD PARTY OWNERSHIP. The word "insured," as used in this article, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

Sec. 31. REQUIREMENTS OF OTHER JURISDICTIONS. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this article and which is prescribed or required by the law of the state or country under which the insurer is organized. Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Sec. 32. CONFORMING TO STATUTE. No policy provision which is not subject to this article shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this article. A policy delivered or issued for delivery to any person in this state in violation of this article shall be held valid but shall be construed as provided in this article. When any provision in a policy subject to this article is in conflict with any provision of

this article, the rights, duties and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this article.

Sec. 33. AGE LIMIT. If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Sec. 34. EFFECTIVE DATE OF PROVISIONS—MORITORIUM. A policy, rider, or endorsement which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before the effective date of this code may be used or delivered or issued for delivery to any such person until January 1, 1957, without being subject to the provisions of sections 1 to 32, inclusive, of this article.

Sec. 35. FRANCHISE DISABILITY INSURANCE LAW. Disability insurance on a franchise plan is hereby declared to be that form of disability insurance issued to:

(a) Five or more employees of any corporation, copartnership or individual employer or any governmental corporation, agency or department thereof; or

(b) Ten or more members, employees or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance;

where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the asso-

ciation for its members, or by some designated person acting on behalf of such employer or association. The term "employees" as used herein may be deemed to include the officers, managers and employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

Article 16. GROUP AND BLANKET DISABILITY INSURANCE.

Section 1. ELIGIBLE GROUPS. Group disability insurance is hereby declared to be that form of disability insurance covering groups of persons as defined below, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of persons in such groups, and issued upon the following basis:

(a) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring at least five employees of such employer, for the benefit of persons other than the employer. The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partners if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employees" as used herein shall be deemed to include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(b) Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used herein shall be deemed to include retired employees.

(c) Under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions or by one or more em-

ployers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons others than the employers or the unions. The term "employees" as used herein shall be deemed to include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used herein shall be deemed to include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(d) Under a policy issued to any persons or organizations to which a policy of group life insurance may be delivered in this state, to insure any class or classes of individuals that could be insured under such group life policy.

(e) Under a policy issued to cover any other substantially similar group which, in the discretion of the director, may be subject to the issuance of a group disability policy or contract.

(f) Nothing in this article validates any charge or practice illegal under any rule of law or regulation governing usury, small loans, retail installment sales, or the like, or extends the application of any such rule of law or regulation to any transaction not otherwise subject thereto.

Sec. 2. PROVISIONS OF GROUP DISABILITY POLICIES. Each group disability policy shall contain in substance the following provisions:

(a) A provision that, in the absence of fraud, all statements made by the policyholder or by any insured person shall be deemed representations and not warranties, and that no statement made for purpose of effecting insurance shall avoid such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(b) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member and to whom benefits are payable. If dependents

or family members are included in the coverage additional certificates need not be issued for delivery to such dependents or family members.

(c) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

Sec. 3. DIRECT PAYMENT OF HOSPITAL, MEDICAL SERVICES. Any group disability policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payments so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

Sec. 4. BLANKET DISABILITY INSURANCE. (a) Blanket disability insurance is hereby declared to be that form of disability insurance covering special groups of persons as enumerated in one of the following paragraphs (1) to (7) inclusive:

(1) Under a policy or contract issued to any common carrier, which shall be deemed the policyholder, covering a group defined as all persons who may become passengers on such common carrier.

(2) Under a policy or contract issued to an employer, who shall be deemed the policyholder, covering all employees or any group of employees defined by reference to exceptional hazards incident to such employment. Dependents of the employees and guests of the employer may also be included where exposed to the same hazards.

(3) Under a policy or contract issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder, covering students or teachers.

(4) Under a policy or contract issued in the name of any volunteer fire department, first aid, or other such volunteer group, or agency having jurisdiction thereof, which shall be deemed the policyholder, covering all of the members of such fire department or group.

(5) Under a policy or contract issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor.

(6) Under a policy or contract issued to a sports team

or to a camp or sponsor thereof, which team or camp or sponsor thereof shall be deemed the policyholder, covering members or campers.

(7) Under a policy or contract issued to any other substantially similar group which, in the discretion of the director, may be subject to the issuance of a blanket disability policy or contract.

(b) An individual application need not be required from a person covered under a blanket disability policy or contract, nor shall it be necessary for the insurer to furnish each person a certificate.

(c) All benefits under any blanket disability policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured be a minor, such benefits may be made payable to his parent, guardian, or other person actually supporting him; except, that the policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services, but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid.

(d) Nothing contained in this section shall be deemed to affect the legal liability of policyholders for the death of or injury to any such member of such group.

Sec. 5. GROUP AND BLANKET DISABILITY POLICY PROVISIONS. The provisions of article 15 shall not apply to group disability or blanket disability insurance policies, but no such policy of group or blanket disability insurance shall contain any provision relative to notice or proof of loss, or to the time for paying benefits, or to the time within which suit may be brought on the policy, which is less favorable to the individuals insured than would be permitted by the standard provisions required for individual disability insurance policies.

ARTICLE 17. CASUALTY INSURANCE.

Section 1. ARTICLE RESERVED. The number and location of this article in this code is reserved to accomodate future legislation governing casualty insurance.

ARTICLE 18. PROPERTY INSURANCE.

Section 1. SCOPE OF ARTICLE. This article shall not apply to vehicle, casualty, inland marine, or ocean ma-

rine insurance, nor to reinsurance.

Sec. 2. "FIRE INSURANCE" DEFINED. "Fire insurance" is insurance against the perils of fire or lightning as written under the Arizona standard fire policy.

Sec. 3. STANDARD FIRE POLICY. No policy of fire insurance covering property located in Arizona shall be made, issued, or delivered unless it conforms as to all provisions and the sequence thereof with the basic policy commonly known as the New York standard fire policy, edition of 1943. Such policy is designated as the Arizona standard fire policy. As of the effective date of this code the director shall file in his office and thereafter maintain so on file, a true copy of such Arizona standard fire policy, designated as such and bearing the director's authenticating certificate and signature and the date of filing. Provisions to be contained on the first page of the policy may be rewritten, supplemented, and rearranged to facilitate policy issuance and to include matter which may otherwise properly be added by endorsement.

Sec. 4. ARRANGEMENT OF POLICY. The pages of the standard fire insurance policy may be renumbered and the format rearranged for convenience in the preparation of individual contracts, and to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be conveniently included for duplication on daily reports for office records.

Sec. 5. INFORMATION AS TO THE INSURER. There shall be printed on the first or front page at the head of such standard fire insurance policy the name of the insurer or insurers issuing the policy, the location of the home office or United States office of the insurer or insurers, a statement whether such insurer or insurers be stock corporations, mutual corporations, reciprocal insurers, Lloyd's underwriters, or otherwise, and there may be added thereto such device or emblem as the insurer or insurers issuing such policy may desire. Any insurer organized under special charter provisions may so indicate upon its policy, and may add a statement of the plan under which it operates in this state. If the policy is issued by a mutual or reciprocal insurer having special regulations with respect to the payment of assessments by the policyholder or subscriber, such regulations shall be printed on the policy, and any such insurer may print upon the policy such regu-

lations as may be appropriate to or required by its form of organization. There may be substituted for the word "company" a more accurate descriptive term for the type of insurer.

There may also be added a statement of the group of insurers with which the insurer is financially affiliated.

In lieu of the facsimile signatures of the president and secretary of the insurer there may be used the name or names of such officers or managers as are authorized to execute the contract.

Sec 6. PROVISIONS REQUIRED BY CHARTER OR LAWS OF OTHER STATES. A domestic insurer may print in the standard fire policy any provisions which it is authorized or required by law to insert therein; a foreign or alien insurer may print in the policy any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state.

Sec. 7. RIDERS, ENDORSEMENTS—ADDITIONAL PERILS. Appropriate forms of additional contracts, riders or endorsements, insuring against indirect or consequential loss or damage, or against any one or more perils other than those of fire and lightning, or providing coverage which the insurer issuing the policy is authorized by charter and by the laws of this state to assume or issue, may be used in connection with the standard fire policy.

Such other perils or coverages may include those excluded in the standard fire insurance policy, and may include any of the perils or coverages permitted to be insured against or issued by property and casualty insurers. Such forms of contracts, riders and endorsements may contain provisions and stipulations inconsistent with such standard fire insurance policy, if such provisions and stipulations are applicable only to such additional coverage or to the additional peril or perils insured against.

Sec. 8. DESIGNATION AS STANDARD POLICY—AGENT'S NAME. There may be printed upon the standard fire policy the words, "Standard Fire Insurance Policy for Arizona", and there may be inserted before and after the word "Arizona" a designation of any state or states in which such form of policy is standard.

There may be endorsed on the outside of any such policy the name, with the word "agent" or "agents" and place of business, of any insurance agent or agents, either by writing, printing, stamping or otherwise.

ARTICLE 19. SURETY INSURANCE.

Section 1. SOLE SURETY ON OFFICIAL BONDS. Whenever any bond, recognizance, or undertaking is required or permitted to be made for the security or protection of any person or municipality, the state, or any department thereof, or organization, conditioned for the doing or not doing of anything therein specified, any such board, court, organization or officer required or permitted to accept or approve of the sufficiency of such bond, recognizance, or undertaking, may accept and approve the same when executed, or when the conditions thereof are guaranteed, solely by an insurer authorized to transact a surety business in this state in accordance with the requirements of this code. Whenever any such bond, recognizance, or undertaking is required to be made with one surety or with two or more sureties, the execution of the same, or the guarantee of the performance of the conditions thereof, shall be sufficient when so executed or guaranteed solely by one such insurer, and shall be a full compliance with every requirement of every law, ordinance, or regulation relating to the same, and no justification by such insurer shall be necessary.

Sec. 2. VENUE OF ACTIONS AGAINST SURETY INSURERS. Any surety insurer may be sued in respect of any surety bond by it issued in the county where such bond, recognizance, stipulation or undertaking was made or guaranteed, or in the county where the principal office of such insurer in this state is located, and for the purposes hereof, the same shall be treated as made or guaranteed in the county in which such office is located or in which it is filed, or in the county in which the principal resided when it was made or guaranteed.

ARTICLE 20. TITLE INSURERS.

Section 1. QUALIFICATIONS OF TITLE INSURERS. (a) Any foreign or domestic stock insurer authorized by its corporate charter to engage in business as a title insurer shall be entitled to the issuance of a certificate of authority as a title insurer in this state upon meeting the applicable requirements of article 3, together with the following additional requirements:

(1) The insurer shall not transact any other kind of insurance in this state.

(2) The insurer shall have and maintain paid-in capital of not less than $100,000, and shall, when first so authorized in Arizona, have surplus of not less than $50,000.

(3) The insurer shall maintain on deposit in Arizona with the state treasurer, in cash or securities authorized by subsection (a) of section 6 of article 9 for the investment of capital funds, not less than $100,000. Such deposit shall be held and administered as provided in article 10.

(b) A person engaged in the business of preparing or issuing abstracts of, but not guaranteeing or insuring, title to property, or a person acting only as agent for a title insurer, shall not be deemed to be a title insurer.

Sec 2. INVESTMENTS OF TITLE INSURERS. (a) A domestic title insurer shall invest its capital and accumulations, up to the sum of $100,000, in capital investments as defined in subsection (a) of section 6 of article 9, but subject to the exception in subsection (b), below.

(b) A domestic title insurer may invest its capital and accumulations in excess of $100,000 in such investments as are made eligible for funds of domestic insurers by article 9; except, that any such insurer may invest an amount not exceeding fifty percent of its combined capital and surplus in the preparation and purchase of material or plants or both necessary to enable it to engage in the business of title insurance, and such materials and plants shall be deemed to be capital funds investments and shall be valued at the actual cost thereof.

(c) Subsections (b) and (c) of section 6 of article 9 shall not apply to domestic title insurers, nor shall such insurers be subject to the limitations as to amount invested in real estate for home office and branch office purposes contained in subdivision (a) of section 25 of article 9.

Sec 3. ADDITIONAL POWERS OF TITLE INSURERS. A title insurer may engage in such other business not inconsistent with the business of issuing title insurance policies as may be authorized by its corporate charter, but the insurer shall not transact any other kind of insurance in this state.

Sec. 4. TAXATION OF TITLE INSURERS. (a) In lieu of the premium tax provisions of section 24 of article 3 title insurers shall be subject as other private corporations to the income tax act of 1933, as amended (Laws 1933, 1st Special Session, Chapter 8, as amended, also known as Article 15, Chapter 73, Arizona Code 1939, as amended).

(b) The income tax required to be paid by title insurers by the provisions of subsection (a), above, shall be payment in full of all demands for any and all state, county, district,

municipal and school taxes and licenses of whatever kind or character, excepting only the fees prescribed by article 2 and taxes on real and tangible personal property situate within this state.

Sec. 5. "TITLE INSURANCE POLICY". A "title insurance policy" is any written instrument purporting to show the title to real or personal property or any interest therein or encumbrance thereon, or to furnish such information relative to real property, which written instrument in express terms purports to insure or guarantee such title or the correctness of such information.

Sec. 6. EXEMPTIONS AND APPLICATION OF OTHER LAWS. (a) Title insurers shall be governed by this article and, to the extent not modified by or inconsistent with the provisions of this article or the provisions of this code made applicable to such insurers, by the general laws of this state governing corporations organized for profit.

(b) To the extent not modified by the provisions of this article, title insurers shall be subject to and governed by the other applicable provisions of this code.

No new insurance law hereafter enacted shall be deemed to apply to title insurers unless they be expressly referred to therein.

Article 21. UNFAIR PRACTICES AND FRAUDS.

Section 1. DECLARATION OF PURPOSE. Among the purposes of this article is the regulation of trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (59 Stat. 33, 15 U.S.C. 1011-1015), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Sec. 2. UNFAIR COMPETITION, UNFAIR, DECEPTIVE ACTS PROHIBITED. No person shall engage in this state in any trade practice which is prohibited, in this article, or defined in this article as, or after determined pursuant to this article to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

Sec. 3. MISREPRESENTATIONS AND FALSE ADVERTISING AS TO POLICIES. No person shall make, issue, or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued or the

benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon; or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies; or making any misleading representation or any misrepresentation as to the financial condition of any insurer; or as to the legal reserve system upon which any life insurer operates; or using any name or title of any policy or class of policies misrepresenting the true nature thereof; or making any misrepresentation to any policyholder for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, surrender, retain, or convert any insurance policy.

Sec. 4. FALSE, DECEPTIVE ADVERTISING AS TO INSURANCE, PERSONS. (a) No person shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, any advertisement, announcement, or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(b) No person that is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

Sec. 5. DEFAMATION. No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance, or any domestic corporation or group being formed pursuant to this code for the purpose of becoming an insurer. This provision shall not be deemed to restrict the right, lawfully exercised, of newspapers, magazines, radio and television stations, and similar public media for news dissemination, objectively to publish and disseminate news.

Sec. 6. BOYCOTT, COERCION AND INTIMIDATION. No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott,

coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

Sec. 7. FALSE FINANCIAL STATEMENTS, RECORDS. (a) No person shall file with any public official, or make, publish, disseminate, circulate or deliver to any person, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or delivered to any person, or placed before the public, any false statement of the financial condition of an insurer with intent to deceive.

(b) No person shall make any false entry in any book, report, or statement of any insurer or other person required to have records under this code, with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer or person is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omit to make a true entry of any material fact pertaining to the business of such insurer or person in any book, report or statement thereof.

Sec. 8. UNFAIR DISCRIMINATION. (a) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) As to kinds of insurance other than life and disability, no person shall make or permit any unfair discrimination in favor of particular persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charged therefor. This subsection shall not apply as to any premium or premium rate in effect pursuant to article 6 (rate laws, fire and casualty).

Sec. 9. REBATES—LIFE, DISABILITY. Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity, or disability insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as an inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract.

Sec. 10. EXCEPTIONS TO DISCRIMINATION, REBATE PROHIBITION — LIFE AND DISABILITY. Nothing in sections 8 or 9 of this article shall be construed as including within the definition of discrimination or rebates any of the following practices:

(a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

(b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(c) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(d) Issuing life or disability policies on a salary savings or payroll deduction plan at a reduced rate commensurate with the savings made by the use of such plan.

Sec. 11. REBATES, OTHER THAN LIFE, DISABILITY. No insurer or employee, agent or representative thereof, or broker shall knowingly charge, demand or receive a premium for any policy of insurance, other than life or disability insurance, except in accordance with any applicable filing on file with the director. No such insurer, employee, agent, representative, or broker shall pay, allow

or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any representative or employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents and brokers, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.

Sec. 12. INDUCEMENTS. Except as permitted in sections 13 and 14 hereof, no insurer, agent, broker, solicitor, or other person shall, as an inducement to insurance or in connection with any insurance transaction, provide in any policy for or offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person in his behalf in any manner whatsoever:

(a) Any employment.

(b) Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto.

(c) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any special profits.

(d) Any prizes, goods, wares, merchandise, or tangible property of an aggregate value in excess of two dollars.

Sec. 13. STOCK IN INSURANCE CORPORATIONS. Notwithstanding the provisions of section 12 of this article and notwithstanding any other provision of law, domestic life insurers, whether of the stock, mutual, fraternal, limited capital stock, benefit stock or benefit type, shall not be prohibited from engaging in a program whereby the holders of their life insurance policies are offered the right

from time to time to buy for cash or to exchange dividends on such policies or other policy values resulting therefrom for securities in domestic corporations engaged in or organized to engage in the insurance business, provided, however, that no such insurer shall engage in any such program unless the right to buy or the dividends or other policy values subject to exchange shall result from ownership of or be payable on account of a policy which shall from its inception be or which shall, within a period of not to exceed six years from its issue date, become a life insurance policy on a permanent plan other than term. From and after being placed on such permanent plan, every such policy shall be in full compliance with the standard nonforfeiture law (section 31, article 12) computed as from the date of being placed on such permanent plan. No such offering shall be deemed to be exempt from the provisions of the Securities Act of Arizona.

Sec. 14. STOCK IN OTHER CORPORATIONS. Notwithstanding the provisions of section 12 of this article and notwithstanding any other provision of law, domestic life insurers, whether of the stock, mutual, fraternal, limited capital stock, benefit stock or benefit type, which, on the effective date of this code, shall be engaged pursuant to the requirements of the Securities Act of Arizona in a program whereby the holders of their life insurance policies are offered the right from time to time to buy for cash or to exchange dividends on such policies or other policy values resulting therefrom for securities in domestic corporations neither engaged in nor organized to engage in the insurance business shall be permitted, subject to the requirements of the Securities Act of Arizona, to continue to engage in such program notwithstanding the adoption of this code, provided, however, that no such insurer shall so engage unless the right to buy or the dividends or other policy values subject to exchange shall result from ownership of or be payable on account of a policy which shall from its inception be or which shall, within a period of not to exceed six years from its issue date, become a life insurance policy on a permanent plan other than term. From and after being placed on such permanent plan, every such policy shall be in full compliance with the standard nonforfeiture law (section 31, article 12), computed as from the date of being placed on such permanent plan. No such program shall be engaged in by the insurer subsequent to the expiration of five years from the effective date of

this code, save and except only that any such insurer may, subject to the Securities Act of Arizona, cause to be delivered stock in such corporation for an indefinite period subsequent to such limiting date if the right to acquire such stock arises as a result of a policy actually issued and delivered prior to such date.

Sec. 15. INTERLOCKING OWNERSHIP, MANAGEMENT; MULTIPLE DIRECTORSHIP. (a) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this code, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein.

(b) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to substantially lessen competition between insurers generally or tends to create a monopoly.

Sec. 16. DESIST ORDER FOR DEFINED OR PROHIBITED PRACTICES. (a) If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the director finds that any person in Arizona has engaged or is engaging in any act or practice defined in or prohibited under the preceding sections of this chapter as an illegal or unfair act or practice, the director shall order such person to desist from such acts or practices.

(b) No order of the director pursuant to this section or order of court to enforce it, or holding of a hearing, shall in any manner relieve or absolve any person affected by such order or hearing from any other liability, penalty, or forfeiture under law.

Sec. 17. PREMATURE DISPOSAL OF PREMIUM NOTES PROHIBITED. No insurer or agent thereof shall hypothecate, sell, or dispose of a promissory note received in payment of any part of a premium on a policy of insurance applied for prior to the delivery of the policy.

Sec. 18. FRAUDULENT STATEMENT IN APPLICATION—PENALTY. Any life insurance agent, examining physician or other person who knowingly or wilfully makes a false or fraudulent statement or representation in or relative to an application for life or disability insur-

ance, or who makes any such statement to obtain a fee, commission, money, or benefit shall be guilty of a misdemeanor.

ARTICLE 22. ORGANIZATION AND CORPORATE PROCEDURES OF DOMESTIC STOCK AND MUTUAL INSURERS.

Section 1. SCOPE OF ARTICLE. (a) This article shall apply to domestic stock insurers and domestic mutual insurers only, except that subsection (b) of section 15 and subsection (c) of section 19 of this article shall apply also to foreign and alien mutual insurers.

(b) Any domestic stock or mutual insurer which as of September 1, 1954, had duly filed its articles of incorporation and was lawfully in process of completing its organization, shall complete its organization according to such procedures as were provided by laws in force immediately prior to the effective date of this code.

Any other domestic stock or mutual insurer in process of organization on the effective date of this code shall be governed by such provisions of this article as the director deems to be practicably applicable, and otherwise according to laws in force immediately prior to such effective date.

(c) Existing domestic stock and mutual insurers are governed by the applicable provisions of this article.

Sec. 2. "STOCK" INSURER DEFINED. A "stock" insurer is an incorporated insurer with capital divided into shares and owned by its shareholders.

Sec. 3. "MUTUAL" INSURER DEFINED. A "mutual" insurer is an incorporated insurer without capital stock or shares, and is owned by its policyholders.

Sec. 4. APPLICATION OF GENERAL LAWS. The general statutes of this state relating to corporations formed for profit, except where inconsistent with the provisions of this code and the reasonable implications thereof, shall apply to domestic stock and mutual insurers.

Sec. 5. ARTICLES OF INCORPORATION — CONTENTS. (a) This section applies to stock and mutual insurers hereafter incorporated in Arizona.

(b) Five or more individuals of age of twenty-one years or more may incorporate a stock insurer; ten or more such individuals may incorporate a mutual insurer. Not less than two-thirds of the incorporators shall be citizens of the United States residing in Arizona. The articles of incorporation shall be signed and acknowledged by the incorporators as deeds are required to be acknowledged.

(c) The articles of incorporation shall state:

(1) The name of the corporation; if a mutual, the word "mutual" shall be a part of the name.

(2) The duration of its existence, which may be perpetual.

(3) The kinds of insurance the corporation is formed to transact, according to the definitions thereof in this code. If to be a limited stock insurer, the articles shall provide for limitations upon the insuring powers of the corporation consistent with the provisions of section 8 of this article.

(4) If a stock corporation, its authorized capital, the classes and number of shares into which divided, the par value of each such share, and the respective rights of each such class. Shares without par value shall not be authorized.

(5) If a mutual corporation, the maximum contingent liability of its members, other than as to nonassessable policies, for payment of losses and expenses incurred, which liability shall be as stated in the articles of incorporation but not less than one nor more than six times the premium for the member's policy at the annual premium rate for a term of one year.

(6) The number of directors, not less than five nor more than fifteen, who shall conduct the affairs of the corporation, and the names and addresses of the corporation's first directors and officers for stated terms of office of not less than two months or more than one year.

(7) The time of the annual meeting of stockholders or members.

(8) The city or town in Arizona in which is to be located the principal place of business, and the counties, states, and countries in which business may be transacted.

(9) The limitations, if any, on the corporation's indebtedness.

(10) If a stock corporation, the extent, if any, to which stock of the corporation shall be liable to assessment.

(11) Such other provisions, not inconsistent with law, as deemed appropriate by the incorporators.

(12) The names and addresses of the incorporators.

Sec. 6. FILING, RECORDING, AND PUBLICATION OF ARTICLES—APPOINTMENT OF ATTORNEY FOR SERVICE—ISSUANCE OF CERTIFICATE. (a) The articles of incorporation shall be filed in the office of the

corporation commission, and certified copies thereof shall be filed with the director of insurance and recorded in the office of the county recorder in each county of the state wherein the corporation proposes to transact business.

(b) The articles of incorporation shall be published at least six times in a newspaper published in or having a general circulation in the county of the corporation's principal place of business. Upon completion of such publication, and within three months after recording the certified copy of the articles in the office of county recorder of such county, an affidavit of such publication shall be filed in the office of the corporation commission.

(c) The corporation shall irrevocably appoint the director of insurance its attorney upon whom all process in any action or proceeding may be served and shall file duplicate originals of such appointment in the director's office and in the corporation commission's office.

(d) Upon completion of such filing and recording as to the articles of incorporation, and filing of such appointment of the director as attorney for service of process, the corporation commission shall issue to the corporation a certificate of incorporation. Such corporation shall not transact business as an insurer until it has applied for and received from the director a certificate of authority as provided by this code.

Sec. 7. AMENDMENT OF ARTICLES. (a) The articles of incorporation of a stock insurer increasing or reducing authorized capital or for other purposes may be amended in accordance with the general laws of Arizona applying to corporations formed for profit. No amendment shall reduce authorized capital below the amount required by this code for the kinds of insurance thereafter to be transacted.

(b) The articles of incorporation of a mutual insurer may be amended by the affirmative vote of two-thirds of its members present in person or by proxy at a regular or special meeting of members of which notice in writing setting forth the proposed amendment was mailed to all members at least thirty days in advance. A certificate of the amendments, signed and acknowledged by the president and attested by the secretary of the corporation, shall be filed, recorded and published, as required of the original articles of incorporation.

Sec. 8. LIMITED STOCK INSURERS. (a) Domestic limited stock insurers may be formed, with capital and sur-

plus as specified in sections 10 and 11 of article 3, to transact life and disability insurance only, but such an insurer shall not have power:

(1) To issue any policy or combination of life insurance policies or accept any risk direct or as a reinsurer, under which the maximum possible benefits payable on the death of any one insured shall exceed $5,000 nor without reinsuring the excess over $3,000 by noncancellable reinsurance authorized under section 11 of article 4.

(2) To issue any policy or combination of disability insurance policies, or accept any disability risk direct or as a reinsurer, under which the maximum possible benefits payable to or on account of any one insured shall exceed $5,000.

(3) To issue pure endowment policies or annuity contracts; but this provision shall not prohibit the insurer from issuing life insurance endowment policies, limited payment life, and other standard plans of life insurance policies, nor from providing therein standard settlement options.

(b) By appropriate amendment of its articles of incorporation and increase of its authorized and paid-in capital and its surplus funds to the minimum amount required therefor by this code as for an insurer newly formed, a domestic limited stock insurer may become a domestic stock insurer free from the restrictions otherwise imposed by this section.

(c) Such an insurer may accept reinsurance of risks of limited stock insurers or benefit insurers, subject to limits as to amount of insurance as to any one individual as hereinabove set forth.

Sec. 9. APPLICATIONS FOR INSURANCE IN FORMATION OF MUTUAL INSURER. (a) Upon issuance of its certificate of incorporation as provided in subsection (d) of section 6 of this article, the directors and officers of a domestic mutual corporation formed for the purpose of becoming a mutual insurer may open books for the registration of such requisite applications for insurance policies as they may accept, and may receive deposits of premiums thereon.

(b) All such applications shall be in writing signed by the applicant, covering subjects of insurance resident, located, or to be performed in Arizona.

(c) All such applications shall provide that:

(1) Issuance of the policy is contingent upon com-

pletion of organization of the insurer and issuance to it of a proper certificate of authority;

(2) No insurance is provided until the certificate of authority has been so issued; and

(3) The prepaid premium or deposit, and membership or policy fee, if any, shall be refunded in full to the applicant if the organization is not completed and certificate of authority issued before a specified reasonable date, which date shall be not later than one year following date of issuance of the certificate of incorporation.

(d) All qualifying premiums collected shall be in cash.

(e) Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the director shall upon application therefor issue temporary agent's licenses expiring on the date specified pursuant to paragraph (3), above, to individuals appointed by the corporation and qualified as for a resident agent's license except as to the taking of an examination. The director may suspend or revoke any such license for any of the same causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under article 5.

Sec. 10. FORMATION OF MUTUALS—TRUST DEPOSIT OF PREMIUMS—ISSUANCE OF POLICIES. (a) All sums collected by a domestic mutual corporation as premiums and fees on qualifying applications for insurance therein shall be deposited in trust in an Arizona bank or trust company under a written trust agreement consistent with this section and with paragraph (3) of subsection (c) of section 9 of this article. The corporation shall file an executed copy of such trust agreement with the director.

(b) Upon issuance to the corporation of a certificate of authority as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall forthwith issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the certificate of authority.

Sec. 11. INITIAL QUALIFICATION, DOMESTIC MUTUALS. When newly organized a domestic mutual insurer may be authorized to transact any one kind of insurance other than title insurance. When applying for an original certificate of authority as an insurer, a domestic

mutual insurer must be otherwise qualified therefor under this code,and must have received and accepted bona fide applications with respect to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in full and in cash the proper premium therefor at a rate not less than that usually charged by stock insurers for comparable coverages, must have surplus funds on hand as at completion of issuance of all such policies so applied for, or, in lieu of such applications, premiums, and surplus, may deposit surplus, all in accordance with that portion of the following schedule which applies to the one kind of insurance the insurer then proposes to transact:

(a) Kind of insurance	(b) Minimum no. of applicants accepted	(c) Minimum no. of subjects covered	(d) Minimum premium collected	(e) Minimum amt. of insurance each subject	(f) Maximum amt. of insurance each subject	(g) Minimum surplus funds	(h) Deposit of surplus in lieu (v)
Life (i)	300	300	Annual	$ 500	$ 2000	$ 20,000	$ 50,000
Disability (ii)	300	300	Quarter	$10 weekly indemnity	$25 weekly indemnity	$ 20,000	$ 50,000
Property (iii)	100	250	Annual	$1000	$ 3000	$ 50,000	$100,000
Marine & transportation	100	250	Annual	$1000	$ 3000	$ 50,000	$100,000
Vehicle (iv)	100	250	Annual	$1000	$10,000	$100,000	$100,000
Casualty (iv)	250	250	Annual	$1000	$10,000	$100,000	$150,000
Surety	100	250	Annual	$1000	$10,000	$100,000	$150,000

(i) No group insurance, nor term policies for terms of less than ten years shall be included.

(ii) No group or blanket or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed $2000.

(iii) Only insurance of the owner's interest in real property may be included, and all such coverages must be in compliance with the provisions of section 10(b) of article 4 (two properties reasonably subject to loss from the same fire may not be insured by the same insurer if results in excess of limit of risk).

(iv) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply.

(v) The deposit in the amount specified must thereafter be maintained. The deposit is subject to the provisions of this code governing deposits of insurers in general.

Sec. 12. ADDITIONAL KINDS OF INSURANCE,

MUTUALS. A domestic mutual insurer after being authorized to transact one kind of insurance shall be authorized by the director to transact such additional kinds of insurance as are authorized under section 9 of article 3 and upon otherwise qualifying therefor and depositing and thereafter maintaining on deposit with the state treasurer through the director unimpaired surplus funds in amount not less than the amount of capital required of a domestic stock insurer transacting like kinds of insurance, and subject further to the additional surplus requirements of section 11 of article 3 if applicable (expendable additional surplus in amount of one-half of required surplus if it qualifies to transact more than one kind of insurance within first five years).

Sec. 13. BYLAWS OF MUTUAL. (a) The initial board of directors of a domestic mutual insurer shall adopt original bylaws for the government of the corporation and conduct of its business. Such bylaws shall be subject to the approval of the insurer's members at the next succeeding annual meeting of members, and no bylaw provision shall thereafter be effective which is not so approved. Bylaws shall be revoked or modified only by vote of the insurer's members at a meeting of which notice was given as provided in the bylaws.

(b) The bylaws shall provide that each member of the insurer is entitled to one vote in the election of corporate directors and on all matters coming before membership meetings, and that such vote may be exercised in person or by proxy.

(c) The insurer shall promptly file with the director of insurance a copy, certified by the insurer's secretary, of such bylaws and of every modification thereof or of addition thereto. The director shall disapprove any bylaw provision deemed by him to be unlawful, inadequate, unfair, or detrimental to the proper interests and protection of the insurer's members or any class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

Sec. 14. QUORUM, MEMBERS OF MUTUAL. A domestic mutual insurer may in its bylaws adopt a reasonable provision for determining a quorum of members at any meeting thereof, but no provision recognizing a quorum of fewer than a simple majority of all the insurer's members shall be effective unless approved as reasonable by

the director of insurance. This section shall not affect any other provision of law requiring vote of a larger percentage of members for a specified purpose.

Sec. 15. MEMBERSHIP IN MUTUALS. (a) Each holder of one or more insurance policies or contracts issued by a domestic mutual insurer, other than a contract of reinsurance, is a member of the insurer with all the rights and obligations of such membership, and each such policy or contract so issued shall so specify.

(b) Any person, government or governmental agency, state or political subdivision thereof, public or private corporation, board, association, firm, estate, trustee or fiduciary may be a member of a domestic, foreign, or alien mutual insurer.

Sec. 16. CORPORATE RIGHTS OF MUTUAL MEMBERS. With respect to the management, records, and affairs of the insurer, a member of a domestic mutual insurer shall have the same character of rights and relationship as a stockholder has toward a domestic stock insurer.

Sec. 17. CONTINGENT LIABILITY OF MUTUAL MEMBERS. (a) Each member of a domestic mutual insurer shall, except as otherwise hereinafter provided with respect to nonassessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, which contingent liability shall be in such maximum amount as it stated in the insurer's articles of incorporation.

(b) Each policy issued by the insurer shall contain a statement of the contingent liability, if any, of its members.

(c) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion, if any, of the obligations of the insurer which accrued while the policy was in force.

(d) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

Sec. 18. ENFORCEMENT OF CONTINGENT LIABILITY. (a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this code for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who at any time within the twelve months immediately

preceding the date notice of such assessment was mailed to them held policies providing for contingent liability, and such members shall be liable to the insurer for the amount so assessed.

(b) The assessment shall be for such an amount as is required to cure such deficiency and to provide a reasonable amount of working funds above such minimum amount of surplus, but such working funds so provided shall not exceed five percent of the insurer's liabilities as of the date as of which the amount of such deficiency was determined.

(c) No one policy or member as to such policy shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by the insurer in any one calendar year, in excess of the number of times the premium as stated in the policy as computed solely upon premium earned on such policy during that year.

(d) No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or loss payable.

(e) As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the director of insurance as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held by the insurer to the credit of such member.

Sec. 19. NONASSESSABLE POLICIES, MUTUAL INSURERS. (a) While it maintains on deposit with the state treasurer through the director surplus funds in amount not less than the paid-in capital required of a domestic stock insurer transacting like kinds of insurance, a domestic mutual insurer may extinguish the contingent liability of its members as to all its policies in force, and may omit provisions imposing contingent liability in all its policies currently issued.

(b) When such surplus funds have been so deposited and the director has so ascertained, he shall issue to the insurer at its request his certificate authorizing such extinguishment and omission of contingent liability.

(c) A foreign or alien mutual insurer may issue nonassessable policies to its members in this state in accordance with its charter and the laws of its domicile.

Sec. 20. NONASSESSABLE POLICIES, REVOCA-

TION OF AUTHORITY. (a) The director shall revoke the authority of a domestic mutual insurer to issue policies without contingent liability if at any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority, or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that the authority be revoked.

(b) Upon revocation of such authority for any cause the insurer shall not thereafter issue new policies without contingent liability, nor renew or accept further premiums on old policies without endorsing them to provide for such liability.

Sec. 21. PARTICIPATING POLICIES. (a) If so provided in its articles of incorporation, a domestic stock or domestic mutual insurer may issue any or all of its policies with or without participation in profits, savings, or unabsorbed portions of premiums, may classify policies issued on a participating or nonparticipating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policyholders within the same such classification. A life insurer may issue both participating and non-participating policies only if the right or absence of right to participate is reasonably related to the premium charged.

(b) No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Sec. 22. DIVIDEND TO STOCKHOLDERS. (a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(b) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer pursuant to section 25 of this article.

(c) A dividend otherwise proper, may be payable out of the insurer's earned surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

Sec. 23. DIVIDENDS TO MUTUAL POLICYHOLDERS. (a) The directors of a domestic mutual insurer may from time to time apportion and pay or credit to its

members dividends only out of that part of its surplus funds which represents net realized savings and net realized earnings from its business.

(b) A dividend otherwise proper may be payable out of such savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus.

Sec. 24. ILLEGAL DIVIDENDS — PENALTY. (a) Any director of a domestic stock or mutual insurer who votes for or concurs in declaration or payment of an illegal dividend to stockholders or members shall upon conviction thereof be guilty of a misdemeanor, and shall be jointly and severally liable, together with other such directors, for any loss thereby sustained by the insurer.

(b) The stockholders or members receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

(c) The director of insurance may revoke or suspend the certificate of authority of an insurer which has declared or paid an illegal dividend.

Sec. 25. BORROWED SURPLUS. (a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose required by its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at the rate agreed upon but not exceeding six percent per annum, which interest shall or shall not constitute a liability of the insurer as to its funds other than such excess of surplus, as stipulated in the agreement.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any set-off; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) If a domestic mutual insurer, the insurer in advance of any such loan shall file with the director of insurance a statement of the purposes of the loan and a copy of the proposed loan agreement, which shall be subject to the director's approval. The loan and agreement shall be deemed approved unless within fifteen days after date of

such filing the insurer is notified in writing of the director's disapproval and the reasons therefor. The director shall so disapprove any such proposed loan or agreement if he finds that the loan is reasonably unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate, specifying the respects in which it is so inadequate.

(d) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by a mutual insurer unless in advance approved by the director of insurance.

(e) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge of assets.

Sec. 26. PROHIBITED INTERESTS OF OFFICERS, DIRECTORS IN CERTAIN TRANSACTIONS. (a) No director or officer of an insurer shall accept, except for the insurer, or be the beneficiary of any fee, brokerage, gift, or other emolument in addition to his fixed salary or compensation, because of any investment, loan, deposit, purchase, sale, exchange, reinsurance, or other similar transaction made by or for the insurer, or be pecuniarily interested therein in any capacity except on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director or officer from becoming a policyholder of the insurer and enjoying thereunder the rights customarily provided therein for holders of such policies.

Sec. 27. MANAGEMENT AND EXCLUSIVE AGENCY CONTRACTS. (a) No domestic stock or mutual insurer shall make any contract whereby any person or persons is granted or is to enjoy in fact the management of the insurer to the substantial exclusion of its board of directors, or to have the controlling or preemptive right to produce substantially all insurance business for the insurer, unless such contract is filed with the director of insurance and be subject to his approval. The contract shall be deemed approved unless disapproved by the director within twenty days after date of filing, subject to such

reasonable extension of time as the director may require by notice given within such twenty days. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

(b) The director shall disapprove any such contract if he finds that it:

(1) Subjects the insurer to excessive charges; or

(2) Is to extend for an unreasonable length of time; or

(3) Does not contain fair and adequate standards of performance; or

(4) Contains other inequitable provisions or provisions which impair the proper interests of stockholders or members of the insurer.

Sec. 28. IMPAIRMENT OF CAPITAL OR ASSETS. (a) If the capital stock of a stock insurer becomes impaired, or the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this code for authority to transact the kinds of insurance being transacted, the director shall at once determine the amount of the deficiency and serve notice upon the insurer to make good the deficiency within ninety days after service of such notice.

(b) The deficiency may be made good in cash or in assets eligible under this code for the investment of the insurer's funds; or if a stock insurer by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of its certificate of authority to cover only such kind or kinds of insurance for which the insurer has on deposit sufficient surplus.

(c) If the deficiency is not made good and proof thereof filed with the director within such ninety-day period, the insurer shall be deemed insolvent and the director shall institute delinquency proceedings against it as authorized by this code. If such deficiency exists because of increased loss reserves required by the director, or because of disallowance by the director of certain assets or reduction of the value at which carried in the insurer's accounts, the director may in his discretion and upon application and good cause shown, extend for not more than an additional ninety days the period within which such deficiency may be so made good and such proof thereof so filed.

Sec. 29. MUTUALIZATION OF STOCK INSURER.

(a) A domestic stock insurer other than a title insurer may become a domestic mutual insurer pursuant to such plan and procedure as may be approved in advance by the director of insurance.

(b) The director shall not approve any such plan, procedure, or mutualization unless:

(1) It is equitable to both stockholders and policyholders;

(2) It is subject to approval by a vote of the holders of not less than three-fourths of the insurer's capital stock having voting rights and by a vote of not less than two-thirds of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the director;

(3) If a life insurer, the right to vote thereon is limited to those policy holders whose policies have face amounts of not less than $1,000 and have been in force for one year or more;

(4) Mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;

(5) The plan provides for the purchase of the shares of any nonconsenting stockholder in accordance with the provisions of section 53-507, Arizona Code of 1939, and such nonconsenting stockholders shall have all the rights and restrictions applicable under said section to stockholders of a private corporation who do not consent to the agreed manner of converting the shares of stock of such private corporation upon proposal for consolidation;

(6) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(7) The mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to continue successfully in business in the states in which it is then authorized to transact insurance, and for the kinds of insurance included in its certificate of authority.

(c) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under article 24.

Sec. 30. CONVERTING MUTUAL INSURER. (a) A domestic mutual insurer may become a domestic stock

insurer pursuant to such plan and procedure as it approved in advance by the director of insurance.

(b) The director shall not approve any such plan or procedure unless:

(1) Equitable to the insurer's members;

(2) Subject to approval by vote of not less than three-fourths of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such notice and procedure as may be approved by the director; if a life insurer right to vote may be limited to members whose policies have face amounts of not less than $1,000 and have been in force one year or more;

(3) The equity of each policyholder in the insurer is determinable under a fair formula approved by the director, which such equity shall be based upon not less than the insurer's entire surplus (after deducting contributed or borrowed surplus funds) plus a reasonable present equity in its reserves and in all non-admitted assets;

(4) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been a policyholder of the insurer within three years prior to the date such plan was submitted to the director;

(5) The plan gives to each policyholder of the insurer as specified in paragraph (4), above, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under paragraph (3), above;

(6) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others nor at more than double the par value of such shares;

(7) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for or upon the purchase price of stock to which preemptively entitled, of cash in the amount of not less than fifty per cent of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

(8) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not

less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of such required capital.

Sec. 31. MERGERS AND CONSOLIDATIONS, STOCK INSURERS. (a) A domestic stock insurer of any kind may merge or consolidate with another domestic or foreign stock insurer by complying with the provisions of general law governing the merger or consolidation of stock corporations formed for profit, but subject to subsection (b), below.

(b) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with and approved in writing by the director of insurance. The director shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Is contrary to law; or

(2) Inequitable to the stockholders of any domestic insurer involved; or

(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in Arizona or elsewhere.

(c) If the director does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 32. REINSURANCE, STOCK INSURERS. (a) A domestic stock insurer or a domestic limited stock insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct, unless such reinsurance is prohibited by its articles of incorporation.

(b) A domestic stock insurer or limited stock insurer may reinsure all or substantially all its business in force, or substantially all of a major class thereof, with another insurer by an agreement of bulk reinsurance; but no such agreement shall become effective unless filed with and approved in writing by the director.

(c) The director shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or service to its policyholders. If the director does not approve the agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 33. MERGERS AND CONSOLIDATIONS, MUTUAL INSURERS. (a) A domestic mutual insurer shall not merge or consolidate with a stock insurer.

(b) A domestic mutual insurer may merge or consolidate with another mutual insurer in accordance with procedures prescribed by general laws applying to corporations formed for profit, except as hereinbelow provided.

(c) The plan and agreement for merger or consolidation shall be submitted to and approved by at least two-thirds of the members of each mutual insurer involved voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the director of insurance. If a life insurer, right to vote may be limited to members whose policies are in face amount of not less than $1,000 and have been in force one year or more.

(d) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with and approved in writing by the director of insurance. The director shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Inequitable to the policyholders of any domestic insurer involved; or

(2) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in Arizona or elsewhere.

If the director does not approve such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 34. REINSURANCE, MUTUAL INSURERS. (a) A domestic mutual insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct unless such reinsurance is prohibited by its articles of incorporation.

(b) A domestic mutual insurer may reinsure all or substantially all its business in force, or all or substantially all of a major class thereof, with another insurer, stock or mutual, by an agreement of bulk reinsurance after compliance with this section.

(c) In advance of such reinsurance the agreement therefor shall be filed with and be subject to the approval of the director within a reasonable time after such filing. The director shall not approve the agreement unless he finds it to be fair and equitable to each domestic insurer involved,

and that such reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. If the director does not so approve, he shall so notify each insurer involved in writing specifying his reasons therefor.

(d) The plan and agreement for such reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer's members voting thereon at meetings of members called for the purpose, pursuant to such reasonable notice and procedure as the director may approve. If a life insurer, right to vote may be limited to members whose policies have face amounts of not less than $1,000 and have been in force one year or more.

(e) If for reinsurance of a mutual insurer in a stock insurer, the agreement must provide for payment in cash to each member of the insurer entitled thereto as upon a conversion of such insurer pursuant to paragraph (4) of subsection (b) of section 30 of this article, of his equity in the business reinsured as determined under a fair formula approved by the director, which such equity shall be based upon such member's equity in the reserves, assets (whether or not admitted assets), and surplus, if any, of the mutual insurer to be taken over by the stock insurer.

Sec. 35. MUTUAL MEMBER'S SHARE OF ASSETS ON LIQUIDATION. (a) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within thirty-six months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority, whichever date is the earliest.

(b) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership, bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and if a life insurer shall, make a reasonable classification of its policies so held by such members and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the director of insurance.

ARTICLE 23. RECIPROCAL INSURERS.

Section 1. "RECIPROCAL" INSURANCE DEFINED. "Reciprocal" insurance is that resulting from an inter-exchange among persons, known as "subscribers," of reciprocal agreements of indemnity, the inter-exchange being effectuated through an "attorney-in-fact" common to all such persons.

Sec. 2. "RECIPROCAL INSURER" DEFINED. A "reciprocal insurer" means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves.

Sec. 3. SCOPE OF ARTICLE—EXISTING INSURERS. (a) All authorized reciprocal insurers shall be governed by those sections of this article not expressly made applicable to domestic reciprocals.

(b) Existing authorized reciprocal insurers shall after the effective date of this code comply with the provisions of this article, and shall make such amendments to their subscribers' agreement, power of attorney, policies and other documents and accounts and perform such other acts as may be required for such compliance.

Sec. 4. INSURING POWERS OF RECIPROCALS. (a) A reciprocal insurer may, upon qualifying therefor as provided for by this code, transact any kind or kinds of insurance defined by this code, other than life or title insurances.

(b) Such an insurer may purchase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance it is authorized to transact direct.

Sec. 5. NAME, SUITS. A reciprocal insurer shall:

(a) Have and use a business name. The name shall include the word "reciprocal," or "inter-insurer," or "inter-insurance," or "exchange," or "underwriters," or "underwriting."

(b) Sue and be sued in its own name.

Sec. 6. ATTORNEY. (a) "Attorney," as used in this article refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, firm, or corporation.

(b) The attorney of a foreign or alien reciprocal insurer, which insurer is duly authorized to transact insurance in this state, shall not, by virtue of discharge of its duties as such attorney with respect to the insurer's transactions in this state, be thereby deemed to be doing business in this state within the meaning of any laws of this state apply-

ing to foreign firms or corporations.

Sec. 7. SURPLUS FUNDS REQUIRED. (a) A domestic reciprocal insurer hereunder formed, if it has otherwise complied with the provisions of this code, may be authorized to transact insurance if it deposits and maintains on deposit with the state treasurer through the office of the director, surplus funds as follows:

(1) To transact property insurance, surplus funds of not less than one hundred thousand dollars.

(2) To transact vehicle insurance, surplus funds of not less than one hundred and fifty thousand dollars.

(b) A domestic reciprocal insurer may be authorized to transact additional kinds of insurance if it has otherwise complied with the provisions of this code therefor and possesses and so maintains on deposit surplus funds in amount equal to the minimum capital required of a stock insurer for authority to transact a like combination of kinds of insurance.

Sec. 8. ORGANIZATION OF RECIPROCAL INSURER. (a) Twenty-five or more persons domiciled in Arizona may organize a domestic reciprocal insurer and make application to the director for a certificate of authority to transact insurance.

(b) The proposed attorney shall fulfill the requirements of and shall execute and file with the director when applying for a certificate of authority, a declaration setting forth:

(1) The name of the insurer;

(2) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(3) The kinds of insurance proposed to be transacted;

(4) The names and addresses of the original subscribers;

(5) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(6) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(7) The powers of the subscribers' advisory committee, and the names and terms of office of the members thereof;

(8) That all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(9) A copy of the subscribers' agreement;

(10) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate theretofore filed with and approved by the director;

(11) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section 7 of this article is on hand;

(12) A copy of each policy, endorsement, and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgement of deeds.

Sec. 9. CERTIFICATE OF AUTHORITY. (a) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(b) The director may refuse, suspend, or revoke the certificate of authority, in addition to other grounds therefor, for failure of the attorney to comply with any provision of this code.

Sec. 10. POWER OF ATTORNEY. (a) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

(b) The power of attorney must set forth:

(1) The powers of the attorney;

(2) That the attorney is empowered to accept service of process on behalf of the insurer and to authorize the director to receive service of process in actions against the insurer upon contracts exchanged;

(3) The general services to be performed by the attorney;

(4) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer;

(5) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount which amount shall be not less than one nor more than ten times the premium or premium deposit stated in the policy.

(c) The power of attorney may:

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights there-

under;

(2) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(3) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;

(4) Contain other lawful provisions deemed advisable.

(d) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement shall be used or be effective in Arizona until approved by the director.

Sec. 11. MODIFICATIONS. Modification of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto.

Sec. 12. ATTORNEY'S bond. (a) Concurrently with the filing of the declaration provided for in section 8 of this article, the attorney of a domestic reciprocal insurer shall file with the director a bond in favor of the state of Arizona for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection (b) hereof. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the director's approval.

(b) The bond shall be in the penal sum of twenty-five thousand dollars, aggregate in form, conditioned that the attorney will faithfully account for all monies and other property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any monies or property to which he is not entitled under the power of attorney.

(c) The bond shall provide that it is not subject to cancellation unless thirty days' advance notice in writing of cancellation is given both the attorney and the director.

Sec. 13. DEPOSIT IN LIEU OF BOND. In lieu of such bond, the attorney may maintain on deposit with the state treasurer through the office of the director a like amount in cash or in value of securities qualified under this code as insurers' investments, and subject to the same conditions as the bond.

Sec. 14. ACTION ON BOND. Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its condi-

tions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and become part of the insurer's funds. The total aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

Sec. 15. LEGAL PROCESS SERVICE—JUDGMENT. (a) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the director of insurance as the insurer's attorney-in-fact.

(b) Any judgment based upon legal process so properly served shall be binding upon each of the insurer's subscribers as their respective interests may appear, but in an amount not exceeding their respective contingent liabilities, if any, the same as though personal service of process was had upon each such subscriber.

Sec. 16. ANNUAL STATEMENT. (a) The annual statement of a reciprocal insurer shall be made and filed by its attorney.

(b) The statement shall be supplemented by such information as may be required by the director relative to the affairs and transactions of the attorney.

Sec. 17. CONTRIBUTIONS TO INSURER. The attorney or other parties may advance to a domestic reciprocal insurer upon reasonable terms such funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and, except upon liquidation of the insurer, shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the director.

Sec. 18. FINANCIAL CONDITION — METHOD OF DETERMINING. In determining the financial condition of a reciprocal insurer the director shall apply the following rules:

(a) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

(b) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposit delinquent for ninety days shall first be charged against such surplus deposit.

(c) The surplus deposits of subscribers shall not be

charged as a liability.

(d) All premium deposits delinquent less than ninety days shall be allowed as assets.

(e) An assessment levied upon subscribers, and not collected, shall not be allowed as an asset.

(f) The contingent liability of subscribers shall not be allowed as an asset.

(g) The computation of reserves shall be based upon premium deposits other than membership fees and without any deduction for the compensation of the attorney.

Sec. 19. WHO MAY BE SUBSCRIBERS. Individuals, partnerships, and corporations of this state may make application, enter into agreement for and hold policies or contracts in or with and be a subscriber of any domestic, foreign, or alien reciprocal insurer. Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority as a subscriber to exchange insurance contracts through such reciprocal insurance. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and to be as fully granted as the rights and powers expressly conferred upon such corporations. Government or governmental agencies, state or political subdivisions thereof, boards, associations, estates, trustees or fiduciaries are authorized to exchange nonassessable reciprocal inter-insurance contracts with each other and with individuals, partnerships, and corporations to the same extent that individuals, partnerships and corporations are herein authorized to exchange reciprocal inter-insurance contracts. Any officer, representative, trustee, receiver, or legal representative of any such subscriber shall be recognized as acting for or on its behalf for the purpose of such contract but shall not be personally liable upon such contract by reason of acting in such representative capacity.

Sec. 20. SUBSCRIBERS' ADVISORY COMMITTEE. (a) The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

(b) Not less than two-thirds of such committee shall be subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

(c) The committee shall:

(1) Supervise the finances of the insurer;

(2) Supervise the insurer's operations to such extent as to assure conformity with the subscribers' agreement and power of attorney;

(3) Procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer;

(4) Have such additional powers and functions as may be conferred by the subscribers' agreement.

Sec. 21. SUBSCRIBER'S LIABILITY. (a) The liability of each subscriber, other than as to a nonassessable policy, for the obligations of the reciprocal insurer shall be an individual, several, and proportionate liability, and not joint.

(b) Except as to a nonassessable policy each subscriber shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than ten times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 25 of this article.

(c) Each assessable policy issued by the insurer shall contain a statement of the contingent liability, set in type of the same prominence as the insuring clause.

Sec. 22. SUBSCRIBER'S LIABILITY ON JUDGMENTS. (a) No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

(b) Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in amount not exceeding his contingent liability, if any.

Sec. 23. ASSESSMENTS. (a) Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the director; or by the director in liquidation of the insurer.

(b) Each subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section 25 of this article, shall be computed by applying to the premium earned on the subscriber's policy or

policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(c) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

(d) No subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Sec. 24. TIME LIMIT FOR ASSESSMENT. Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this article, if,

(a) While his policy is in force or within one year after its termination, he is notified by either the attorney or the director of his intentions to levy such assessment, or

(b) If an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.

Sec. 25. AGGREGATE LIABILITY. No one policy or subscriber as to such policy, shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

Sec. 26. NONASSESSABLE POLICIES. (a) If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock generally required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the director shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this state, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this state for so long as all such surplus remains unimpaired.

(b) Upon impairment of such surplus, the director shall

forthwith revoke the certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The director shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

Sec. 27. DISTRIBUTION OF SAVINGS. A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings, or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers, but this shall not prevent retrospective rating, nor distribution on a retrospective plan.

Sec. 28. SUBSCRIBER'S SHARE IN ASSETS. Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus made as provided in section 17 of this article, and the return of any unused premium, savings, or credits then standing on subscribers' accounts, shall be distributed to its subscribers who were such within the twelve months prior to the last termination of its certificate of authority, according to such reasonable formula as the director may approve.

Sec. 29. MERGER OR CONVERSION. A domestic reciprocal insurer upon affirmative vote of not less than two-thirds of its subscribers who vote on such merger pursuant to due notice and the approval of the director of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

(b) Such a stock or mutual insurer shall be subject to the same capital requirements and shall have the same rights as a like domestic insurer transacting like kinds of

insurance.

(c) The director shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 28 of this article and a reasonable length of time within which to exercise such right.

Sec. 30. IMPAIRED RECIPROCALS. (a) If the assets of a reciprocal insurer are at any time insufficient to discharge its liabilities, other than any liability on account of funds contributed by the attorney or others, and to maintain the required surplus, its attorney shall forthwith make up the deficiency or levy an assessment upon the subscribers for the amount needed to make up the deficiency; but subject to the limitation set forth in the power of attorney or policy.

(b) If the attorney fails to make up such deficiency or to make the assessment within thirty days after the director orders him to do so, or if the deficiency is not fully made up within sixty days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this code.

(c) If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount, subject to limits as provided by this article, as the director determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

Article 24. REHABILITATION AND LIQUIDATION.

Section 1. DEFINITIONS. For the purpose of this article:

(a) "Impairment" or "insolvency." The capital of a stock insurer, limited capital stock insurer, or benefit stock insurer, or the surplus of a mutual or reciprocal insurer, shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer shall not be possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer required by this code to be maintained for the kind or kinds of insurance it is then

authorized to transact.

(b) "Insurer" means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the director or the equivalent insurance supervisory official of another state.

(c) "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to this article for the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

(d) "State" means any state of the United States and also the District of Columbia, Alaska, Hawaii, and Puerto Rico.

(e) "Foreign country" means territory not in any state.

(f) "Domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

(g) "Ancillary state" means any state other than a domiciliary state.

(h) "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section 21 of this article, are in force, including the provisions requiring that the director of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(i) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(j) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords

priority of payments from the general assets of the insurer.

(k) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(l) "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.

(m) "Receiver" means receiver, liquidator, rehabilitator, or conservator as the context may require.

Sec. 2. JURISDICTION OF DELINQUENCY PROCEEDINGS — VENUE — EXCLUSIVENESS OF REMEDY—APPEAL. (a) The superior court is vested with exclusive original jurisdiction of delinquency proceedings under this article, and is authorized to make all necessary and proper orders to carry out the purposes of this article.

(b) The venue of delinquency proceedings against a domestic insurer shall be in the county of the insurer's principal place of business. The venue of such proceedings against foreign and alien insurers shall be in Maricopa county.

(c) Delinquency proceedings pursuant to this article shall constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court shall entertain a petition for the commencement of such proceedings unless the same has been filed in the name of the state on the relation of the director of insurance.

(d) An appeal shall lie to the supreme court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every other order in delinquency proceedings having the character of a final order as to the particular portion of the proceedings embraced therein.

Sec. 3. COMMENCEMENT OF DELINQUENCY PROCEEDINGS. The director of insurance shall commence any such proceeding, the attorney general representing him, by an application to the court for an order directing the insurer to show cause why the director should not have the relief prayed for. On the return of such order to

show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of policyholders, creditors, stockholders, members, subscribers, or the public may require.

Sec. 4. INJUNCTIONS. (a) Upon application by the director for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(b) The court may at any time during a proceeding under this article issue such other injunctions or orders as may be deemed necessary to prevent interference with the director or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

(c) Notwithstanding any other provision of law, no bond shall be required of the director as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

Sec. 5. GROUNDS FOR REHABILITATION — DOMESTIC INSURERS. The director may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer:

(a) Is impaired or insolvent.

(b) Has refused to submit its books, records, accounts or affairs to reasonable examination by the director.

(c) Has failed to comply with an order of the director to make good an impairment of capital or surplus or both.

(d) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the director.

(e) Has wilfully violated its charter or any law of this state.

(f) Has an officer, director, or manager who has refused to be examined under oath concerning its affairs, for which purpose the director is hereby authorized to con-

duct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director, or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.

(g) Has been the subject of an application for the appointment of a receiver, trustee, custodian, or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this code, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction hereunder;

(h) Has consented to such an order through a majority of its directors, stockholders, members or subscribers.

(i) Has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within thirty days after the judgment became final or within thirty days after the time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final termination, whichever date is the later.

Sec. 6. GROUNDS FOR LIQUIDATION. The director may apply to the court for an order appointing him as receiver (if his appointment as receiver shall not be then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 5 of this article, or if such insurer:

(a) Has ceased transacting business for a period of one year, or

(b) Is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this code.

Sec. 7. GROUNDS FOR CONSERVATION—FOREIGN INSURERS. The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of a foreign insurer upon any of the following grounds:

(a) Upon any of the grounds specified in sections 5 or

6 of this article, or

(b) Upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty.

Sec. 8. GROUNDS FOR CONSERVATION—ALIEN INSURERS. The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of any alien insurer upon any of the following grounds:

(a) Upon any of the grounds specified in sections 5 or 6 of this article.

(b) Upon the ground that the insurer has failed to comply, within the time designated by the director, with an order made by him to make good an impairment of its trusteed funds, or

(c) Upon the ground that the property of the insurer has been sequestrated in its domiciliary sovereignty or elsewhere.

Sec. 9. GROUNDS FOR ANCILLARY LIQUIDATION—FOREIGN INSURERS. The director may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business, or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of such insurer.

Sec. 10. ORDER OF REHABILITATION—TERMINATION. (a) An order to rehabilitate a domestic insurer shall direct the director forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(b) If at any time the director deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(c) The director, or any interested person upon due notice to the director, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be granted except when, after a full hearing, the court has determined that the purposes of the proceeding have been fully accomplished.

Sec. 11. ORDER OF LIQUIDATION—DOMESTIC INSURERS. (a) An order to liquidate the business of a domestic insurer shall direct the director forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as director of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

(b) The director may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of such insurer or at any time after such order has been granted.

Sec. 12. ORDER OF LIQUIDATION—ALIEN INSURERS. An order to liquidate the business of a United States branch of an alien insurer having trusteed assets in this state shall be in the same terms as those prescribed for domestic insurers, save and except only that the assets of the business of such United States branch shall be the only assets included therein.

Sec. 13. ORDER OF CONSERVATION OR ANCILLARY LIQUIDATION OF FOREIGN OR ALIEN INSURERS. (a) An order to conserve the assets of a foreign or alien insurer shall require the director forthwith to take possession of the property of the insurer within this state and to conserve it, subject to the further direction of the court.

(b) An order to liquidate the assets in this state of a foreign insurer shall require the director forthwith to take possession of the property of the insurer within this state and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this article.

Sec. 14. CONDUCT OF DELINQUENCY PROCEEDINGS AGAINST DOMESTIC AND ALIEN INSURERS. (a) Whenever under this article a receiver is to be appointed in delinquency proceedings for a domestic or alien insurer, the court shall appoint the director of insurance as such receiver. The court shall order the director forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

(b) As domiciliary receiver, the director shall be vested by operation of law with the title to all of the property, contracts, and rights of action and all of the books and records of the insurer, wherever located, as of the date of

entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this state as to assets located in this state.

(c) The recording of a certified copy of the order directing possession to be taken in the office of the county recorder of the county where the proceedings are pending shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly recorded or filed.

(d) The director as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this article for the purpose of rehabilitating, liquidating, or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the director may appoint one or more special deputy directors of insurance to act for him and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

Sec. 15. CONDUCT OF DELINQUENCY PROCEEDINGS AGAINST FOREIGN INSURERS. (a) Whenever under this article an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the director of insurance as ancillary receiver. The director shall file a

petition requesting the appointment on the grounds set forth in section 9 of this article (1) if he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver, or (2) if ten or more persons resident in this state having claims against such insurer file a petition with the director requesting the appointment of such ancillary receiver.

(b) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts, and rights of action and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state, except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets as a receiver of an insurer domiciled in this state.

(c) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover any assets of such insurer to which he may be entitled under the laws of this state.

Sec. 16. CLAIMS OF NONRESIDENTS AGAINST DOMESTIC INSURERS. (a) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either (1) be proved in this state, or (2) if ancillary proceedings have been commenced

in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domicilary receiver of this state as provided in section 17 of this article with respect to ancillary proceedings in this state, the final allowance of such claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Sec. 17. CLAIMS AGAINST FOREIGN INSURERS. (a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this state may either (1) be proved in the domiciliary state as provided by the law of that state, or (2) if ancillary proceedings have been commenced in this state, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

Sec. 18. PROOF OF CLAIMS—NOTICE—HEARING. (a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable

detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

(b) All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state, on or before the last date for filing as specified in this article.

(c) Within ten days of the receipt of any claim, or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

Sec. 19. PRIORITY OF CERTAIN CLAIMS. (a) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. All such claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where such assets are located.

(b) In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this state shall be preferred if like claims are preferred by the laws of that state.

(c) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits.

If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

(d) The owner of a secured claim against an insurer for which a receiver has been appointed in this or any other state may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this article or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amounts shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

Sec. 20. ATTACHMENT AND GARNISHMENT OF ASSETS. During the pendency of delinquency proceedings in this or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment or execution shall be commenced or maintained in the courts of this state against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

Sec. 21. UNIFORM INSURERS LIQUIDATION ACT. (a) Paragraphs (b) to (m), inclusive, of section 1 of this article, together with sections 3, 4, 14 to 20, inclusive, of this article constitute and may be referred to as the uniform insurers liquidation act.

(b) The uniform insurers liquidation act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. To the extent that its provisions when applicable conflict with other provisions of this article the provisions of such act shall control.

Sec. 22. DEPOSIT OF MONIES COLLECTED. The monies collected by the director in a proceeding under this

article shall be from time to time deposited in one or more state or national banks, savings banks, or trust companies, and in the case of the insolvency or voluntary or involuntary liquidation of any such depositary which is an institution organized and supervised under the laws of this state, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this state. The director may in his discretion deposit such monies or any part thereof in a national bank or trust company as a trust fund.

Sec. 23. EXEMPTION FROM FEES. The director shall not be required to pay any fee to any public officer in this state for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the director of any of the powers or duties conferred upon him under this article, whether or not such paper or instrument be executed by the director or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the director, or with the subsequent conduct of such action or proceding.

Sec. 24. BORROWING ON PLEDGE OF ASSETS. For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this article, the director may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of such insurer, and the director subject to the approval of the court, shall have power to take any and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The director shall be under no obligation personally or in his official capacity to repay any loan made pursuant to this section.

Sec. 25. DATE RIGHTS FIXED ON LIQUIDATION. The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers, and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this article with respect to the rights of claimants holding contingent claims.

Sec. 26. VOIDABLE TRANSFERS. (a) Any transfer of, or lien upon, the property of an insurer which is made or created within four months prior to the granting of an order to show cause under this article with the intent of giving to any creditor or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor having reasonable cause to believe that such preference will occur, shall be voidable.

(b) Every director, officer, employee, stockholder, member, subscriber, and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer or the benefit thereof shall be personally liable therefor and shall be bound to account to the director of insurance.

(c) The director of insurance as receiver in any proceeding under this article may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the granting of an order to show cause under this article. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

Sec. 27. PRIORITY OF CLAIMS FOR COMPENSATION. (a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this article, but not exceeding $300 for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the director may be paid as soon as practicable after the proceeding has been commenced; except that at all times the director shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(b) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

Sec. 28. OFFSETS. (a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in sub-

section (b), below.

(b) No offset shall be allowed in favor of any such person where (1) the obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section 25 of this article, entitle him to share as a claimant in the assets of the insurer, or (2) the obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

Sec. 29. ALLOWANCE OF CERTAIN CLAIMS. (a) No contingent claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this article, except that such claim shall be considered, if properly presented, and may be allowed to share where:

(1) Such claim becomes absolute against the insurer on or before the last day for filing proof of claims against the assets of such insurer, or

(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(b) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and

(2) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made, and

(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than is maximum liability would be were it not in liquidation.

(c) No judgment against such an insured taken

after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceedings, either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

(d) No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for determining rights and liabilities as provided in section 25 of this article unless the claimant shall surrender his security to the director, in which event the claim shall be allowed in the full amount for which it is valued.

Sec. 30. TIME TO FILE CLAIMS. (a) If upon the granting of an order of liquidation under this article or at any time thereafter during the liquidation proceeding, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon regardless of any prior notice which may have been given to creditors, the director shall notify all persons who may have claims against such insurer and who have not filed proper proofs thereof to present the same to him, at a place specified in such notice, within four months from the date of entry of such order, or if the director shall certify that it is necessary, within such longer time as the court shall prescribe. The last day for filing of proofs of claims shall be specified in the notice, and notice shall be given in a manner to be determined by the court.

(b) Proofs of claim may be filed subsequent to the date specified, but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

Sec. 31. REPORT FOR ASSESSMENT. Within three years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was filed in the office of the clerk of the court by which such order was made, the director may make a report to the court setting forth:

(a) The reasonable value of the assets of the insurer,

(b) The insurer's probable liabilities, and

(c) The probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

Sec. 32. LEVY OF ASSESSMENT. (a) Upon the basis of the report provided for in section 31 of this article, including any amendments thereof, the court, ex parte, may levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one year prior to the date of issuance of the order to show cause under section 3 of this article.

(b) Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectibility thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this article or pursuant to any other provision of this code, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this code, except that if the court finds that the policy was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

(c) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with this code.

Sec. 33. ORDER TO PAY ASSESSMENT. After levy of assessment as provided in section 32 of this article, upon the filing of a further detailed report by the director the court shall issue an order directing each member (if a mutual insurer) or each subscriber (if a reciprocal insurer), if he shall not pay the amount assessed against him to the director on or before a day to be specified in the order, to show cause why he should not be held liable to pay such assessment, together with costs as provided in section 35 of this article, and to show cause why the director should not have judgment therefor.

Sec. 34. PUBLICATION AND SERVICE OF ASSESSMENT ORDER. The director shall cause a notice of such assessment order, setting forth a brief summary of

the contents of such order, to be (a) published in such manner as shall be directed by the court, and (b) enclosed in a sealed envelope, addressed and mailed postage prepaid, to each member or subscriber liable thereunder at his last known address as it appears on the records of the insurer, at least twenty days before the return day of the order to show cause provided for in section 33 of this article.

Sec. 35. JUDGMENT UPON THE ASSESSMENT. (a) Upon the return day of the order to show cause provided for in section 33 of this article, if the member or subscriber does not appear and serve duly verified objections upon the director, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him, together with costs, and that the director may have judgment against the member or subscriber therefor.

(b) If, on such return day, the member or subscriber shall appear and serve duly verified objections upon the director, there shall be a full hearing before the court which, after such hearing, shall make such order as the facts shall warrant.

(c) Any such order shall have the same force and effect, shall be entered and docketed and may be appealed from, as if it were a judgment in an original action brought in the court in which the preceeding is pending.

ARTICLE 25. HOSPITAL AND MEDICAL SERVICE CORPORATIONS.

Section 1. SCOPE OF ARTICLE—DEFINITION. (a) Hospital service corporations, medical service corporations, and hospital and medical service corporations now or hereafter incorporated in this state shall be governed by this article, shall be exempt from all other provisions of this code, except as herein expressly provided, and no insurance law hereafter enacted shall be deemed to apply to such corporations unless they be specifically referred to therein.

(b) "Hospital service corporations," "medical service corporations" and "hospital and medical service corporations" are corporations organized under the laws of this state for the purpose of establishing, maintaining, and operating nonprofit hospital service or medical service plans, or combination of such plans, whereby hospital or medical service may be provided by hospitals or physicians with which such corporations have contracted for such purpose, to such of the public as become subscribers to such corporations under contracts which entitle each subscriber to cer-

tain hospital or medical services, or both.

Sec. 2. INCORPORATION OF HOSPITAL AND MEDICAL SERVICE CORPORATIONS. Any such corporation shall be organized under the laws of this state relating to private corporations not for pecuniary profit, insofar as such laws are not inconsistent with any of the provisions of this article.

Sec. 3. APPLICATION FOR CERTIFICATE—CONTENTS—FEE. Such a corporation may issue contracts to its subscribers only when the director of insurance has, by certificate of authority, authorized it so to do. Application for such certificate of authority shall be made on forms supplied or approved by the director containing such information as he shall deem necessary. Each application for such certificate of authority shall be accompanied by the fee prescribed by article 2 of this code and copies of the following documents:

(a) Articles of incorporation;

(b) Bylaws;

(c) Proposed contracts between the applicant and participating hospitals and physicians, showing the terms under which service is to be furnished to subscribers;

(d) Proposed contracts to be issued to subscribers;

(e) A table of rates to be charged to subscribers;

(f) Financial statement of the corporation, including the amounts of contributions paid or agreed to be paid to the corporation for working capital and the name or names of each contributor and the terms of each contribution, and

(g) A statement of the area in which the corporation proposes to operate.

Sec. 4. CERTIFICATE OF AUTHORITY—REQUIREMENTS. The director shall issue a certificate of authority authorizing the applicant to issue contracts to its subscribers when it is shown to the satisfaction of the director that:

(a) The applicant is established as a bona fide, nonprofit hospital service corporation or medical service corporation or combination of the two;

(b) The contracts between the applicant and the participating hospitals or physicians obligate each hospital or physician executing the same to render service to which each subscriber may be entitled under the terms of the contract to be issued to the subscribers;

(c) The amounts provided as working capital of the corporation are repayable, without interest, out of operat-

ing expenses;

(d) The amount of money actually available for working capital is sufficient to carry on the plan for a period of six months from the date of issuance of the certificate of authority, and

(e) The applicant has secured contracts of participation from sufficient hospitals or physicians or both to provide ample protection for its subscribers within the area proposed to be served by the applicant.

Sec. 5. DEPOSIT FOR PROTECTION OF MEMBERS. (a) Corporations governed by this article shall at all times have on deposit with the state treasurer sums as follows:

(1) If newly formed under this article, the sum of fifteen thousand dollars.

(2) If formed under prior law, such sum as was so required under such prior law.

Every such corporation shall deposit with the state treasurer, not later than the first day of each February, an amount equal to two per cent of the gross subscriptions collected during the preceding calendar year, until the deposit of such corporation reaches a total of twenty-five thousand dollars. All such deposits shall be held by the state treasurer in trust for the benefit and protection of the subscribers of the corporation making the deposit.

(b) The deposit prescribed by this section shall be subject to withdrawal in whole or in part on the order of and as directed by the director, but may, with the approval of the director, be invested in bonds of the United States or of the state of Arizona, or any political subdivision thereof, or state warrants, which shall be assigned to the state treasurer and held by him as provided for original deposits. The securities may, with the approval of the director, be exchanged for similar securities or cash of equal amount. Interest on securities so deposited shall be payable to the corporation depositing the same.

(c) An unsettled final judgment, arising upon a certificate of participation against such a corporation, shall be a lien on the deposit prescribed by this section, subject to execution after thirty days from the entry of final judgment. If the deposit is reduced thereby, it shall be replenished within ninety days.

(d) Upon the liquidation or dissolution of such corporation and the satisfaction of all its liabilities, any balance remaining in the deposit in the hands of the state treasurer and any other assets of the insurer shall be distributed to

the holders of certificates of participation in good standing at the time proceedings for the liquidation or dissolution of the corporation were commenced, prorated according to the gross amount of subscriptions which have been paid on such certificates up to the time such proceedings were commenced.

Sec. 6. PARTICIPATING HOSPITALS AND PHYSICIANS. A corporation holding a certificate of authority under this article may enter into contracts only with licensed hospitals approved for participation by the board of directors of the corporation, and with physicians and surgeons duly licensed to practice in Arizona, and may enter into contracts of participation with any hospital maintained and operated by the state or any political subdivision thereof.

Sec. 7. SUBSCRIPTION CONTRACTS. No contract between such a corporation and its subscribers shall be issued unless the form thereof is approved in writing by the director. Each contract shall plainly state the services to which the subscriber is entitled and those to which the subscriber is not entitled under the plan, and shall constitute a direct obligation of the hospitals and physicians with which or with whom the corporation has contracted for hospital or medical services.

Sec. 8. DIRECTORS. The directors of such a corporation shall at all times include representatives of:

(a) Administrators or trustees of hospitals which have contracted with the corporation to render hospital service to subscribers, if the corporation is a hospital service corporation or a hospital and medical service corporation,

(b) Physicians and surgeons licensed to practice in this state who have contracted with the corporation to render medical service to subscribers, if the corporation is a medical service corporation or a hospital and medical service corporation, and

(c) The general public, exclusive of hospital representatives and physicians.

Sec. 9. EXPENSES AND INVESTMENTS. The operating and administrative expenses of any such corporation, including all costs in connection with solicitation of subscribers to such corporation and capital expenditures, shall not exceed thirty per cent of paid subscriptions during the first year of operation, twenty-five percent of paid subscriptions during the second year of operation, and twenty per cent of paid subscriptions in any year thereafter. All

funds not set aside for operating expenses shall be placed in a reserve that may be expended only for payment to participating hospitals and physicians for services to subscribers or as a refund to the subscribers. The funds of any such corporation shall be invested only in securities designated as capital funds investments by subsection (a) of section 6 of article 9 of this code.

Sec. 10. ANNUAL REPORT AND EXAMINATION. Not later than the first day of April of each year every such corporation shall file with the director of insurance a statement verified by at least two of its principal officers, showing its condition on the last day of the next preceding calendar year. The director may appoint an examiner, deputy examiner, or other person to examine into the affairs of the corporation. Such person shall have the power of visitation and examination, shall have free access to all the books, papers, and documents relating to the business of the corporation, and may summon the officers, agents or employees thereof, or any other persons, and require them to testify under oath concerning the affairs, transactions and condition of the corporation. An examination shall be conducted at least every three years. The cost of any such examination and audit shall be paid by the corporation, but it shall not be required to pay for more than one such audit or examination in any one year, nor to exceed $25 for each 1,000 certificates or fraction thereof in force at the time of such examination. All such costs shall be paid upon the completion of the examination.

Sec. 11. NONLIABILITY OF CORPORATION. No liability shall attach to any corporation holding a certificate of authority under this article by reason of the failure on the part of any of its participating hospitals or physicians to render service, except as herein provided, to any of its subscribers, nor for the negligence, malpractice, or other acts of its participating hospitals or physicians.

Sec. 12. RELATIONSHIP OF PHYSICIAN AND PATIENT. Nothing in this article shall be deemed to alter the relationship of physician and patient. No such corporation shall in any way influence the subscriber in his free choice of hospital or physician, other than to limit its benefits to participating hospitals and physicians. Nothing in this article shall be deemed to abridge the right of any physician or hospital to decline patients in accordance with the standards and practices of such physician or hospital, and no such corporation shall be deemed to be engaged in the corp-

orate practice of medicine.

Sec. 13. LIMITATION ON SALARIES. No such corporation shall pay any salary, compensation or emolument to any officer, agent, or employee thereof amounting in any year to more than $5,000, unless such payment be first authorized by the board of directors of the corporation, nor shall any such corporation make any agreement with any officer, agent or employee whereby it agrees that for any services rendered or to be rendered, he shall receive a salary, compensation or emolument for a period of more than three years from the date of such agreement. No bonus, commission or dividend shall be paid to any director, officer, agent, or employee of the corporation.

Sec. 14. REVIEW OF DECISIONS. All orders of the director of insurance made pursuant to this article shall be subject to the provisions of article 2, including the right of hearing, rehearing, and appeal.

Sec. 15. PRACTICES—LIQUIDATION. Such a corporation shall be subject to the provisions of articles 24 (rehabilitation and liquidation), and 21 (unfair practices).

Sec. 16. TAX EXEMPTION. Every corporation doing business pursuant to this article is hereby declared to be a nonprofit and benevolent institution and to be exempt from state, county, district, municipal and school tax, including the taxes prescribed by this code, and excepting only the fees prescribed by section 26 of article 2 and taxes on real and tangible personal property situate within this state.

Sec. 17. LIMITED APPLICATION. This article shall not apply to any corporation operating or maintaining a hospital service plan or medical service plan, participation in which is limited to its employees and the employees of other persons or corporations with which such corporation may have contracted to provide such services. As used in this section, the term "employees" shall include members of the families of employees.

Sec. 18. LIMITED LIABILITY. The private property of the subscribers, agents, officers, directors, members and employees of any corporation holding a certificate of authority under this article shall be wholly exempt from any of the debts, obligations, and liabilities of the corporation.

Sec. 19. CONTINUATION OF EXISTING CERTIFICATES, LICENSES, AND RIGHTS. The adoption of this article shall not be construed in any manner to abrogate, amend, or annul any certificate, license, or right heretofore acquired by any corporation, insurer, hospital, physician,

individual or subscriber under or pursuant to the Arizona nonprofit hospital and medical service corporation law (Laws 1945, 1st Special Session, Chapter 13), and all of said certificates, licenses and rights shall be and they hereby are continued in full force and effect.

ARTICLE 26. FRATERNAL BENEFIT SOCIETIES.

Section 1. FRATERNAL BENEFIT SOCIETIES DEFINED. Any society, order, or supreme lodge, without capital stock, and also any society, incorporated or unincorporated, exempted under the provisions of section 29 of this article, conducted solely for the benefit of its members and their beneficiaries and not for profit, operating on a lodge system with ritualistic form of work, having a representative form of government, and which shall make provision for the payment of benefits in accordance with this article, is hereby declared to be a fraternal benefit society. When used in this article, the word "society," unless otherwise indicated, shall mean "fraternal benefit society."

Sec. 2. LODGE SYSTEM DEFINED. Any such society having a supreme governing or legislative body and subordinate lodges or branches, by whatever name known, into which members shall be elected, initiated or admitted in accordance with such society's constitution, laws, ritual, rules and regulations, which subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month, shall be deemed to be operating on the lodge system.

Sec. 3. REPRESENTATIVE FORM OF GOVERNMENT. A society shall be deemed to have a representative form of government when:

(a) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by such society's constitution and laws;

(b) The representatives elected constitute a majority in number and have not less than two-thirds of the votes, nor less than the votes required to amend its constitution and laws;

(c) The meetings of the supreme legislative or governing body and the election of representatives or delegates are held as often as once in every four calendar years;

(d) The members, officers, representatives or delegates shall not vote by proxy (but voting may be in person,

through delegates or by mail);

(e) The officers may be elected either by the supreme legislative or governing body or by the board of directors.

Sec. 4. EXEMPTIONS AND APPLICATION OF OTHER LAWS. Such societies shall be governed by this article and, to the extent not modified by provisions of this article, shall be subject to and governed by the following additional articles and sections of this code insofar as such articles and sections are applicable to such societies:

(a) Article 1 (Scope of code).

(b) Article 2 (Director of Insurance).

(c) Article 3 (General requirements), except that the following sections shall not apply to fraternal benefit societies: Sections 8 to 14, inclusive, 24 to 27, inclusive, and 29.

(d) The following sections of article 8: Sections 1 (general definition of assets), 2 (assets as deductions from liabilities), 3 (assets not allowed), 4 (reporting assets not allowed), 5 (liabilities, in general), 11 (valuation of bonds), 12 (valuation of other securities), 13 (valuation of property), and 14 (valuation of purchase money mortgages).

(e) Article 9 (Investments), except as to limitations with respect to funds invested in real property for home or branch office purposes, limitations contained in subsections (b) and (c) of section 6, and the percentage limitations contained in section 5 and in subdivisions (d) and (f) of section 25.

(f) The following sections of article 11 (The insurance contract): Sections 10 (approval of forms), 11 (grounds for disapproval), and 16 (policy restrictions voided).

(g) Article 21 (Unfair practices and frauds).

(h) Article 24 (Rehabilitation and liquidation).

Sec. 5. BENEFITS. (a) Any fraternal benefit society authorized to do business in this state may provide for the payment of (1) death benefits in any form; (2) endowment benefits; (3) annuity benefits; (4) temporary or permanent disability benefits as a result of disease or accident; (5) hospital, medical or nursing benefits; and (6) monument or tombstone benefits to the memory of deceased members not exceeding the sum of three hundred dollars.

(b) Any benefits authorized in this section, or combinations thereof, may be provided in the same certificate, and certificates may be participating.

Sec. 6. LOANS AND NONFORFEITURE VALUES. Such society may grant loans, withdrawal equities, and such

nonforfeiture options as its laws may permit, provided that such grants shall in no case exceed in value the portion of the reserve to the credit of the certificate on which the same are made.

Sec. 7. BENEFICIARIES. No beneficiary shall have or obtain any vested interest in the proceeds of any certificate until such certificate has become due and payable in conformity with the provisions of the membership contract. The insured member shall have the right at all times to change the beneficiary and beneficiaries in accordance with the constitution, bylaws, rules, or regulations of the society. Every society may, by its constitution, bylaws, rules or regulations, limit the scope of beneficiaries.

Sec. 8. QUALIFICATIONS FOR MEMBERSHIP. (a) Any society may admit to beneficial membership any person who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society, or who has made a declaration of insurability acceptable to the society; provided that any beneficial member of a society who shall apply for additional benefits more than six months after becoming a beneficial member shall pass an additional medical examination, or make an additional declaration of insurability, as required by the society.

(b) Any person so admitted prior to attaining the full age of twenty-one years shall be bound by the terms of his or her application and certificate, and by all the laws, rules and regulations of the society, and shall be entitled to all the rights and privileges of membership therein, as fully and to the same extent as though he or she were not a minor at the time of applying for such beneficial membership.

(c) Nothing herein contained shall prevent such society from accepting general or social members, who shall have no voice or vote in the management of the insurance affairs of the society, nor from issuing juvenile certificates on the lives of children under the age of twenty-one years.

Sec. 9. THE CONTRACT. (a) Every certificate issued or delivered in this state by any such society shall specify the amount of benefit provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability (if used in lieu of a medical examination), signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the

society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability (if used in lieu of a medical examination) shall be endorsed upon or attached to the certificate. Copies of each of the aforesaid documents, certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof.

(b) Any changes, additions or amendments to said charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate shall bind the member and the beneficiaries and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership; provided, however, that any society may provide specifically in its certificates that the rates and benefits shall not be subject to change, in which case the certificates shall contain a provision that if the society's reserves shall become impaired, there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by the society's board of directors, or corresponding body, and if such payment be not made, the same shall stand as an indebtedness against the certificate, and draw interest at not to exceed five percent per annum.

Sec. 10. STANDARD AND PROHIBITED PROVISIONS. (a) No benefit certificate shall be issued or delivered in this state unless the same shall contain in substance the following provisions or similar provisions not less favorable in any particular to the member or member's beneficiary:

(1) In case the age of the member or the age of the beneficiary is considered in determining the rate of contribution, then a provision that if it shall be found at any time before final settlement under the certificate that such age has been misstated, and the discrepancy and rate of contribution involved have not been adjusted, the amount payable under the certificate shall be such as the rate of contribution would have purchased at the correct age; provided that if the correct age was not an insurable age under the society's charter, constitution, or laws, only the mortuary payments shall be returned; provided further that if the age has been overstated, no additional amount of insurance or other values shall be granted for any excess payments, but such excess pay-

ments shall be paid without interest to the beneficiary.

(2) In case any withdrawal equities, nonforfeiture values, loan values, or other options are available under the certificate on default in payment of stated periodical contributions by the member, a table showing the same in figures for each year during at least the first twenty years of the certificate.

(3) A provision that the member is entitled to a grace period of not less than a full month in which the payment of any stated contributions, by whatever name known, after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the said grace period before the overdue contribution is made, the amount of such overdue contribution or contributions may be deducted in any settlement under the certificate.

(4) A provision stating the amount of insurance premiums or other required insurance contributions, by whatever name known, which are payable by the insured under such certificate, and requiring that the insured or holder of such certificate shall be obligated to pay, as a condition of the continuance in force of such certificate, additional contributions, imposed in accordance with the constitution or bylaws of such society then in force or thereafter lawfully enacted.

(5) A title on the face and on the back of the certificate clearly and correctly describing its form.

(b) No certificate shall be issued or delivered in this state containing any of the following provisions:

(1) Any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue.

(2) Any provision by which the certificate shall purport to be issued or take effect more than six months before the original application for the insurance was made, except in cases of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made.

(3) Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan, while the total indebtedness, including interest, is less than the loan value thereof.

(4) Any provision whereby the suspension or expulsion of the insured member, or change of occupation, or

any other violation of the terms and conditions of the insurance contract, shall result in the loss or reduction of the cash surrender value or other withdrawal equity, if any, available by the terms of such certificate.

Sec. 11. BENEFITS ON LIVES OF CHILDREN. (a) Any society may provide for benefits on the lives of children under twenty-one years of age at the time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of sections 5 and 6 of this article. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

(b) The contributions to be made for death benefits under all juvenile certificates issued after the last day of the year in which this code shall become effective shall be based upon the standard industrial mortality table or the American experience table of mortality with Craig's or Buttolph's extension thereof, or the American men ultimate table of mortality with Bowerman's extension thereof, with an interest assumption of not more than three and one-half percent per annum, or on any other standard now or hereafter authorized for use by domestic legal reserve life insurers.

(c) Every society issuing such benefit certificates shall maintain on all such certificates not less than the reserve required by the standard of mortality and interest adopted by the society for computing contributions.

(d) Every society issuing such benefit certificates shall have the right to provide in its bylaws, rules or regulations, for payments on account of the society's expense or general fund, which payments may be mingled with the general fund of the society. Such society shall have full power to provide for means of enforcing payment of contributions only by forfeiture or suspension of the certificate without any personal liability for such payments, designation of beneficiaries, and changing such designations, and in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Sec. 12. FUNDS. (a) Unless otherwise provided in the bylaws, all funds shall be held, invested and disbursed for the use and benefit of the society, and no member or

beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the bylaws.

(b) The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed shall be derived from the periodical or other payments by the members and accretions to said funds, and with the approval of the director of insurance, such funds may be combined in a single fund; provided that after the last day of the year in which this code shall become effective, no society shall be incorporated or authorized to do business in this state which does not provide, in all certificates for new adult insurance thereafter issued, for stated periodical or other contributions that will provide and maintain reserves sufficient for meeting the mortuary obligations contracted when computed upon the basis of the American experience table of mortality with Craig's or Buttolph's extension thereof, or the American men ultimate table of mortality, with Bowerman's extension thereof, with an interest assumption of not more than three and one-half percent per annum, or on the basis of such mortality standards and interest assumptions, as may be now or hereafter authorized for use by domestic legal reserve life insurers. No society, domestic or foreign, shall hereafter be incorporated or authorized to write or accept members for temporary or permanent disability benefits, or accidental death benefits, unless the rates therefor are adequate upon the basis of tables based upon reliable experience with an interest assumption not higher than three and one-half percent per annum.

(c) Any society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

Sec. 13. INVESTMENTS. Every society shall invest its funds only in such investments as are authorized by this code, provided, that any foreign society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated shall be held to meet the requirements of this section for the investment of funds.

Sec. 14. ORGANIZATION. A domestic fraternal benefit society, as defined in this article, may be organized in the following manner:

(a) Seven or more persons, citizens of the United

States, a majority of whom are citizens of this state, who desire to form such a society, may make, sign and acknowledge before some officer competent to take acknowledgements of deeds, articles of incorporations, in which shall be stated:

(1) The proposed corporate name of the society, which shall not so closely resemble the name of any society or authorized insurer as to mislead the public or lead to confusion.

(2) The purpose for which it is being formed, and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this article, provided that any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society.

(3) The names and residences of the incorporators, and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control and the management of the affairs and funds of the society for the first year, or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, or board of directors, which election shall be held not later than one year from the date of the issuance of the final certificate.

(b) Such articles of incorporation, duly certified copies of the constitution and laws, rules and regulations, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by such society, and a bond in the sum of five thousand dollars with sureties approved by the director of insurance, conditioned upon the return to applicants of the advance payments if the organization is not completed within one year, as provided in this section, shall be filed with the director. If the purposes of the society conform to the requirements of this article, and if all applicable provisions of law have been complied with, the director shall so certify and shall retain all papers so filed with him except the articles of incorporation, which he shall endorse with his approval and deliver to the incorporators for filing, recording and publishing in the manner required by law with respect to articles of incorporation of private corporations not for pecuniary profit. Upon the filing and recording of such articles, together with the appointment of the director of insurance as the attorney of the society for the service

of process, the director shall furnish to the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

(c) No preliminary certificate granted under this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the director, upon cause shown, unless the five hundred applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and received a final certificate of authority to do business as hereinafter provided.

(d) Upon receipt of said preliminary certificate, said society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance payment, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

(1) Actual bona fide applications for death benefits have been secured upon at least five hundred lives for at least one thousand dollars each,

(2) All such applicants for death benefits shall have been regularly examined by regularly qualified practicing physicians, or shall have made acceptable declarations of insurability,

(3) Certificates of such examinations, or such suitable declarations of insurability, have been duly filed and approved by the chief medical examiner of such society,

(4) There have been established ten subordinate lodges or branches into which said five hundred applicants have been admitted,

(5) There has been submitted to the director, under the oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names and addresses, the date each was admitted, the name and number of the subordinate branch of which each applicant is a member, the amount of benefits to be

granted and the rate of stated periodical contributions, which shall be sufficient to provide for meeting mortuary obligations contracted when valued for death benefits upon the basis of the American experience table of mortality with Craig's or Buttolph's extension thereof, or the American men ultimate table of mortality, with Bowerman's extension thereof, with an interest assumption of not more than three and one-half percent per annum, or upon the basis of such mortality standards and interest assumptions as may be now or hereafter authorized for use by domestic life insurers, and when valued for disability benefits and accidental death benefits upon tables based upon reliable experience with an interest assumption of not more than three and one-half percent, and

(6) It shall have been shown to the director, by the sworn statement of the treasurer or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly payment as herein provided per one thousand dollars of indemnity to be effected, which payments in the aggregate shall amount to at least twenty-five hundred dollars, all of which shall be credited to the fund or funds from which benefits are to be paid, and no part of which may be used for expenses. Said advance payments shall be held in trust during the period of organization, and if the organization is not completed, as herein provided, such payments shall be returned to said applicants.

(e) The director may make such examination and require such further information as he deems advisable, and upon presentation of satisfactory evidence that the society has complied with all applicable provisions of law, he shall issue to such society a final certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the date of such certificate. The director shall cause a record of such certificate to be made, and a certified copy of such record may be given in evidence with like effect as the original certificate.

(f) Every such society shall have the power to make a constitution and bylaws for the government of the society, the admission of its members, the management of its affairs, and the fixing and readjusting of the rates of contribution of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and bylaws, and shall have such other powers as are necessary and incidental to carrying into effect the objects and

purposes of the society.

Sec. 15. POWERS RETAINED; INCORPORATION OF VOLUNTARY ASSOCIATIONS; REINCORPORATION; AMENDMENTS. (a) Any incorporated fraternal benefit society now engaged in transacting business in this state may exercise all of the rights and powers conferred hereby, including those recited in section 14 of this article, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this article.

(b) Any existing voluntary fraternal benefit association may incorporate hereunder, but not later than the last day of the year following the year in which this code becomes effective.

(c) No society already incorporated shall be required to reincorporate hereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws, and all such amendments shall be signed, attested, acknowledged, filed, recorded and published in the manner required by law for amendments to articles of incorporation of private corporations not for pecuniary profit. Such amendments shall become operative upon filing and recording, unless a later time be provided in such amendments or in its articles of incorporation, constitution or laws.

(d) Any voluntary association now transacting business in this state desiring to incorporate hereunder shall, following the completion of incorporation as provided in section 14 of this article, receive from the director a final certificate of authority as a fraternal benefit society when it has proved to the satisfaction of the director that it has:

(1) Established ten or more subordinate lodges or branches into which at least five hundred applicants have been initiated, and

(2) Established rates of stated periodical contributions sufficient to provide for meeting the adult mortuary obligations contracted, when valued for death benefits upon the basis of the American experience table of mortality, with Craig's or Buttolph's extension thereof, or the American men ultimate table of mortality, with Bowerman's extension thereof, with an interest assumption of not more than three and one-half per cent per annum or upon the basis of such mortality standards and interest assumptions as may be now or hereafter authorized for use by domestic life insurers, and when valued

for disability benefits and accidental death benefits upon the basis of tables based upon reliable experience, and when valued for combined death and permanent total disability benefits upon the basis of tables based upon reliable experience, with an interest assumption not higher than three and one-half per cent per annum.

(e) The director may make such examination and require such further information as he deems advisable before issuing any such certificate of authority.

(f) Every such voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally thus incorporated, and such corporation shall be deemed a continuation of such original voluntary association. The officers thereof shall serve through their respective terms as provided in the original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Such incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Sec. 16. LIMITATION OF ACTIONS. No action at law or in equity shall be had or maintained on any certificate or contract issued by a fraternal benefit society unless commenced within two years after the cause of action shall accrue.

Sec. 17. PLACE OF MEETING; LOCATION OF OFFICE. Any domestic society may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state, but its principal office shall be located in this state.

Sec. 18. NO PERSONAL LIABILITY. Officers and members of the supreme, grand, or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability, death, or other benefit provided for in the laws and agreement of such society, but the same shall be payable only out of the funds of such society and in the manner provided by its laws.

Sec. 19. WAIVER. Unless authorized by express provisions of the constitution and laws of the society, no employee or agent of the society, or any subordinate body, or any subordinate officer or member, shall have the power, right or authority to waive or modify any of the provisions of the constitution, laws, or any contract of the society;

and no custom or course of dealing on the part of any employee or agent of the society, or any subordinate body, or any subordinate officer or member, shall have the effect of so waiving or modifying any such provision, and the same shall not be binding upon the society, or any member thereof, or any beneficiary of any member; nor shall the same constitute a waiver of any of the provisions of the constitution, laws or any contract of the society, nor operate as an estoppel.

Sec. 20. INCONTESTABILITY. (a) Every certificate for new insurance hereafter issued shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for nonpayment of stated periodical contributions, risks limited or not assumed, violation of the provisions of the contract relating to military or naval service, or violation of the provisions relating to religion, occupation, suspension or expulsion as set forth in the contract.

(b) At the option of the society, provisions relating to benefits in the event of total and permanent disability, and provisions which grant additional insurance specifically against death by accident or accidental means, may be excepted from the operation of this section.

(c) Any such certificate shall be incontestable on the ground of suicide after such certificate has been in force during the lifetime of the insured for a period of five years from date of issue.

(d) Every such certificate may provide that the society shall have the right to contest a reinstated certificate within a period after date of reinstatement not exceeding the period of contestability prescribed in the original certificate with the same exceptions as herein provided.

Sec. 21. BENEFITS NOT SUBJECT TO PROCESS. No money or other benefit, charity or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or of any other person who may have a right thereunder, either before or after payment.

Sec. 22. CONSTITUTION AND LAWS; AMENDMENTS. Every society transacting business under this article shall file with the director a duly certified copy of all amendments of or additions to its constitution and laws

within ninety days after the enactment of the same. Printed copies of the constitution and laws as amended, changed, or added to, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

Sec. 23. VALUATIONS. (a) In addition to the annual statement required by the provisions of section 23 of article 3 of this code, every society transacting business in this state shall annually, on or before the first day of April, file with the director a valuation of its certificates in force on the last day of the preceding calendar year, provided, however, that the director may, in his discretion, for good cause shown, extend the time for filing such valuation for not more than two calendar months.

(b) Such report of valuation shall show, as reserve liabilities, the difference between the present midyear value of the promised benefits provided in the contracts of such society in force and the present midyear value of the future net contributions as the same are in practice actually collected, not including therein any value for the right to make extra assessments, and not including any amount by which the present midyear value of future net contributions exceeds the present midyear value of promised benefits on individual certificates.

(c) At the option of any society, in lieu of the above, the valuation may show the net tabular value which, in the case of monthly contributions, may be the mean of the terminal reserve values for the end of the preceding and of the current certificate years, provided, however, that every society which combines its funds shall maintain all of its reserves on the net tabular basis, and provided further, that if the contribution or payment (by whatever name known) charged is less than the tabular net contribution according to the basis of the valuation used, an additional reserve equal to the present value of the deficiency in such contributions shall be set up and maintained as a liability, except that a society which has used tabular reserves for a period of ten years preceding the effective date of this article in making its valuation on the basis of the American experience table of mortality with interest at four per cent per annum, and charges net rates of contribution lower than the tabular net rates on the said valuation basis, may, in lieu of the reserve equal to the present value of the deficiency herein mentioned on all such certificates in force on the effective date of this article, set up an additional re-

serve to cover the deficiency in such rates calculated on a basis not less than one providing for the accumulation as a pure endowment under a level net annual rate of contribution of a sum at the end of not more than twenty years from the issue of each certificate equal to the present value at that time of the difference between the net rate charged under each certificate and the tabular net rate of contribution used in the valuation of the same certificate.

(d) Such tabular reserve values, if used, may be computed so as to allow for preliminary term insurance, and for certificates issued after the last day of the year in which this code becomes effective, if the contribution charged for term insurance under a limited payment life preliminary term certificate providing for the payment of all contributions thereon in less than twenty years from the date of the certificate, or under an endowment preliminary term certificate, exceeds that charged for like insurance under twenty-payment life preliminary term certificates of the same society, the reserve thereon at the end of any year including the first shall not be less than the reserve on a twenty-payment life preliminary term certificate issued in the same year at the same age, together with an amount which shall be equivalent to the accumulation of a net level contribution sufficient to provide for a pure endowment at the end of the contribution payment period equal to the difference between the value at the end of such period of such a twenty-payment life preliminary term certificate, and the full net level contribution reserve at such time of such a limited payment life or endowment certificate. The contribution payment period is the period during which contributions are concurrently payable under such twenty-payment life preliminary term certificate and such limited payment life or endowment certificate.

(e) Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the department or division of insurance of the domiciliary state of the society.

(f) The legal minimum standard of valuation for all death benefits shall be the national fraternal congress table of mortality, as adopted by the national fraternal congress August 23, 1899, with interest assumption of not more than four per cent per annum, but the society may at its option use a table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives, and with interest assumption of not more

than four per cent per annum, provided that all death benefits provided in certificates for new insurance issued after the last day of the year following the year in which this code becomes effective shall be valued according to the American experience table of mortality, with Craig's or Buttolph's extension thereof, or the American men ultimate table of mortality, with Bowerman's extension thereof, with interest assumption of not more than three and one-half per cent per annum, or according to such mortality standards and interest assumptions as may be now or hereafter authorized for use by domestic life insurers, and provided further, that the minimum basis of valuation of all annuity certificates issued after the last day of the year following the year in which this code becomes effective shall be the American annuitants table with interest assumption of not more than three and one-half per cent per annum.

(g) The minimum basis of valuation of all disability benefits shall be Hunter's disability table with interest assumption of not more than three and one-half per cent per annum, except that class three disability experience modified to conform to the contractual waiting period with interest assumption of not more than three and one-half per cent per annum shall be the minimum basis of valuation of all benefits presuming that total disability shall be considered to be permanent whenever such disability has existed continuously for a period of six months or less.

(h) Accidental death benefits shall be valued upon the basis of tables based upon reliable experience with interest assumption of not more than three and one-half per cent per annum.

(i) Each such valuation report shall set forth clearly and fully the mortality, disability and interest assumption and the method of valuation used in the computation of all reserve liabilities.

Sec. 24. PUBLICATION OF ANNUAL STATEMENT AND VALUATION REPORT. Every domestic society, if it has an official publication or newspaper, shall publish therein a synopsis of its annual statement and valuation report within sixty days after the same have been filed with the director of insurance.

Sec. 25. DEFICIENCY IN VALUATION—SEGREGATION OF NEW MEMBERS. (a) If any annual valuation of a fraternal benefit society shall show that the admitted assets of such society are less than the sum of its required reserves and accrued liabilities, the director shall

forthwith enter an order requiring the society to remove any deficiency in its assets within four years following such valuation.

(b) If in any succeeding valuation, a greater degree of deficiency in assets is shown, the director shall forthwith issue a second order, requiring such society, if it shall not have removed all deficiency in its assets within one year from the last day of the year immediately preceding the year during which such second order shall have been issued, thereafter to segregate all contributions and funds received from new members admitted subsequent to the expiration of one year from the last day of the year immediately preceding the year during which such second order shall have been issued.

(c) In the case of any fraternal benefit society as to which such segregation as hereinabove set forth shall be required, all new members admitted, subsequent to the date hereinabove fixed shall be subject, so far as stated rates of contribution are concerned, to the provisions of this article applicable to the organization of domestic fraternal benefit societies. Such segregation shall continue until all deficiency in admitted assets shall be removed and if such deficiency be not removed within the time fixed by the terms of the order issued pursuant to subsection (a) of this section, then the said new members shall be placed in a separate class and their certificates shall be valued as an independent fraternal benefit society with respect to contributions and funds.

Sec. 26. IMPAIRMENT. (a) If any society as to which the director has issued the order authorized by the provisions of subsection (a) of section 25 of this article shall fail, within the time permitted thereby, to remove all deficiency in its assets, such society shall be deemed to be impaired and delinquency proceedings shall be begun by the director as authorized by article 24.

(b) In any proceedings under article 24 against a fraternal benefit society which shall have segregated the contributions and funds of new members pursuant to a second order issued in accordance with subsection (b) of section 25 of this article, neither such segregated new members, their certificates, nor the contributions and funds derived therefrom shall be in anywise involved, but such segregated new members shall be deemed to constitute the members of an independent fraternal benefit society.

Sec. 27. EXCLUSIVENESS OF DELINQENCY PRO-

CEEDINGS. No delinquency or other proceedings for the dissolution of, or for the appointment of a conservator or a receiver for, any domestic society or branch thereof, shall be entertained by any court in this state unless the same shall be filed in the name of the state on the relation of the director of insurance pursuant to article 24 of this code.

Sec. 28. NO ADVERSE PUBLICATIONS. Pending, during or after an examination or investigation of a society, either domestic or foreign, the director shall make public no financial statement, report or findings, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society, until a copy thereof has been served upon such society at its home office, and such society has been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire.

Sec. 29. EXEMPTION OF CERTAIN SOCIETIES. (a) Except as herein provided the following societies shall be exempt from compliance with this article, and shall also be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state but for every other purpose:

(1) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(2) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' auxiliaries to such orders, societies or associations;

(3) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation and which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both; and

(4) Domestic societies or associations of a purely religious, charitable, or benevolent description which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

(b) Any such society or association described in paragraph (3) or paragraph (4) of subsection (a), above, which

provides for death or disability benefits for which certificates are issued, and any such society or association included in paragraph (4) of subsection (a), above, which has more than one thousand members, shall not be exempted from the provisions of this article, but shall comply with all the requirements thereof.

(c) No society which, by the provisions of this section, is exempt from the requirements of this article, except any society described in paragraph (1) or paragraph (2) of subsection (a), above, shall give or allow, or promise to give or allow, to any person any compensation for procuring new members.

(d) Every fraternal benefit society heretofore organized and incorporated and which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits, may secure a certificate of authority under the provisions of this article, if heretofore authorized, and shall have all of the privileges and be subject to all the applicable provisions and regulations of this article, except that the provisions hereof relating to medical examination, standard provisions, prohibited provisions, valuations of certificates and incontestability shall not apply to such society.

(e) The director may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this article.

Sec. 30. EXEMPT FROM TAXATION. Every authorized society, and every society exempted under section 29 of this article, is hereby declared to be a charitable and benevolent institution, and to be exempt from all and every state, county, district, municipal and school tax, including the taxes prescribed by this code, and excepting only the fees prescribed by article 2 and taxes on real and tangible personal property situate within this state.

Sec. 31. REINSURANCE, WHEN PERMITTED—EFFECT ON RESERVES. Any domestic fraternal benefit society may, by a reinsurance agreement, cede all or any part of its risks to another insurer having the power to take such reinsurance and authorized to do business in this state, or, if not so authorized, one that is approved by the director. It may take credit for the reserves on such ceded risks to the extent reinsured.

Sec. 32. AUTHORITY TO MAINTAIN HOSPITALS

AND ASYLUMS. (a) It shall be lawful for any fraternal benefit society, as defined in this article, now organized and existing, or hereafter organized under and by virtue of the laws of this state, or any such society organized and existing under and by virtue of the laws of any other state, country, province or territory, and now or hereafter authorized to do business in this state, to create, maintain, and operate, for the benefit of its sick, disabled, aged or distressed members and their families and dependents, out of its general or expense fund, and from any voluntary contributions it may receive therefor, and from any bequest and the proceeds of any insurance contract in which it is named as beneficiary, in trust for the purposes mentioned in this section, hospitals, asylums, homes, sanitariums, or other charitable benevolent institutions. For such purpose any such society may own, hold or lease personal property or real property located within or without this state, with necessary buildings thereon, provided that the amount of the general or expense fund to be expended, as herein provided, shall not exceed such amounts as shall have been or shall be from time to time authorized by the legislative or supreme governing body of such society, and provided further that maintenance, treatment and proper attendance in any such institution may be furnished free, or a reasonable charge may be made therefor, but no such institution shall be operated for profit, and provided further that no part of the cost or expense of creating, maintaining, or operating any such institution shall be defrayed or paid out of the mortuary, sick, or disability funds of any such society.

(b) Any such society and any society heretofore organized and incorporated which provides exclusively for benefits in case of death or disability resulting solely from accident and which does not obligate itself to pay natural death or sick benefits may, in addition to the benefits now or hereafter authorized to be granted by it to its members, make contract provisions for full or limited hospital, nursing and medical attention, or for one or more of said items.

Sec. 33 LICENSING OF AGENTS. (a) Except as specified in subsection (d) of this section, the provisions of article 5 (agents, brokers, solicitors) shall not apply to agents and solicitors appointed by fraternal benefit societies, nor to the solicitation of insurance by fraternal benefit societies, and no agent of a fraternal benefit society, except as specified in subsection (d) of this section, shall be

required to be licensed under this code.

(b) Notwithstanding the provisions of subsection (a), above, every authorized fraternal benefit society shall from time to time, for record-keeping purposes only, furnish to the director the names and addresses of all persons in this state who may from time to time be actively engaged in its behalf as insurance agents or solicitors. Unless required by the provisions of subsection (d) of this section, no licenses shall be issued to such persons, and no license fees shall be charged or collected.

(c) No person shall within this state in any manner solicit, forward applications, or assist in placing insurance of residents of this state in any fraternal benefit socity not authorized to transact business in this state.

(d) Any person who devotes or intends to devote more than fifty per cent of his time to the solicitation and procurement of insurance contracts for fraternal benefit societies and who receives or intends to receive any commission or other compensation directly dependent on the amount of insurance solicited and procured by him shall be deemed to be an agent, as that term is defined by section 1 of article 5, and shall be in all respects subject to the provisions of such article 5 applicable to life insurance agents. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any fraternal benefit society in an amount of insurance in excess of one hundred thousand dollars, or, in the case of any other kind or kinds of insurance which the society may write, on the persons of more than one hundred individuals, shall be presumed to be devoting or intending to devote more than fifty per cent of his time to the solicitation or procurement of insurance contracts for fraternal benefit societies. The director may waive examination for license with respect to any applicant for license under this subsection who, as of the effective date of this code, had been an active soliciting representative in Arizona of a fraternal benefit society for not less than the six months immediately preceding.

Sec. 34. FRATERNAL BENEFIT SOCIETIES—CONSOLIDATIONS AND MERGERS. (a) No domestic fraternal benefit society shall consolidate or merge with any other fraternal benefit society unless such consolidation or merger is evidenced by a contract in writing setting out in full the terms and conditions of such consolidation or merger, and filed with the director of insurance, together with a

sworn statement of the financial condition of each of said societies, by its president and secretary, or corresponding officers, of a date not earlier than the last day of December next preceding the date of such contract, and a certificate of such officers, duly verified by their respective oaths that such consolidation or merger has been approved by a majority vote of the members of the supreme legislative or governing body of each of said societies.

(b) Upon the submission of said contract, financial statements and certificates, the director shall examine the same, and, if he shall find such financial statements to be correct, the said contract to be in conformity with the provisions of this section, and that such consolidation or merger is just and equitable to the members of each of said societies, he shall approve said consolidation or merger, issue his certificate to that effect, and said contract of consolidation or merger shall be in full force and effect; provided, however, that if any society, a party to such contract of consolidation or merger, is incorporated under the laws of any other state or territory, such consolidation or merger shall not become effective unless and until the same has been duly approved as provided by the laws of such state or territory, and a certificate of such approval be filed with the director of insurance of this state.

(c) In case such contract is not approved, the fact of its submission and its contents shall not be disclosed by the director.

(d) Upon any such consolidation or merger becoming effective, as hereinabove provided, all the rights, franchises and interests of the societies so consolidated or merged, in and to every species of property, real, personal and mixed, and things in action thereunto belonging, shall be deemed to be and shall be vested in the society resulting from or remaining after such consolidation or merger without any other instrument, except that conveyances of real property shall be evidenced by proper deeds; and the title to any real estate, or any interest therein, under the laws of this state vested in any of the societies so consolidated or merged, shall not revert or be in any way impaired by reason of such consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(e) Where such merger or consolidation is between a fraternal benefit society and a beneficiary association having no lodge system or representative form of govern-

ment, it may be authorized by the director upon proof that it has been approved by a majority vote of the membership of the beneficiary association and of the general board of directors of the fraternal benefit society.

Sec. 35. FRATERNAL BENEFIT SOCIETIES—CONVERSION. (a) A domestic fraternal benefit society may be converted to a mutual insurer upon the adoption of appropriate amendments to its articles of incorporation, upon approval of the plan of conversion by the affirmative vote of fifty-one per cent of the members of the fraternal benefit society, with such vote to be taken in person or by mail, and upon the approval of the director of insurance. The director shall not approve any such conversion unless he finds that:

(1) A valuation of the assets and liabilities of the fraternal benefit society upon the basis required for mutual life and disability insurers yields a surplus equal to or in excess of:

(a) $25,000 if such society shall have no outstanding certificates other than for life insurance;

(b) $25,000 if such society shall have no outstanding certificates other than for disability insurance; or

(c) $50,000 if such society's outstanding certificates shall include certificates for both life and disability insurance.

(2) Following such conversion, the converted insurer will have surplus funds adequate for the protection of its policyholders and members and the continuation of its business.

(b) Upon the conversion of a domestic fraternal benefit society to a mutual insurer, such insurer shall forthwith make any deposit of surplus required of like mutual insurers by the provisions of this code and shall issue its certificate to its members, in such form as the director approves, setting forth the rights and liabilities of such members, which rights and liabilities shall be in accordance with the provisions of this code governing mutual insurers.

ARTICLE 27. BENEFIT INSURERS.

Section 1. SCOPE OF ARTICLE. This article applies only to domestic benefit insurers.

Sec. 2. "BENEFIT INSURER" DEFINED. A "benefit insurer" is an incorporated mutual insurer authorized by its articles of incorporation to transact life and/or disability insurance on the benefit plan. All insurers which, as of immediately prior to the effective date of this code,

are transacting insurance in this state pursuant to the provisions of chapter 95 of the Laws of 1943, are deemed to be "benefit insurers" for the purposes of this article.

Sec. 3. PROVISIONS EXCLUSIVE. No other provisions of this code shall apply to benefit insurers except as stated in this article.

Sec. 4. EXISTING BENEFIT INSURERS. Benefit insurers holding certificate of authority to transact insurance immediately prior to the effective date of this code may continue to transact such business but subject to the provisions of this article.

Sec. 5. ORGANIZATION OF BENEFIT INSURER. (a) A new domestic benefit insurer shall hereafter be formed only in accordance with this section.

(b) The insurer shall first be incorporated in the same manner and in compliance with the same procedure as for domestic mutual insurers pursuant to sections 5 and 6 of article 22. In addition to other applicable requirements, the articles of incorporation shall state that the corporation proposes to transact insurance as a mutual insurer on the benefit plan.

(c) Upon incorporation the insurer shall deposit with the state treasurer through the office of the director and thereafter maintain so on deposit the sum of $15,000 in cash or in securities eligible for deposit pursuant to subsection (a) of section 3 of article 10, and in addition thereto shall have on hand surplus funds in the amount of not less than $10,000, likewise in cash or in such securities. Thereafter the insurer shall have the right to solicit qualifying applications for insurance, and to have issued to it a certificate of authority as an insurer upon proof satisfactory to the director, within six months after the effective date of incorporation, of the completion of the following requirements:

(1) That it has secured and has in force bona fide applications for life insurance on a plan providing for a term of not less than ten years, in the amount of not less than $500 nor more than $3,000 on an individual basis from each of not less than 300 insurable adults resident in Arizona, and has collected in cash from each such person and has on hand an adequate premium, in amount approved by the director, for the initial policy period which period shall be not less than one calendar quarter, together with the membership fee, if any; or

(2) That it has secured and has in force bona fide

applications for disability insurance providing total disability indemnity of not less than $15 nor more than $25 per week, or an equivalent premium value in hospital, surgical, and medical benefits, on an individual basis from each of not less than 300 insurable adults resident in Arizona, and has collected in cash from each such person and has on hand an adequate premium, in amount approved by the director, for the initial policy period which period shall not be less than one calendar quarter, together with the membership fee, if any; or

(3) That is has secured and has in force such applications for life insurance and such applications for disability insurance on an individual basis from an aggregate of not less than 300 separate insurable adults resident in Arizona, and has collected from each such person and has on hand the applicable such premium for such initial policy period, together with membership fees, if any; and

(4) That the deposit required by subsection (c), above, is being maintained, and that the surplus of $10,000 required by such subsection is unimpaired and still on hand.

(d) Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the director shall upon application therefor issue temporary agent's licenses expiring upon termination of such six months period to individuals appointed by the corporation and qualified as for a resident agent's license except as to the taking of an examination. The director may suspend or revoke any such license for any of the same causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents under article 5.

(e) The corporation shall forthwith impound in trust in a public depositary approved by the director, pending issuance of a certificate of authority, all premiums and membership fees so collected, and such funds shall be refunded to the respective applicants entitled thereto if the corporation fails to qualify for a certificate of authority within the period hereinabove allowed therefor.

Sec. 6. AMENDMENT OF ARTICLES—EXISTING INSURERS. (a) The articles of incorporation of a domestic benefit insurer may be amended by the affirmative vote of two-thirds of its members present in person or by proxy at a regular or special meeting of members of which notice in writing setting forth the proposed

amendment was given to all members at least thirty days in advance. A certificate of the amendment, signed and acknowledged by the president and attested by the secretary of the corporation, shall be filed, recorded, and published as required of the original articles of incorporation.

(b) No domestic benefit insurer heretofore incorporated shall be required to amend its articles of incorporation to conform to the provisions of this code, but such articles may be amended to conform hereto.

Sec. 7. CHARACTER OF INSURER—GENERAL POWERS. (a) A domestic benefit insurer is, and shall conduct its business as, a nonprofit mutual insurer, and for the benefit of its members.

(b) Such an insurer shall have the right to transact on the benefit plan life and/or disability insurance pursuant to this article; to contract, sue, and be sued in its corporate name; and to own and invest in real and personal property in accordance with the provisions of article 9, applying to property and investments of domestic insurers in general.

Sec. 8. BYLAWS. A domestic benefit insurer shall make and effectuate bylaws for the government of its affairs in accordance with the provisions of section 13 of article 22 applicable to domestic mutual insurers in general. In addition to other necessary or desirable matters, such bylaws may provide for:

(a) The qualifications of members.

(b) Mode of acceptance of new members.

(c) Fee on admission of new member, which fee shall not exceed $6.

(d) Expulsion of members for nonpayment of any premium or assessment.

(e) Restoration of membership.

(f) Employment and compensation of agents.

Sec. 9. MEMBERSHIP—QUALIFICATIONS—MINIMUM NUMBER. (a) Each individual who is the named insured in a subsisting life or disability insurance policy lawfully issued by a domestic benefit insurer is thereby a member of the insurer.

(b) No individual of age over 70 years shall be admitted to membership. An individual becoming a member prior to age 70 may continue his membership after attaining such age by keeping his policy in full force and effect or by reinstatement thereof in accordance with its

terms.

(c) After six months following date of its initial certificate of authority a domestic benefit insurer shall at all times have in force insurance covering not less than 500 separate members. If at any time the insurer does not so have at least 500 members, it shall immediately notify the director thereof. If the insurer does not cure such deficiency within 90 days or within such further period not exceeding 90 days as may be allowed by order of the director, the director shall revoke its certificate of authority.

Sec. 10. MEETINGS OF MEMBERS. (a) The annual meeting of members of a benefit insurer shall be held at the time specified in its bylaws, and written notice thereof shall be given to each member at least 30 days in advance of the meeting.

(b) A quorum of members for general purposes shall be as provided by the bylaws. For voting or quorum purposes only holders of individual policies and the person in control of a family group policy shall be included.

(c) Special meetings of members may be called by the insurer's board of directors, upon not less than 30 days advance notice in writing to the members specifying the matters to be considered at such meeting. The business of the meeting shall be confined to the matters so specified.

(d) All notices of meetings of members shall be given by mailing the notice to the member at his address last of record with the insurer, and notice shall be deemed given when so mailed.

(e) Members may vote in person or by written proxy exercised by another member. No proxy shall be valid for any meeting other than the one meeting for which given and for adjourned sessions thereof.

Sec. 11. DIRECTORS—OFFICERS. (a) No person shall be a member of a benefit insurer's board of directors unless he is a member of the insurer. A majority of such directors shall be residents of Arizona.

(b) The terms of directors shall be as provided by the bylaws but not in excess of three years. As nearly as practicable an equal number of directors shall be elected at each annual meeting of members after the first annual meeting. Vacancies occuring on the board of directors interim annual meetings of members may be filled by the remaining directors for the unexpired term or until the next annual meeting of members when the vacancy shall be

filled by election for the unexpired term. After each annual meeting of members a certificate by the corporate secretary under the corporate seal shall be filed with the director of insurance setting forth the names and addresses of the corporate directors elected at the meeting.

(c) All officers shall be chosen by the board of directors, and shall serve for such terms as shall be prescribed by the bylaws.

Sec. 12. FIDELITY BOND. The treasurer and other officers of the insurer responsible for its assets shall be bonded in favor of the insurer, by fidelity bond issued by an authorized corporate surety, in an amount equal to the insurer's mortuary fund as of December 31st of the preceding year, exclusive of the insurer's deposit with the state treasurer, but in no event shall the bond be for less than five thousand nor more than fifty thousand dollars.

Sec. 13. DEPOSIT. (a) Each benefit insurer newly formed under this article, and any other benefit insurer which on the effective date of this code has on deposit with the state treasurer less than $25,000, shall increase its deposit with the state treasurer annually thereafter on the first day of each February by an amount equal to two per cent of the gross premiums received by the insurer during the preceding calendar year while this code was in force, until its deposit attains the amount of $25,000. The insurer shall thereafter maintain not less than $25,000 so on deposit.

(b) The deposit shall be for the protection of all of the insurer's members.

(c) The deposit shall be subject to the provisions of article 10 (administration of deposits).

(d) The amount of the deposit shall be allowed as a credit upon any mortuary fund, morbidity fund, or other reserve requirement.

Sec. 14. LIMITATION ON INSURING POWERS. No benefit insurer shall have power to:

(a) Issue any life insurance policy or policies under which the maximum possible benefits payable on the death of any one insured shall exceed $3,000.

(b) Issue any disability policy or policies under which the maximum possible benefits for or on account of any one insured shall exceed $5,000.

The insurer shall keep reinsured all acidental death risks as to any one individual in excess of $1,000 or ten

per cent of the insurer's assets exclusive of its statutory deposit, whichever is the larger amount.

(c) Issue any policies, in combination or otherwise, whereby the maximum possible benefits payable to or on account of any one insured shall exceed $5,000.

(d) Issue any policy with cash surrender values, loan values, paid-up or extended insurance provisions.

(e) Issue any policy containing a prorate clause, that is to say, a provision by which the insurer may within any given period of time compute the total unpaid policy claims and prorate the amount of money in the mortuary or morbidity fund at such time, or that may be collected for such period, or that may be collected as to such claims, and pay the prorated sum to the beneficiaries or members as full payment of their claims.

(f) Issue any graded life insurance policy, that is to say, a policy providing for a period of time in which only a portion of the maximum benefit will be paid with periodical increases until the maximum amount is attained, unless the policy provides that after it has attained its maximum amount, such amount shall thereafter remain unchanged.

(g) Authorize the deduction of any premium or assessment from any benefit payable under the terms of a policy, except such premiums or assessments as may be due or covered by a written order or note at the time of payment of the benefit.

(h) Limit the amount of the benefit to be paid to a sum less than that stated in the policy and for which the premium has been paid.

(i) Issue any endowment, limited payment whole life or annuity contract.

(j) Issue group or blanket insurance policies, except family group.

Sec. 15. FORMS — FILING, APPROVAL. All application forms, policy forms and endorsements therefor of a benefit insurer shall be subject to the provisions of sections 10 and 11 of article 11 with respect to filing with the director, and approval or disapproval thereof by the director.

Sec. 16. CONTENTS OF POLICIES IN GENERAL. (a) The provisions of this code relating to life and disability insurance policy forms in general shall apply to policies issued by benefit insurers, except as modified or exempted by particular provisions of this article, and ex-

cept as exempted by general order of the director as not being reasonably applicable to benefit insurers.

(b) Each policy shall clearly state on the face and filing back thereof that it is issued by a benefit insurer, and on the benefit plan.

(c) The policy shall provide that settlement of all valid claims shall be made by the insurer within sixty days after receipt of acceptable proof of loss and of the interest of the claimant.

(d) Life insurance policies shall state the premium basis, interest rate assumption, and method of valuation used therein consistent with this article.

(e) All policies shall contain a statement of the conditions under which the specified premium may be increased or an assessment levied.

Sec. 17. LIFE INSURANCE POLICY PROVISIONS. Every life insurance policy issued by a benefit insurer shall provide:

(a) That the insured is entitled to a grace period of the number of days specified therein, but not less than fifteen, following the due date of any premium, during which period the policy shall remain in force.

(b) That if the age of any insured has been misstated, the amount payable under the policy as to such insured shall be such that the premium actually paid would have purchased at the correct age.

(c) That the policy, including any written amendment thereto, and, at the option of the insurer, the application therefor when a copy thereof is attached to the policy at the time of issuance, constitutes the entire contract between the parties and is incontestable after two years from the date of last reinstatement, except for nonpayment of premiums.

(d) That upon written application, the submission of acceptable evidence of insurability and payment of all arrearages, made within one year of the date of lapse or within one year from notice of lapse, whichever period is longer, a lapsed policy may be reinstated. As a result of such reinstatement, no benefits provided by the policy shall be reduced and the benefits accrued shall remain in effect as if no lapse had occurred.

Sec. 18. LIMITATION OF LIABILITY. A life insurance policy issued by a benefit insurer which contains any exclusion or restriction pursuant to section 26 of article 12, shall also provide that in event of death under the

circumstances to which the exclusion or restriction is applicable, the insurer will pay an amount not less than the amount contributed to the mortuary fund on account of the policy, less dividends theretofore paid on account of the policy.

Sec. 19. DISABILITY POLICIES, REINSTATEMENT. Every disability insurance policy issued by a benefit insurer shall provide that upon written application, the submission of acceptable evidence of insurability, and payment of all arrearages, made within one year of the date of lapse or within one year from notice of lapse, whichever period is longer, the lapsed policy may be reinstated. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement, or loss due to such sickness as may begin more than ten days after such date, or both.

Sec. 20. FAMILY GROUP POLICIES. (a) In addition to policies insuring a single individual, a benefit insurer may issue a life or disability insurance policy to a family group. Such family group policies shall require but one application for the entire group, listing the names and required information with respect to each individual to be so insured, and signed by one adult member of the family, or, if no such adult is an applicant, by the parent or guardian of the eldest applicant.

(b) Each such policy shall clearly state the amount of insurance applicable to each individual insured thereunder.

(c) No family group policy shall contain any representation that a greater amount than that for which the member is insured will be paid on account of the death of any member.

(d) The oldest surviving insured shown in any family group policy shall be deemed to be in control of the policy, unless otherwise specified therein, and shall be entitled to receive all dividends and to exercise all membership and other rights arising under the policy. The other individuals insured under the policy shall nevertheless be deemed to be members of the insurer for all other purposes.

Sec. 21. RATES AND VALUATIONS—LIFE INSURANCE. (a) The premiums to be charged for life insurance issued by benefit insurers shall be based upon the commissioners 1941 standard ordinary mortality table or the 1941 standard industrial mortality table with interest not exceeding three per cent per annum under either table.

(b) As of the end of each calendar year a mean valua-

tion shall be made of all life insurance policies issued by such insurers. Such valuation shall be made according to the yearly renewable term method as to policies issued on the yearly renewable term plan, or according to the preliminary term method as to policies issued on the level premium plan, shall be based on the same mortality table and interest rate used in calculating the premiums, and policy reserves shall be calculated in accordance therewith; except, that if the preliminary term method is used, the preliminary term period with respect to policies on which dividends have been paid or provided for in the premium shall not exceed the dividend period specified in the policy or six years, whichever period is the shorter, after which reserves shall be calculated as if the policy had been issued as at the end of the preliminary term period on a whole term basis for the term of the policy and at the attained age of the insured, and the reserve required after such preliminary term period shall be sixty per cent of the reserve required as for a like policy issued on a like term basis and providing for nonforfeiture benefits as stipulated in section 31 of article 12 (standard nonforfeiture law). At the insurer's option valuations and policy reserves may be computed according to any other method yielding higher aggregate values. Such reserve shall be referred to as the insurer's required reserve.

(c) If the amount remaining in the mortuary fund at the end of any calendar year is less than the mean valuation as calculated in accordance with subsection (b), above, the insurer shall each year thereafter until all deficiency is cured place to the credit of the mortuary fund an amount equal to sixty per cent of the gross premium charged for each policy, or sixty per cent of the net level premium thereon calculated upon the presumption that the policy was issued at expiration of the applicable preliminary term period as specified in the above subsection (b) on the whole term basis for the term of the policy and at the then attained age of the insured, whichever amount is greater.

(d) The premiums to be charged for life insurance shall be subject to the director's approval, and the director shall not approve any such premium unless he finds it adequate with respect to mortuary fund and other reserve requirements, reasonably anticipated expenses of the insurer, and for payment to the insured of such dividends as may have been assumed in computing the premium.

Sec. 22. PREMIUMS, DISABILITY INSURANCE. The premiums to be charged for disability insurance shall be subject to the director's approval. The director shall not approve any such premium unless he finds it adequate with respect to morbidity and other reserve requirements, reasonably anticipated expenses of the insurer, and for payment to the insured of such dividends as may have been assumed in computing the premium.

Sec. 23. MORTUARY FUND, LIFE INSURANCE. (a) For the protection of its members holding life insurance policies a benefit insurer shall set aside into a mortuary fund fifteen per cent of all first policy year premiums collected for life insurance policies exclusive of premium for the first three policy months, and sixty per cent of all premiums collected for subsequent policy periods, excluding only the premium for one policy month out of premium paid on reinstatement of the policy. To such fund the insurer shall add all interest and other earnings on the investment thereof, and the full amount of any assessment collected with respect to life insurance. The insurer may increase such mortuary fund from its other funds at its discretion.

(b) The insurer shall use such mortuary fund solely for the payment of claims arising under its life insurance policies, for payment of dividends as provided in section 26 of this article, and, with approval of the director, for payment of reinsurance premiums.

(c) All premium and other income of the insurer with respect to life insurance not required to be set aside into the mortuary fund may be used for general expenses.

Sec. 24. MORBIDITY FUND, DISABILITY INSURANCE. (a) For the protection of its members holding disability insurance policies a benefit insurer shall set aside into a morbidity fund twenty-five per cent of all first year premiums on disability policies, excluding only premium for the first three policy months, together with sixty per cent of all premiums collected for subsequent policy periods, excluding only the premium for one policy month out of premium paid on reinstatement of the policy. To such fund the insurer shall add all interest and other earnings on the investment thereof, and the full amount of any assessment collected with respect to disability insurance. The insurer may increase such morbidity fund from its other funds at its discertion.

(b) The insurer shall use such morbidity fund solely

for the payment of claims arising under its disability insurance policies, for payment of dividends as provided in section 26 of this article, and, with approval of the director, for payment of reinsurance premiums.

(c) All premium and other income of the insurer with respect to disability insurance not required to be set aside into the morbidity fund, may be used for general expenses.

Sec. 25. INVESTMENT OF FUNDS. The insurer may invest its reserves and other funds only in such securities and property as are eligible for the investment of the funds of domestic insurers pursuant to article 9.

Sec. 26. DIVIDENDS. (a) With respect to life insurance, if contributions to the mortuary fund during a calendar year exceed all claims arising the same year under its life insurance policies and the amount required to maintain the reserves required by section 21 of this article, the insurer may return such excess to its life insurance policyholders as a dividend, but not exceeding in amount as to any one policy fifty per cent of the sum paid into the mortuary fund on account of such policy during such year; except, that no such dividend shall be paid after expiration of the preliminary term specified in the policy or six years after date of issue of the policy, whichever is the shorter period, until after the insurer has:

(1) Met all its current mortality requirements, and

(2) Paid all its current and accumulated expenses or set aside funds adequate for payment thereof, and

(3) Set aside reserves for all its life insurance policies in force, which reserve, for the purposes of this provision shall be not less than that computed pursuant to subsection (c) of section 21 of this article, and

(4) Set aside an amount equal to any surplus contributed to the insurer to provide the surplus required by subsection (c) of section 5 of this article or for other purposes.

(b) With respect to disability insurance, if contributions to the morbidity fund during a calendar year exceed all claims arising the same year under its disability insurance policies, the insurer may return such excess to its disability insurance policyholders as a dividend, but not exceeding in amount as to any one policy fifty per cent of the sum paid into the morbidity fund on account of such policy during such year.

(c) Any classification of its policies for dividend purposes made by the insurer shall be fair and reasonable.

Such classification shall be based upon type of policy, reserves required therefor, premium paid thereon, and other reasonably pertinent factors.

Sec. 27. INCREASE IN PREMIUMS — ASSESSMENTS. (a) If the mortuary fund is insufficient to pay all bona fide claims and maintain the reserves required by this article, the director of insurance may order the insurer (1) to increase the premiums on its life insurance policies to an amount sufficient to pay such claims and maintain such reserves, or (2) to levy assessment on its members holding life insurance policies.

(b) If the morbidity fund is insufficient to pay all bona fide claims and maintain such reasonable contingency reserves as may be determined by the director, the director may order the insurer (1) to increase the premiums on its disability insurance policies to an amount sufficient to pay such claims and maintain such reserves, or (2) to levy an assessment on its members holding disability insurance policies.

(c) In making any order for an increase in premiums, or directing the levy of an assessment, the director may adjust premium rates or direct a variation in the amount of the assessment on different groups or types of policies, whether issued prior or subsequent to the effective date of such order. In order to arrive at equitable premium rates for various groups or types of policies issued by the insurer, the director may make an analysis of each such group or type of policy and, upon his determination of the necessity thereof, direct an increase in premium rates so as to provide fair, just and reasonable rates as between policyholders in the several groups or upon the several types of policies so issued, or, with the consent of the insurer, direct a decrease of such rates.

(d) Any assessment so levied shall not be recoverable out of the personal assets of the members upon whom it is levied, and surrender of the policy shall extinguish any liability therefor.

Sec. 28. IMPAIRMENT. If a benefit insurer has not, within ninety days of any order for an increase in premiums or directing the levy of an assessment, placed the increased rates in effect or levied the assessment as ordered, and made due proof thereof to the director, the insurer shall be deemed to be impaired and delinquency proceedings shall be begun by the director as authorized by this code.

Sec. 29. PRIVATE PROPERTY EXEMPT. The pri-

vate property of the incorporators, officers, directors, members, beneficiaries and employees of a benefit insurer shall not be liable for the payment of the debts of the corporation.

Sec. 30. REPAYMENT OF CONTRIBUTED FUNDS. (a) Funds contributed to a benefit insurer for the purpose of providing the surplus required by subsection (c) of section 5 of this article shall be repaid only out of the insurer's earned surplus, but no such repayment shall be made which reduces the insurer's surplus below $10,000 or the amount so contributed, whichever is the larger. For the purposes of this provision the insurer's liabilities shall include its required deposit, mortuary and morbidity reserves, its other required reserves, and its other liabilities.

(b) Funds contributed to a benefit insurer for the purpose of providing the deposit required by subsection (c) of section 5 of this article may be repaid out of the assets of the insurer resulting from its insurance transactions, but no such repayment shall be made which reduces the insurer's assets below $35,000.

Sec. 31. CONVERSION TO CASH PREMIUM MUTUAL INSURER. (a) A domestic benefit insurer desiring to convert itself to a domestic mutual insurer transacting insurance on the legal reserve plan shall:

(1) Secure the approval of the director of the following documents:

(i) A plan of conversion setting forth the proposed rights and liabilities of its members upon conversion, and which shall be in all respects fair and equitable to all members of every class, and

(ii) Proposed amended articles of incorporation, which shall conform to requirements relating to articles of incorporation of domestic mutual insurers as provided in article 22.

(2) By a vote of not less than fifty-one per cent of its members entitled to vote thereon, secure the approval of its members of such plan of conversion and such amended articles of incorporation, which such amended articles of incorporation shall thereupon be filed, recorded and published as required for original articles of incorporation.

(3) Have on deposit with the state treasurer and thereafter maintain surplus funds not less in amount than the following minimums:

(a) $25,000 if on the effective date of conversion it has or will have no outstanding policies other than policies of life insurance;

(b) $25,000 if on the effective date of conversion it has or will have no outstanding policies other than policies of disability insurance; or

(c) $50,000 if on the effective date of conversion it has or will have both life and disability insurance policies outstanding.

(b) Upon being satisfied that a domestic benefit insurer has met all the requirements of subsection (a), above, the director shall amend its certificate of authority so as to authorize it to do business on the legal reserve plan as a domestic mutual life insurer, disability insurer, or life and disability insurer, dependent upon the amount of its surplus so deposited. Upon such amendment of its certificate of authority, conversion to such a domestic mutual insurer shall be complete. Thereupon such converted insurer shall issue and deliver to its members certificates, in such form as may be approved by the director, setting forth the rights and liabilities of such members, consistent with the provisions of this code governing such mutual insurers. The previous deposit of any such insurer as a benefit insurer may form a portion or all of the deposit required by paragraph (3), above, but only to the extent that, on conversion to a legal reserve mutual insurer, such deposit represents surplus funds.

Sec. 32. CONVERSION TO FRATERNAL BENEFIT SOCIETY. (a) A domestic benefit insurer desiring to convert itself to a domestic fraternal benefit society shall:

(1) Secure the approval of the director of the following documents:

(i) A plan of conversion setting forth a proposal for the establishment of a supreme governing or legislative body and not less than ten subordinate lodges, together with a reasonable method of inducting or initiating its members into such lodges, and together with a statement of the proposed rights and liabilities of such members upon conversion, all portions of which said plan of conversion shall be in all respects fair and equitable to all members of every class, and

(ii) Proposed articles of incorporation, which shall conform to the requirements of this code relating to articles of incorporation of domestic fraternal benefit societies.

(2) By a vote of not less than fifty-one per cent of its members entitled to vote thereon, secure the approval of its members of such plan of conversion and such amended articles of incorporation, which such amended articles of incorporation shall thereupon be filed, recorded, and published as required for original articles of incorporation of domestic fraternal benefit societies.

(b) Upon being satisfied that a domestic benefit insurer has met all the requirements of subsection (a), above, and that such subordinate lodges have in fact been established and the members of the benefit insurer initiated or inducted therein, the director shall amend its certificate of authority so as to authorize it to do business as a domestic fraternal benefit society and conversion shall be complete. Thereupon such converted insurer shall issue and deliver to its members certificates, in such form as may be approved by the director, setting forth the rights and liabilities of such members, consistent with the provisions of this code governing fraternal benefit societies. The deposit theretofore made by any such converted insurer shall thereupon be subject to release to it, on order of the director.

Sec. 33. MERGER OF BENEFIT INSURERS. Two or more domestic benefit insurers may merge or consolidate upon such terms and conditions as may be approved by the director, and upon affirmative vote in person or by proxy of not less than fifty-one per cent of the members of both or all such corporations entitled to vote thereon. Notice of the proposed merger or consolidation, together with the plan and terms of the same, shall be mailed to the members of the insurers involved not less than thirty days prior to the membership meetings to be held for the purpose of voting thereon. Following such approval of the director and the members of the insurers, the continuing insurer may have the assets of the insurer or insurers to be assumed transferred to it, shall issue to each member of each assumed insurer such form of assumption contract as may have been approved by the director, and shall assume the liabilities of the assumed insurer. Upon any such merger or consolidation, no special compensation or profit shall inure to the officers or directors of either or to any insurer by reason thereof.

Sec. 34. REINSURANCE OF BENEFIT INSURER. (a) A domestic benefit insurer may be wholly reinsured and absorbed by a legal reserve mutual insurer or stock in-

surer in accordance with such reasonable plan therefor as is filed with and approved in advance by the director, and subsequently approved by affirmative vote of not less than fifty-one per cent of the benefit insurer's members entitled to vote in person or by proxy at a special meeting of members called for the purpose according to such reasonable notice and procedure as the director approves. The director shall not approve any such plan found by him to be inequitable to the members of the benefit insurer or any class thereof.

(b) Such plan may provide for successive or periodic transfers of the liability of the benefit insurer with respect to particular groups of policies, classified on a reasonable basis, together with assets of the benefit insurer representing the fair share of such policies in the insurer's reserves and other assets.

(c) Upon assumption of liability with respect to the policies so reinsured, the assuming insurer shall forthwith issue and deliver to the holders of such policies its certificate extinguishing the liability of such policyholders to assessment pursuant to this article and granting such additional reasonable rights and privileges as may be required or approved by the director.

Sec. 35. OTHER PROVISIONS APPLICABLE TO BENEFIT INSURERS. To the extent not inconsistent with the express provisions of this article and the reasonable implications thereof, the following provisions of this code shall also apply to such insurers where applicable:

(a) Article 1 (Scope of code).

(b) Article 2 (The director of insurance).

(c) Article 3 (General requirements), except as to the following sections: Sections 11 (expendable surplus, new insurers), 12 (additional kinds of insurance, funds required), 13 (deposit requirements), and 14 (financial requirements, existing insurers).

(d) Section 3 of article 4 (definition of disability insurance).

(e) Article 5 (agents qualification and licensing), except that any examination to be required of an applicant for an agent's license shall be limited to the types of policies which a benefit insurer may issue pursuant to this article.

(f) The following sections of article 8 (assets and liabilities): Sections 1 ("assets" defined), 2 (assets as deductions from liabilities), 3 (assets not allowed), 4 (reporting assets not allowed), 11 (valuation of bonds), 12 (valuation

of other securities), 13 (valuation of property), and 14 (valuation of purchase money mortgages).

(g) Article 9 (Investments).

(h) Article 10 (Administration of deposits).

(i) Article 11 (The insurance contract).

(j) The following sections of article 12 (Life insurance): Sections 16 (title of policy), 17 (excluded or restricted coverage), 26 (limitation of liability), 27 (incontestability after reinstatement), 28 (policy settlements), 29 (indebtedness deducted from proceeds), and 30 (prohibition of dual or multiple pay policies).

(k) Article 15 (Disability insurance).

(l) Article 21 (Unfair practices).

(m) The following sections of article 22 (Organization and corporate procedures of domestic stock and mutual insurers): Sections 1 (scope of article), 4 (application of general laws), 5 (articles of incorporation), 6 (filing, recording, etc., articles of incorporation), 7 (amendment of articles of incorporation), 13 (bylaws of mutual), 16 (corporate rights of mutual members), 24 (illegal dividends), 25 (borrowed surplus), 26 (prohibited interests of officers, directors in certain transactions), 27 management and exclusive agency contracts), and 35 (mutual member's share of assets on liquidation).

(n) The applicable provisions of article 24 (Rehabilitation and liquidation).

ARTICLE 28. BENEFIT STOCK INSURERS.

Section 1. SCOPE OF ARTICLE. This article applies only to domestic benefit stock insurers.

Sec. 2. "BENEFIT STOCK INSURER" DEFINED. A "benefit stock insurer" is an incorporated stock insurer heretofore authorized as such pursuant to the provisions of the benefit stock corporation Act of 1947 (Laws of 1947, chapter 138).

Sec. 3. PROVISIONS EXCLUSIVE. No other provisions of this code shall apply to benefit stock insurers except as stated in this article.

Sec. 4. EXISTING BENEFIT STOCK INSURERS. Benefit stock insurers holding certificate of authority to transact insurance immediately prior to the effective date of this code may continue to transact such business but subject to the provisions of this article. After such effective date no insurer may be converted into or newly become a benefit stock insurer.

Sec. 5. POWERS. Subject to the conditions and limita-

tions prescribed or referred to in this article, a benefit stock insurer shall have all rights, privileges, powers, and authority possessed by other domestic stock insurers authorized to transact life and/or disability insurance, as modified by such applicable powers and limitations of domestic benefit insurers under article 27 as are hereinafter in this article referred to. The insurer shall not have power to issue any policy which is subject to assessment.

Sec. 6. DEPOSIT. A benefit stock insurer shall have and maintain on deposit with the state treasurer, to be by him held in trust for the protection of the insurer's policyholders, not less than thirty-five thousand dollars, ten thousand dollars of which shall be a part of the insurer's mortuary fund, and not less than twenty-five thousand dollars shall be proceeds of sales of stock of the insurer.

Sec. 7. STOCKHOLDERS. (a) Each outstanding share of stock of a benefit stock insurer shall be entitled to one vote at any stockholders meeting; but, for the election of directors, cumulative voting is required as prescribed by section 10, article 14 of the constitution of Arizona.

(b) Upon liquidation or dissolution of such an insurer its funds or assets remaining after discharge of its other obligations shall be distributed to its stockholders pro rata according to the number of shares by such stockholders respectively held. Prior to any such liquidation or dissolution and distribution, no stockholder shall have any vested right in any of the insurer's funds or assets except as to stockholders' dividends declared but not paid.

(c) The insurer may pay dividends to stockholders only out of its net realized income and earnings from time to time remaining after meeting in full its deposit, mortuary and morbidity fund, reserve, and expense requirements. The amount of any such dividend shall be as from time to time declared and set aside for the purpose by the insurer's board of directors in its discretion.

Sec. 8. OFFICERS. A benefit stock insurer shall be governed by a board of directors comprised of not less than three nor more than nine directors. A majority of the directors shall be residents of Arizona. The directors shall be elected by the stockholders present in person or by proxy at a duly called and held meeting of stockholders, for terms of not exceeding three years, as the bylaws may prescribe. As nearly as practicable, an equal number of directors shall be chosen at each election. Vacancies shall be filled as the bylaws shall provide. The directors shall, from their own

numbers, elect the officers. Following each annual election of officers the names of the officers elected shall be certified to the director of insurance under the seal of the insurer.

Sec. 9. AGE LIMIT. The insurer shall not issue any insurance policy to any person or persons who have attained the age of seventy years or more.

Sec. 10. CONVERSION TO LEGAL RESERVE INSURER. By appropriate amendment of its articles of incorporation and such increase of its authorized and paid-in capital and the amount of its deposit to the amount required under this code for the type of stock life and/or disability insurer into which such conversion is to be made, and upon approval by the director of a reasonable plan therefor with respect to insurance then in force in the insurer, a benefit stock insurer may be converted into a domestic stock insurer or limited stock insurer transacting life and/or disability insurance on the full legal reserve basis. Upon conversion the insurer shall comply with all of the provisions of this code applicable to such an insurer.

Sec. 11. OTHER PROVISIONS APPLICABLE TO BENEFIT STOCK INSURERS. To the extent not inconsistent with the express provisions of this article and the reasonable implications thereof, the following provisions of this code shall also apply to such insurers where applicable:

(a) Article 1 (Scope of code).

(b) Article 2 (The director of insurance).

(c) Article 3 (General requirements), except as to the following sections: Sections 11 (expendable surplus, new insurers), 12 (additional kinds of insurance, funds required), 13 (deposit requirements), and 14 (financial requirements, existing insurers).

(d) Section 3 of article 4 (definition of disability insurance).

(e) Article 5 (agents qualification and licensing), except that any examination to be required of an applicant for an agent's license shall be limited to the types of policies which a benefit insurer may issue pursuant to this article.

(f) The following sections of article 8 (Assets and liabilities): Sections 1 ("assets" defined), 2 (assets as deductions from liabilities), 3 (assets not allowed), 4 (reporting assets not allowed), 11 (valuation of bonds), 12 (valuation of other securities), 13 (valuation of property), and 14 (valuation of purchase money mortgages).

(g) Article 9 (Investments).

(h) Article 10 (Administration of deposits).

(i) Article 11 (The insurance contract).

(j) The following sections of article 12 (Life insurance): Sections 16 (title of policy), 17 (excluded or restricted coverage), 26 (limitation of liability), 27 (incontestability after reinstatement), 28 (policy settlements), 29 (indebtedness deducted from proceeds), and 30 (prohibition of dual or multiple pay policies).

(k) Article 15 (Disability insurance).

(l) Article 21 (Unfair practices).

(m) The following sections of article 22 (Organization and corporate procedures of domestic stock and mutual insurers): Sections 1 (scope of article), 4 (application of general laws), 7 (amendment of articles of incorporation), 24 (illegal dividends), 25 (borrowed surplus), 26 (prohibited interests of officers, directors in certain transactions), 27 (management and exclusive agency contracts), 29 (mutualization), 31 (mergers), and 32 (reinsurance).

(n) Article 24 (liquidations).

(o) Sections of article 27 (Benefit insurers), to the extent applicable, as follows:

(1) Section 12 (fidelity bond).

(2) Section 14 (limitation on insuring powers), except subsection (j) thereof.

(3) Section 15 (forms—filing, approval).

(4) Section 16 (contents of policies in general).

(5) Section 17 (life insurance policy provisions).

(6) Section 18 (limitation of liability).

(7) Section 19 (disability policies, reinstatement).

(8) Section 20 (family group policies), except with respect to membership rights.

(9) Section 21 (rates and valuations—life insurance).

(10) Section 22 (premiums, disability insurance).

(11) Section 23 (mortuary fund), except as to first years' premiums, and subject to the right of the insurer to pay dividends to its stockholders as provided in section 7 of this article.

(12) Section 24 (morbidity fund), subject to the right of the insurer to pay dividends to its stockholders as provided in section 7 of this article.

(13) Section 25 (investments).

(14) Section 26 (dividends to policyholders).

(15) Section 27 (increase in premiums), with respect only to increase of premiums.

(16) Section 28 (impairment), with respect only to increase of premiums.

ARTICLE 29. REPEALS.

Section 1. REPEAL. The following Acts and parts of Acts shall be and the same are hereby repealed:

Sections 1773 to 1882 inclusive Revised Code of 1928 being Chapter 61, Arizona Code of 1939, Chapter 86, Laws of 1933, Chapter 68, Laws of 1939, Chapters 93 and 113, Laws of 1941, Chapters 36, 70, 78 and 95, Laws of 1943, Chapter 100, Laws of 1945, Chapter 13, Laws of 1945 (First Special Session), Chapters 124, 125, 126, 127 and 138, Laws of 1947, Chapters 16 and 32, Laws of 1947 (Second Special Session), Chapters 6 and 7, Laws of 1948 (Seventh Special Session), Chapters 116 and 117, Laws of 1949, Chapters 121 and 146, Laws of 1951 (First Regular Session), and all amendments to said Acts or parts of Acts; all Acts or parts of Acts which are inconsistent herewith.

Approved by the Governor - March 24, 1954

Filed in the Office of the Secretary of State - March 24, 1954

APPENDIX
B

Being Complete Text of

CHAPTER 65
(House Bill No. 1)

which is indicated by number
and title only on Page 81.

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State of Arizona
House of Representatives
Twenty-first Legislature
Second Regular Session

INCOME TAX ACT

CHAPTER 65

HOUSE BILL NO. 1

AN ACT

RELATING TO TAXATION AND THE RAISING OF REVENUE; PROVIDING FOR A GRADUATED TAX ON THE NET INCOMES OF PERSONS AND CORPORATIONS; PRESCRIBING PENALTIES, AND REPEALING "THE INCOME TAX ACT OF 1933", BEING SECTIONS 73-1501 TO 73-1551, AS AMENDED, ARIZONA CODE OF 1939.

Be it Enacted by the Legislature of the State of Arizona:

INCOME TAX ACT

Section 1. GENERAL PROVISIONS AND DEFINITIONS. (a) CITATION AND EFFECTIVE DATE. This Act may be cited as the "Income Tax Act of 1954". The provisions of this Act shall apply only to taxable years beginning after December 31, 1953.

(b) CONSTRUCTION. Except where the context otherwise requires, the definitions given in this section govern the construction of this Act.

(c) TAX COMMISSION. "Tax commission" or "commission" means the Arizona state tax commission.

(d) TAX. "Tax" means the taxes imposed under this Act.

(e) TAXPAYER. "Taxpayer" means any person subject to a tax imposed by this Act, but in no case shall it include the United States, the state, counties, cities,

villages, school districts, or other political subdivisions or units of the state or Federal Government.

(f) INDIVIDUAL. "Individual" means a natural person.

(g) FIDUCIARY. "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, whether individual or corporate, or any person acting in any fiduciary capacity for any person, estate or trust.

(h) PERSON. "Person" includes individuals, fiduciaries, partnerships, and corporations.

(i) PARTNERSHIP. "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation.

"Partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(j) CORPORATION. "Corporation" shall mean and include all corporations, joint stock companies, banks, insurance companies, business trusts or so called "Massachusetts Trusts", investment companies, building and loan associations, and other associations whether incorporated or unincorporated.

(k) TAXABLE YEAR. "Taxable year" means the calendar year or the fiscal year (ending during such calendar year) upon the basis of which the net income is computed under this Act. If no fiscal year has been established, "taxable year" means the calendar year.

"Taxable year" means, in the case of a return made for a fractional part of a year under this Act or under regulations prescribed by the tax commission, the period for which the return is made.

(l) INCOME YEAR. For the purposes of the tax imposed under this Act, wherever "income year" is used throughout this Act it means "taxable year" as that term is defined in this section.

(m) FISCAL YEAR. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(n) PAID OR INCURRED. "Paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this Act.

(o) ASSESSMENT. "Assessment" includes "proposed additional assessment".

(p) RESIDENT. "Resident" includes:

(1) Every individual who is in this state for other than a temporary or transitory purpose.

(2) Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

Any individual who is a resident of this state continues to be a resident even though temporarily absent from the state.

(q) NONRESIDENT. "Nonresident" means every individual other than a resident.

(r) PRESUMPTION OF RESIDENCE. Every individual who spends in the aggregate more than nine months of the taxable year within this state shall be presumed to be a resident. The presumption may be overcome by competent evidence that the individual is in the state for a temporary or transitory purpose.

(s) UNITED STATES. "United States", when used in a geographical sense, includes the states, the territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(t) STATE. "State" includes the territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

(u) FOREIGN COUNTRY. "Foreign country" means any jurisdiction other than one embraced within the United States.

(v) TRADE OR BUSINESS. "Trade or business" includes the performance of the functions of a public office.

(w) HUSBAND AND WIFE.

(1) As used in section 12 (e) (1), (2) and (4), sections 23 (u) and section 64, and the last paragraph of

section 27 (c), if the husband and wife therein referred to are divorced, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband". If the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband".

(2) An individual who is legally separated from his (or her) spouse under a decree of divorce or of separate maintenance shall not be considered as married (or as husband and wife).

(3) A taxpayer shall be considered as married at the close of his (or her) taxable year if his (or her) spouse died during the taxable year.

(x) HEAD OF HOUSEHOLD. For the purposes of this Act, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year and maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of any person who is a dependent of the taxpayer, if the taxpayer is entitled to an exemption for the taxable year for such person under section 27 (c). An individual may be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

(y) MILITARY OR NAVAL FORCES. The term "military or naval forces of the United States" includes the marine corps, the coast guard, the army nurse corps, female, the women's army auxiliary corps, the navy nurse corps, female, and the women's reserve branch of the naval reserve.

(z) COUNSEL FOR TAX COMMISSION. The terms "counsel for tax commission" and "tax commission counsel" as used in this Act, means attorney or attorneys acting subject to the approval and under the supervision of the department of law, and the attorney general.

(aa) INCOME DERIVED FROM SOURCES WITHIN THIS STATE. Income derived from or attributable to sources within this state includes income from tangible or intangible property located or having a situs in this state and income from any activities carried on in this

state, regardless of whether carried on in intrastate, interstate or foreign commerce.

(bb) SPECIFIC DEFINITIONS. Definitions, other than general definitions, are set forth in the section to which specifically applicable.

SECTION 2. IMPOSITION OF TAX.

(a) TAXES AND RATES—INDIVIDUALS, ESTATES AND TRUSTS. There shall be levied, collected, and paid for each taxable year upon the entire net income of every estate or trust taxable under this Act and of every resident of this state and upon the entire net income of every nonresident which is derived from sources within this state, taxes in the following amounts and at the following rates upon the amount of net income in excess of credits against net income provided in sections 27 and 28.

On the first one thousand dollars or any part thereof, one per cent.

On the second one thousand dollars or any part thereof, one and one-half per cent.

On the third one thousand dollars or any part thereof, two per cent.

On the fourth one thousand dollars or any part thereof, two and one-half per cent.

On the fifth one thousand dollars or any part thereof, three per cent.

On the sixth one thousand dollars or any part thereof, three and one-half per cent.

On the seventh one thousand dollars or any part thereof, four per cent.

On the eighth one thousand dollars or any part thereof, and on all taxable income in excess of eight thousand dollars, four and one-half per cent.

(b) TAXES AND RATES — CORPORATIONS. There shall be levied, collected, and paid for each taxable year upon the entire net income of every corporation,

except as otherwise provided in this Act or by law, taxes in the following amounts and at the following rates:

Upon net income not in excess of one thousand dollars ($1,000.00), one per cent of such net income.

Ten dollars ($10.00) upon net income of one thousand dollars ($1,000.00); and upon net income in excess of one thousand dollars ($1,000.00) and not in excess of two thousand dollars ($2,000.00), 2 per cent in addition of such excess.

Thirty dollars ($30.00) upon net income of two thousand dollars ($2,000.00); and upon net income in excess of two thousand dollars ($2,000.00) and not in excess of three thousand dollars ($3,000.00) 2½ per cent in addition of such excess.

Fifty-five dollars ($55.00) upon net income of three thousand dollars ($3,000.00); and upon net income in excess of three thousand dollars, ($3,000.00) and not in excess of four thousand dollars ($4,000.00), 3 per cent in addition of such excess.

Eighty-five dollars ($85.00) upon net income of four thousand dollars ($4,000.00); and upon net income in excess of four thousand dollars ($4,000.00) and not in excess of five thousand dollars ($5,000.00), 3½ per cent in addition of such excess.

One hundred and twenty dollars ($120.00) upon net income of five thousand dollars ($5,000.00); and upon net income in excess of five thousand dollars ($5,000.00) and not in excess of six thousand dollars ($6,000.00), 4½ per cent in addition of such excess.

One hundred and sixty-five dollars ($165.00) upon net income of six thousand dollars ($6,000.00); and upon net income in excess of six thousand dollars ($6,000.00), 5 per cent in addition of such excess.

(c) OPTIONAL TAX.

(1) In lieu of the tax imposed under subsection (a), there shall be levied, collected and paid for each taxable year upon the gross income of each individual whose gross income for such year is less than five thousand dollars ($5,000.00) and who has elected to pay the tax imposed by this subsection for such year, the tax shown in the following table:

Gross Income		Single Person or Married Person Filing Separately	Married Couple Filing Jointly or Single Person—Head of Household
At Least	But Less Than		
$1,100.00	$1,150.00	$ .13	$ 0
1,150.00	1,200.00	.58	0
1,200.00	1,250.00	1.03	0
1,250.00	1,300.00	1.48	0
1,300.00	1,350.00	1.93	0
1,350.00	1,400.00	2.38	0
1,400.00	1,450.00	2.83	0
1,450.00	1,500.00	3.28	0
1,500.00	1,550.00	3.73	0
1,550.00	1,600.00	4.18	0
1,600.00	1,650.00	4.63	0
1,650.00	1,700.00	5.08	0
1,700.00	1,750.00	5.53	0
1,750.00	1,800.00	5.98	0
1,800.00	1,850.00	6.43	0
1,850.00	1,900.00	6.88	0
1,900.00	1,950.00	7.33	0
1,950.00	2,000.00	7.78	0
2,000.00	2,050.00	8.23	0
2,050.00	2,100.00	8.68	0
2,100.00	2,150.00	9.13	0
2,150.00	2,200.00	9.58	0
2,200.00	2,250.00	10.04	.03
2,250.00	2,300.00	10.71	.48
2,300.00	2,350.00	11.39	.93
2,350.00	2,400.00	12.06	1.38
2,400.00	2,450.00	12.74	183
2,450.00	2,500.00	13.41	2.28
2,500.00	2,550.00	14.09	2.73
2,550.00	2,600.00	14.76	3.18
2,600.00	2,650.00	15.44	3.63
2,650.00	2,700.00	16.11	4.08
2,700.00	2,750.00	16.79	4.53
2,750.00	2,800.00	17.46	4.98
2,800.00	2,850.00	18.14	5.43
2,850.00	2,900.00	18.81	5.88
2,900.00	2,950.00	19.49	6.33
2,950.00	3,000.00	20.16	6.78
3,000.00	3,050.00	20.84	7.23
3,050.00	3,100.00	21.51	7.68
3,100.00	3,150.00	22.19	8.13
3,150.00	3,200.00	22.86	8.58
3,200.00	3,250.00	23.54	9.03
3,250.00	3,300.00	24.21	9.48
3,300.00	3,350.00	24.89	9.93
3,350.00	3,400.00	25.75	10.38
3,400.00	3,450.00	26.65	10.83

Gross Income		Single Person or Married Person Filing Separately	Married Couple Filing Jointly or Single Person—Head of Household
At Least	But Less Than		
3,450.00	3,500.00	27.55	11.28
3,500.00	3,550.00	28.45	11.73
3,550.00	3,600.00	29.35	12.18
3,600.00	3,650.00	30.25	12.63
3,650.00	3,700.00	31.15	13.08
3,700.00	3,750.00	32.05	13.53
3,750.00	3,800.00	32.95	13.98
3,800.00	3,850.00	33.85	14.43
3,850.00	3,900.00	34.75	14.88
3,900.00	3,950.00	35.65	15.33
3,950.00	4,000.00	36.55	15.78
4,000.00	4,050.00	37.45	16.23
4,050.00	4,100.00	38.35	16.68
4,100.00	4,150.00	39.25	17.13
4,150.00	4,200.00	40.15	17.58
4,200.00	4,250.00	41.05	18.03
4,250.00	4,300.00	41.95	18.48
4,300.00	4,350.00	42.85	18.93
4,350.00	4,400.00	43.75	19.38
4,400.00	4,450.00	44.65	19.83
4,450.00	4,500.00	45.69	20.41
4,500.00	4,550.00	46.81	21.09
4,550.00	4,600.00	47.94	21.76
4,600.00	4,650.00	49.06	22.44
4,650.00	4,700.00	50.19	23.11
4,700.00	4,750.00	51.31	23.79
4,750.00	4,800.00	52.44	24.46
4,800.00	4,850.00	53.56	25.14
4,850.00	4,900.00	54.69	25.81
4,900.00	4,950.00	55.81	26.49
4,950.00	5,000.00	56.94	27.16

In applying the above table to determine the tax of such individual, there shall be subtracted from his gross income the amount of the federal income tax paid during the taxable year.

In applying the above table to determine the tax of a taxpayer with one or more dependents, there shall be subtracted from his gross income $600.00 for each dependent, except that in the case of a "head of household" the deduction for dependents shall be permitted only for those dependents in excess of one.

(2) For the purpose of this subsection:

(A) "Married person" means a married person on the last day of the taxable year.

(B) "Dependent" means a person who is dependent under section 27 (c).

(C) An individual, who is not a head of a family or a married person, shall be treated as a single person.

(D) "Head of household" means a head of household on the last day of the taxable year, unless such person dies during the taxable year, in which case such determination shall be made as of the date of death.

(E) In the case of a joint return of a husband and wife filed pursuant to section 41 (a) (2), the tax imposed under subsection (a) shall be twice the tax that would be determined if the net income and credits against net income provided by sections 27 and 28 were reduced by one-half.

(3) This subsection shall not apply to an estate or trust, an individual filing a return for a period of less than twelve months on account of a change in the accounting period, or to a married individual whose spouse files a return and computes the tax without regard to this section or section 23 (aa) (1).

Section 11. NET INCOME.

DEFINITION. "Net income" means the gross income computed under this Act less the deductions allowed by this Act.

Section 12. GROSS INCOME.

(a) DEFINITION—"GROSS INCOME". Gross income includes gains, profits, and income derived from salaries, wages, or compensation for personal service, including personal service as an officer or employee of this state or the federal government, or any political division thereof or any agency or instrumentality of any one or more of the foregoing, of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever, including interest which now or hereafter constitutionally may be taxed.

(b) EXCLUSIONS FROM GROSS INCOME. In computing the tax imposed under this Act, "gross income" does not include any of the items specified in this subsection.

(1) LIFE INSURANCE—DEATH BENEFITS. Gross income does not include amounts received:

(A) Under a life insurance contract, paid by reason of the death of the insured or,

(B) Under a contract of an employer providing for the payment of such amounts to the beneficiaries of an employee, paid by reason of the death of the employee; whether in a single sum or otherwise (but if such amounts are held by the insurer, or the employer, under an agreement to pay interest thereon, the interest payments shall be included in gross income). The aggregate of the amounts excludible under (B) by all the beneficiaries of the employee under all such contracts of any one employer may not exceed five thousand dollars ($5,000.00).

(2) LIFE INSURANCE OTHER THAN DEATH BENEFITS. Gross income also does not include amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts and other than amounts received as annuities) under a life insurance or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income.

(3) ANNUITY. Gross income also does not include amounts received as an annuity under an annuity or endowment contract, but if such amounts (when added to amounts received before the taxable year under such contracts) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year) then the excess shall be included in gross income.

(4) OTHER INSURANCE PROCEEDS. Gross income does not include amounts received (other than amounts paid by reason of the death of the insured under life insurance, endowment or annuity contracts) either during the term or at maturity or upon surrender of the contract, equal to the total amount of premiums paid thereon. In the case of a transfer for a valuable consideration by assignment or otherwise, of a life insurance, en-

dowment or annuity contract or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded from gross income under paragraph (1). The preceding sentence shall not apply in the case of such a transfer if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor.

(5) ALIMONY PAID UNDER LIFE INSURANCE, ENDOWMENT, OR AN ANNUITY CONTRACT. Paragraphs (1), (2), (3) and (4) shall not apply with respect to so much of a payment under a life insurance, endowment, or annuity contract, or any interest therein, as is includible in gross income under subsection (e), (1), (2), (3) and (4).

(6) ANNUITIES FOR EMPLOYEES. If an annuity contract is purchased by an employer for an employee under a plan with respect to which the employer's contribution is deductible under section 23 (p) or if an annuity contract is purchased for an employee by an employer exempt under section 47 (a) (4), the employee shall include in his income the amounts received under such contract for the year received. If the employee paid any of the consideration for the annuity, the annuity shall be included in his income as provided in paragraphs (2), (3) and (4). The consideration for the annuity is the amount contributed by the employee.

(7) EMPLOYEE ANNUITIES, NONFORFEITABLE. Except as provided in paragraph (6), if the employee's rights under the contract are nonforfeitable other than for failure to pay future premiums, the amount contributed by the employer for such annuity contract on or after such rights become nonforfeitable shall be included in the income of the employee in the year in which the amount is contributed. This amount, together with any amounts contributed by the employee, shall constitute the consideration paid for the annuity contract in determining the amount of the annuity required to be included in the income of the employee under paragraphs (2), (3), and (4).

(8) JOINT AND SURVIVOR'S ANNUITY. For purposes of paragraphs (2), (3), (4), (6) and (7), where amounts are received by a surviving annuitant under a joint and survivor's annuity contract and the

basis of such survivor annuitant's interest is determined under section 53 (a) (5) (A) the consideration paid for such survivor's annuity shall be considered to be an amount equal to such basis.

(9) GIFTS. Gross income also does not include the value of property acquired by gift, bequest, devise, or inheritance. There shall not be excluded from gross income under this paragraph the income from such property, or, in case the gift, bequest, devise, or inheritance is of income from property, the amount of income. For the purposes of this paragraph, if, under the terms of the gift, bequest, devise, or inheritance, payment, crediting, or distribution thereof is to be made at intervals, to the extent that it is paid or credited or to be distributed out of income from property, it shall be considered a gift, bequest, devise, or inheritance of income from property.

(10) TAX EXEMPT INTEREST. Gross income also does not include interest upon the obligations of this state or any political subdivision thereof, or the obligations of the United States or its possessions.

(11) AMOUNTS RECEIVED FOR INJURY OR SICKNESS. Except in the case of amounts attributable to, and not in excess of, deductions allowed under section 23 (x) (1), (2) and (3), gross income also does not include amounts received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness. Gross income does not include amounts received as a pension, annuity, medical retirement or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country.

(12) MINISTER'S COMPENSATION. Gross income also does not include the rental value of a dwelling house and appurtenances thereof furnished to a minister of a religion as part of his compensation.

(13) COMPENSATION OF EMPLOYEES OF FOREIGN GOVERNMENT. Gross income also does not include wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or nondiplomatic representative) received as compensation for official services to that country:

(A) If the employee is not a citizen of the United States;

(B) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(C) If the foreign country and political subdivision thereof do not tax the wages, fees, or salaries of employees of the United States performing similar services in that country.

(14) DISCHARGE OF INDEBTEDNESS EVIDENCED BY SECURITY. Gross income does not include the amount of any income of a corporation attributable to the discharge, within the income year, of any indebtedness of the taxpayer, or for which the taxpayer is liable, evidenced by a security, as hereinafter defined, if the taxpayer makes and files at the time of filing the return, in such manner as the tax commission by regulation prescribes, its consent to the regulations prescribed under section 53 (b) (3). In such case the amount of any income of the tax payer attributable to any unamortized premium, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be allowed as a deduction. "Security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation.

(15) DISCHARGE OF INDEBTEDNESS — RAILROAD CORPORATION — SEC. 77m, BANKRUPTCY ACT. Gross income does not include the amount of any income attributable to the discharge, within the income year, of any indebtedness of a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended, to the extent that such income is deemed to have been realized by reason of a modification in or cancellation in whole or in part of such indebtedness pursuant to an order of a court in a receivership proceeding or in a proceeding under section 77 of the national bankruptcy act, as amended. In such case the amount of any income of the taxpayer attributable to any unamortized premium, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discourt, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be allowed as a

deduction. Paragraph (14) shall not apply with respect to any discharge of indebtedness to which this paragraph applies.

(16) LESSEE IMPROVEMENTS. Gross income also does not include income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

(17) RECOVERY OF BAD DEBT, PRIOR TAX, OR DELINQUENCY AMOUNT. Gross income also does not include income attributable to the recovery during the taxable year of a bad debt, prior tax, or delinquency amount, to the extent of the amount of the recovery exclusion with respect to that debt, tax, or amount.

(18) BAD DEBT. As used in paragraph (17) "bad debt" means a debt on account of worthlessness or partial worthlessness of which a deduction was allowed for a prior taxable year.

(19) PRIOR TAX. As used in paragraph (17) "prior tax" means a tax on account of which a deduction or credit was allowed for a prior taxable year.

(20) DELINQUENCY AMOUNT. As used in paragraph (17) "delinquency amount" means an amount paid or accrued on account of which a deduction or credit was allowed for a prior taxable year and which is attributable to failure to file a return with respect to a tax, or pay a tax, within the time required by the law under which the tax is imposed, or to failure to file a return with respect to a tax or pay a tax.

(21) RECOVERY EXCLUSION. As used in paragraph (17) "recovery exclusion", with respect to a bad debt, prior tax, or delinquency amount, means the amount, determined in accordance with regulations prescribed by the tax commission, of the deductions or credits allowed, on account of such bad debt, prior tax, or delinquency amount, which did not result in a reduction of the taxpayer's tax under this Act, reduced by the amount excludible in previous taxable years with respect to such debt, tax or amount under this paragraph.

(22) COMPENSATION FOR MILITARY SERVICE.

(A) Gross income also does not include the salary, wages, bonuses, allowances, and other compensation re-

ceived by an individual for his services as a member of the armed forces of the United States, including any auxiliary branch thereof, up to and including one thousand dollars ($1,000.00) per annum in the aggregate.

(B) Gross income also does not include amounts received during the taxable year as mustering out payments and terminal leave and unused leave pay and bonds, and educational benefits received under federal or state legislation with respect to services in the military or naval forces of the United States.

(23) OPTION PRICE—EMPLOYEE STOCK OPTIONS. Gross income also does not include any amount, other than the option price, received by any bank or corporation, or its parent or subsidiary bank or corporation, as consideration for the issuance of stock to an employee of such bank or corporation, as a result of the exercise by the employee of a "restricted stock option" as defined in section 60 (d) (1).

(24) CONSTITUTIONALLY EXEMPT INCOME. Gross income also does not include income which this state is prohibited from taxing under the constitution or laws of the United States of America or under the constitution of this state.

(c) INVENTORIES, AS PRESCRIBED BY THE TAX COMMISSION. Whenever in the opinion of the tax commission the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by the taxpayer upon such basis as the tax commission may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

(d) METHOD USED IN INVENTORYING GOODS.

(1) FIRST IN, LAST OUT METHOD, PERMISSIBLE. A taxpayer may use the following method (whether or not the method has been prescribed under subsection (c) in inventorying goods specified in the application required under paragraph (2):

(A) Inventory them at cost;

(B) Treat those remaining on hand at the close of the taxable year as being: first, those included in the opening inventory of the taxable year (in order of ac-

quisition) to the extent thereof, and second, those acquired in the taxable year; and

(C) Treat those included in the opening inventory of the taxable year in which the method is first used as having been acquired at the same time and determine their cost by the average cost method.

(2) FIRST IN, LAST OUT METHOD, WHEN APPLICABLE. The method described in paragraph (1) may be used

(A) Only in inventorying goods (required under subsection (c) to be inventoried) specified in an application to use such method filed at such time and in such manner as the tax commission may prescribe; and

(B) Only if the taxpayer establishes to the satisfaction of the tax commission that the taxpayer has used no procedure other than that specified in subparagraphs (B) and (C) of paragraph (1) in inventorying to ascertain the income, profit, or loss of the first taxable year for which the method described in paragraph (1) is to be used, for the purpose of a report or statement covering the taxable year to shareholders, partners, or other proprietors, or to beneficiaries, or for credit purposes.

(3) FIRST IN, LAST OUT METHOD, TAX COMMISSION TO PRESCRIBE REGULATIONS. The change to, and the use of, the descibed method shall be in accordance with such regulations as the tax commission may prescribe as necessary in order that the use of the method may clearly reflect income.

(4) FIRST IN, LAST OUT METHOD, INVENTORIED AT COST. In determining income for the taxable year preceding the taxable year for which the described method is first used, the closing inventory of such preceding year of the goods specified in the application shall be at cost.

(5) FIRST IN, LAST OUT METHOD, INCONSISTENT USE. If a taxpayer, having complied with paragraph (2), uses the method described in paragraph (1) for any taxable year, that method shall be used in all subsequent taxable years unless

(A) With the approval of the tax commission a change to a different method is authorized; or

(B) The tax commission determines that the taxpayer has used for any such subsequent taxable year some procedure other than that specified in subparagraph (B) of paragraph (1) in inventorying the goods specified in the application to ascertain the income, profit or loss of such subsequent taxable year for the purpose of a report or statement covering such taxable year to shareholders, partners, or other proprietors, or beneficiaries, or for credit purposes, and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent taxable year or any taxable year thereafter.

In either of the above cases, the change to, and the use of the different method shall be in accordance with such regulations as the tax commission may prescribe as necessary in order that the use of such method may clearly reflect income.

(6) ADJUSTMENT OF NET INCOME, WHEN APPLICABLE. The net income of the taxpayer otherwise determined for the year of involuntary liquidation shall be adjusted according to the provisions of paragraphs (7) and (8):

(A) If, for any taxable year beginning after December 31, 1953, and while a state of war exists and prior to the termination of such war as proclaimed by the president of the United States, the closing inventory of a taxpayer inventorying goods under the method provided in this subsection reflects a decrease from the opening inventory of goods for this year; and

(B) If, at the time of the filing of the taxpayer's income tax return for such year, the taxpayer elects to have the provisions of paragraphs (6) through (15) apply and so notifies the tax commission; and

(C) If, at the time of such election, it is established to the satisfaction of the tax commission, in accordance with the rules and regulations prescribed by the tax commission, that such decrease is attributable to the involuntary liquidation of the inventory as defined in paragraph (9); and

(D) If the closing inventory of a subsequent taxable year, ending not more than four years after the termination of such war as proclaimed by the president of the United States, reflects a replacement, in whole or in part, of the goods so previously liquidated.

(7) ADJUSTMENT OF NET INCOME, METHOD. The taxpayer's net income shall be adjusted as follows:

(A) Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

(B) Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

(8) ADJUSTMENT OF TAXES. The taxes imposed by this Act for the year of such liquidation and for all taxable years intervening between that year and the year of replacement shall be redetermined giving effect to adjustments provided for in paragraph (6). Any increase in taxes resulting from these adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

(9) DEFINITION — "INVOLUNTARY LIQUIDATION". As used in paragraphs (6) through (15), "involuntary liquidation" means the sale or other disposition of goods inventoried under the method described in this subsection, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which a sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the provisions of this subsection if such failure on the part of the taxpayer is due, directly and exclusively:

(A) To enemy capture or control of sources of limited foreign supply;

(B) To shipping or other transportation shortages;

(C) To material shortages resulting from priorities or allocations;

(D) To labor shortages;

(E) To other prevailing war conditions, beyond the control of the taxpayer.

(10) REPLACEMENTS. If, in the case of any taxpayer subject to the provisions of paragraphs (6), (7)

and (8), the closing inventory of the taxpayer for a taxable year, subsequent to the year of involuntary liquidation but prior to the complete replacement of the goods so liquidated, reflects an increase over the opening inventory of the goods for the taxable year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a year of involuntary liquidation) and not previously replaced. If the liquidation was an involuntary liquidation, the goods reflecting the increase shall be taken into purchases and included in the closing inventory of the taxpayer for the year of replacement at the inventory cost basis of the goods replaced.

(11) ELECTION, IRREVOCABLE. An election by the taxpayer to have the provisions of paragraphs (6) through (15) apply, once made, shall be irrevocable and shall be binding for the year of the involuntary liquidation and for all determinations for prior and subsequent taxable years insofar as they are related to the year of liquidation or replacement.

(12) ADJUSTMENT,WITHIN THREE YEARS. If the adjustments specified in paragraphs (6), (7) and (8) are, with respect to any taxable year, prevented, on the date of the filing of the income tax return of the taxpayer for the year of the replacement, or within four years from such date, by any provision or rule of law (other than paragraphs (12) through (15)), such adjustments shall nevertheless be made if, in respect to the taxable year for which the adjustment is sought, a notice of proposed additional assessment is mailed or a claim for refund is filed, as the case may be, within four years after the date of the filing of the income tax return for the year of replacement.

(13) ADJUSTMENT, LIMITED TO EFFECT OF LIQUIDATION. If, at the time of the mailing of the notice of proposed additional assessment or the filing of the claim for refund, the adjustment is so prevented, then the amount of the adjustment authorized by paragraphs (6) through (15) shall be limited to the increase or decrease of the tax imposed by this Act previously determined for the taxable year which results solely from the effect of paragraphs (6), (7) and (8). The tax previously determined shall be ascertained in accordance with rules and regulations prescribed by the tax commission.

(14) ADJUSTMENT, METHOD OF ASSESSMENT OR REFUND. The amount of the adjustment shall be

assessed and collected, or credited or refunded in the same manner as if it were a deficiency or an overpayment, as the case may be, for such taxable year and as if, on the date of the filing of the income tax return for the year of the replacement, three years remain before the expiration of the periods of limitation upon assessment or the filing of claim for refund for the taxable year.

(15) ADJUSTMENT, BASED ON PARAGRAPH (6). The amount of the adjustment shall not be diminished by any credit or set-off based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of paragraphs (6), (7), and (8). The amount, if paid, shall not be recovered by a claim or suit for refund or suit for erroneous refund based upon any item, inclusion, deduction, credit, exemption, gain, or loss, other than one resulting from the effect of paragraphs (6), (7) and (8).

(e) ALIMONY, ETC.

(1) ALIMONY — PERIODIC PAYMENTS. In the case of a wife who is divorced or legally separated from her husband under a decree of divorce or of separate maintenance, periodic payments (whether or not made at regular intervals) received subsequent to such decree in discharge of, or attributable to property transferred (in trust or otherwise) in discharge of, a legal obligation which, because of the marital or family relationship, is imposed upon or incurred by such husband under such decree or under a written instrument incident to such divorce or separation shall be includible in the gross income of such wife. Such amounts received as are attributable to property so transferred shall not be includible in the gross income of such husband.

(2) MINOR'S SUPPORT. Paragraph (1) shall not apply to that part of any periodic payment which the terms of the decree or written instrument fix, in terms of an amount of money or a portion of the payment, as a sum which is payable for the support of minor children of the husband. In case any periodic payment is less than the amount specified in the decree or written instrument, that payment, to the extent of the sum payable for support, shall be considered a payment for such support.

(3) ALIMONY INSTALLMENT PAYMENTS OF LESS THAN 10 YEARS. Installment payments discharging a part of an obligation the principal sum of

which is, in terms of money or property, specified in the decree or instrument shall not be considered periodic payments for the purposes of paragraphs (1) and (2).

(4) ALIMONY INSTALLMENT PAYMENTS OF MORE THAN 10 YEARS. An installment payment shall be considered a periodic payment for the purposes of paragraphs (1) and (2) if the principal sum, by the terms of the decree or instrument, may be or is to be paid within a period ending more than 10 years from the date of such decree or instrument. But it shall be considered a periodic payment only to the extent that the installment payment for the taxable year of the wife (or if more than one installment payment for the taxable year is received during the taxable year, the aggregate of these installment payments) does not exceed 10 per cent of the principal sum. For the purposes of paragraph (3) and this paragraph, the portion of a payment of the principal sum which is allocable to a period after the taxable year of the wife in which it is received shall be considered an installment payment for the taxable year in which it is received.

(f) DEFINITION — "ADJUSTED GROSS INCOME". As used in this Act, the term "adjusted gross income" means the gross income minus—

(1) The deductions allowed by section 23 which are attributable to a trade or business carried on by the taxpayer, if such trade or business does not consist of the performance of services by the taxpayer as an employee;

(2) The deductions allowed by section 23, which consist of expenses of travel, meals, and lodging while away from home, paid or incurred by the taxpayer in connection with the performance by him of services as an employee;

(3) The deductions allowed by section 23 (other than expenses of travel, meals, and lodging while away from home) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer;

(4) The deductions (other than those provided in paragraphs (1), (5) or (6)) allowed by section 23, which are attributable to property held for the production of rents or royalties;

(5) The deductions (other than those provided in paragraph (1)) for depreciation and depletion, allowed by section 23 (1) and (m), to a life tenant of property or to an income beneficiary of property held in trust; and

(6) The deductions (other than those provided in paragraph (1)) allowed by section 23 as losses from the sale or exchange of property.

(g) DEALERS IN TAX EXEMPT SECURITIES.

(1) "SHORT-TERM MUNICIPAL BONDS", INCOME FROM. In computing the gross income of a taxpayer who holds during the taxable year a short-term municipal bond (as defined in paragraph (2) (A)) primarily for sale to customers in the ordinary course of his trade or business.

(A) If the gross income of the taxpayer from such trade or business is computed by the use of inventories and his inventories are valued on any basis other than cost, the cost of securities sold (as defined in paragraph (2) (B)) during such year shall be reduced by an amount equal to the amortizable bond premium that would be disallowed as a deduction for such year pursuant to section 23 (v) (1) (B) if the definition in section 23 (v) (3) of the term "bond" did not exclude such short-term municipal bond; or

(B) If the gross income of the taxpayer from such trade or business is computed without the use of inventories, or by use of inventories valued at cost, and the short-term municipal bond is sold or otherwise disposed of during such year, the adjusted basis (computed without regard to this subparagraph) of the short-term municipal bond shall be reduced by the amount of the adjustment that would be required under section 53 (b) (1) (D) if the definition in section 23 (v) of the term "bond" did not include such short-term municipal bond.

(2) DEFINITION — "SHORT-TERM MUNICIPAL BONDS". For the purposes of paragraph (1)—

(A) The term "short-term municipal bond" means any obligation issued by a government or political subdivision thereof if the interest on such obligation is excludible from gross income; but such term does not include such an obligation if (i) it is sold or otherwise disposed of by the taxpayer within 30 days after the date of its acquisition by him, or (ii) its earliest maturity or

call date is a date more than five years from the date on which it was acquired by the taxpayer.

(B) The term "cost of securities sold" means the amount ascertained by subtracting the inventory value of the closing inventory of a taxable year from the sum of (i) the inventory value of the opening inventory for such year and (ii) the cost of securities and other property purchased during such year which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

Section 13. GROSS INCOME — FORGIVENESS OF INDEBTEDNESS.

(a) FORGIVENESS OF INDEBTEDNESS AND COMMODITY CREDIT LOANS.

(1) CANCELLATION OF INDEBTEDNESS. If the indebtedness of a taxpayer is cancelled or forgiven in whole or in part without payment at such a time and under such circumstances that the cancellation did not constitute a gift to the taxpayer, the amount so cancelled or forgiven constitutes income to the extent the value of the property, including franchises, of the taxpayer exceeds his liabilities immediately after the cancellation or forgiveness. The remainder of the amount of indebtedness so cancelled or forgiven, if any, shall be applied in reduction of the basis of the assets to the extent the basis thereof exceeds the value thereof immediately after the cancellation or forgiveness. The reduction shall be made in accordance with regulations prescribed by the tax commission.

(2) OUTLAWED DEBT PRESUMED CANCELLED. If an indebtedness is not paid by the time an action to enforce payment is barred by limitation, the indebtedness shall be considered cancelled or forgiven within the meaning of this Act unless it can be established that the period of limitation has been extended by a new promise in writing.

(3) CANCELLATION OF INDEBTEDNESS BY STOCKHOLDER. If a stockholder or stockholders of a corporation cancels any indebtedness owing to the stockholder or stockholders by the corporation, such cancellation shall not constitute income to the taxpayer except to the extent that the taxpayer received a tax benefit, under this Act, from such indebtedness.

(b) COMMODITY CREDIT LOANS.

(1) COMMODITY CREDIT LOANS — ELECTION. Amounts received as loans from the commodity credit corporation shall, at the election of the taxpayer, be considered as income included in gross income for the taxable year in which received.

(2) EFFECT OF ELECTION. If the taxpayer exercises the election provided for in paragraph (1) for any taxable year beginning after December 31, 1953, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless, with the approval of the tax commission, a change to a different method is authorized.

Section 14. GROSS INCOME — GROSS INCOME OF NONRESIDENTS.

(a) NONRESIDENTS, GROSS INCOME. In the case of non-residents gross income includes only the gross income from sources within this state.

(b) NONRESIDENTS, INTANGIBLE INCOME. Income of nonresidents from stocks, bonds, notes, or other intangible personal property is not income from sources within this state unless the property has acquired a business situs in this state, except that if a nonresident buys or sells such property in this state or places orders with brokers in this state to buy or sell such property so regularly, systematically, and continuously as to constitute doing business in this state, the profit or gain derived from such activity is income from sources within this state irrespective of the situs of the property. However, in no case shall transactions extending over a period of less than 6 months be deemed to constitute doing business in this state.

(c) NONRESIDENT BENEFICIARIES. Income of estates and trusts distributed or distributable to nonresident beneficiaries is income from sources within this state only if distributed or distributable out of income of the estate or trust derived from sources within this state. For the purposes of this section, the nonresident beneficiary shall be deemed to be the owner of intangible personal property from which the income of the estate or trust is derived.

(d) NONRESIDENTS, ALLOCATIONS OF INCOME. Gross income from sources within and without this state shall be allocated and apportioned under rules and regulations prescribed by the tax commission.

Section 15. INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH. In the case of any individual who dies while in active service as a member of the armed forces of the United States, if such death occurred while serving in a combat zone or a result of wounds, disease, or injury incurred while so serving—

(a) the tax imposed by this Act shall not apply with respect to the taxable year in which falls the date of his death, or with respect to any prior taxable year ending on or after the first day he so served in a combat zone; and

(b) the tax under this Act which is unpaid at the date of his death (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessments shall be abated, and if collected shall be credited or refunded as an over-payment.

Section 23. DEDUCTIONS FROM GROSS INCOME —ITEMS DEDUCTIBLE.

(a) EXPENSES.

(1) TRADE OR BUSINESS EXPENSES.

(A) In computing net income there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

(B) In the case of a taxpayer engaged in the business of farming, expenditures made for the purpose of soil and water conservation and the prevention of erosion of land used in farming shall be allowed as deductions under subsection (A). For the purposes of this subparagraph, the term "expenditures made for the purpose of soil and water conservation and the prevention of erosion" means expenditures for the treatment, moving, or cultivation of earth, including (but not limited to) leveling, grading and terracing, contour furrowing, the construction of diversion channels and drainage ditches,

the control and protection of water courses, outlets and ponds, the planting and cultivation of cover and protective crops or windbreaks, the control of weeds and brush and other special or emergency cultivation and tillage; but such term does not include the purchase, construction, installation, or improvement of structures, appliances, and facilities made of masonry, concrete, tile, metal, or wood, such as tanks, reservoirs, pipes, conduits, canals, dams, wells, and pumps, which are subject to the allowance for depreciation provided in subsection (1). For the purposes of this subparagraph the term "land used in farming" means land used (prior to the expenditure for conservation made by the taxpayer) by the taxpayer or his tenant or the predecessor owner or his tenant for the production of crops, fruits, and similar agricultural products or for the sustenance of livestock.

(C) No deduction shall be allowable under subparagraph (A) or (B) of this paragraph, to a corporation for any contribution or gift which would be allowable as a deduction under subsection (q) (1), were it not for the 5 per cent limitation therein contained and for the requirements therein that payment must be made within the income year.

(2) NON-TRADE OR NON-BUSINESS EXPENSES. In computing net income there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

(3) EXPENSE, NOT DEDUCTIBLE. The deductions permitted by paragraph (1) shall not be allowed to the extent that they are connected with the production of income not taxable under this Act. Proper apportionment and allocation of such deductions with respect to taxable and non-taxable income shall be determined under rules and regulations prescribed by the tax commission.

(b) INTEREST. In computing net income there shall be allowed as a deduction all interest paid or accrued within the taxable year on indebtedness of the taxpayer. However, no deduction shall be allowed to the extent that it is connected with income not taxable under this Act. The proper apportionment and allocation of the deduction with respect to taxable and non-taxable income shall be determined under rules and regulations prescribed by the tax commission.

(c) TAXES. In computing net income there shall be allowed as a deduction taxes or licenses paid or accrued during the taxable year, except:

(1) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of the government of any foreign country, or any state, other than the state of Arizona, any territory, or taxing subdivision of any such state or territory.

(2) Estate, inheritance, legacy, succession, and gift taxes.

(3) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed. This does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges, nor does this exclude the allowance of any irrigation or other water district taxes or assessments which are levied for the payment of the principal of any improvement or other bonds for which a general assessment on all lands within the district is levied as distinguished from a special assessment levied on part of the area within the district.

(d) SALES AND OTHER TAXES SEPARATELY STATED. In computing net income there shall be allowed as a deduction any tax imposed by any state, territory, district or possession of the United States, or any political subdivision thereof, upon persons:

(1) Engaged in selling tangible personal property at retail, which is measured by the gross sales price or the gross receipts from the sale, or which is a stated sum per unit of such property sold; or

(2) Engaged in furnishing services at retail, which is measured by the gross receipts for furnishing such services; or

(3) Purchasing services or tangible personal property at retail which is measured by the gross receipts or gross sales price or which is a stated sum per unit of value sold, if the amount of the tax is separately stated, and if purchased otherwise than in connection with the consumer's trade or business. The amount of such tax paid by the consumer subject to the conditions in this paragraph shall be the deductions allowed. To such consumer the amount shall be allowed as a deduction

in computing his net income as if the amount constituted a tax imposed upon and paid by him.

(e) LOSSES BY INDIVIDUALS. In computing net income there shall be allowed as a deduction in the case of an individual losses sustained during the taxable year and not compensated for by insurance or otherwise:

(1) If incurred in trade or business; or

(2) If incurred in any transaction entered into for profit, though not connected with the trade or business; or

(3) Of property not connected with the trade or business, if the loss arises from fires, storms, shipwreck, or other casualty, or from theft; or

(4) If incurred by reason of the destruction or seizure of property, on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in time of war, subject to the rules and regulations prescribed by the tax commission. The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection, shall be the adjusted basis provided in section 53 (b) for determining the loss from the sale or other disposition of property.

(f) LOSSES BY CORPORATIONS. In computing net income there shall be allowed as a deduction in the case of a corporation, losses sustained during the income year and not compensated for by insurance or otherwise.

The basis for determining the amount of deduction for losses sustained, to be allowed under this subsection, shall be the adjusted basis provided in section 53 (b) for determining the loss from the sale or other disposition of property.

(g) CAPITAL ASSETS, LOSSES. Losses from sales or exchanges of capital assets shall be allowed only to the extent provided in section 57.

If any securities become worthless during the taxable year and are capital assets, the loss resulting therefrom shall, for the purposes of this Act, be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

"Securities", as used in this subsection, means (1) shares of stock in a corporation, and (2) rights to subscribe for or to receive such shares.

(h) WAGERING LOSSES. Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(i) SIXTY DAY SALES. In the case of any loss claimed to have been sustained in any sale or disposition of property where it appears that within thirty days before or after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) or has entered into a contract or option to acquire substantially identical property and the property acquired is held by the taxpayer for any period after such sale or other disposition, no deduction for the loss shall be allowed unless the claim is made by a taxpayer, a dealer in such property, and with respect to a transaction made in the ordinary course of his business. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of such property, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of property so acquired shall be the basis in the case of the property so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

(j) WASH SALES. In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that within a period beginning 30 days before the date of the sale or disposition and ending 30 days after that date, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law) or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under subsection (e) (2); nor shall such deduction be allowed under subsection (f) unless the claim is made by a corporation, a dealer in stocks or securities and with respect to a transaction made in the ordinary course of its business.

If the amount of stock or securities acquired (or

covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under rules and regulations prescribed by the tax commission.

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under the rules and regulations prescribed by the tax commission. If such acquisition or the contract or option to acquire is to the extent of part only of substantially identical property, then only a proportionate part of the loss shall be disallowed. Upon the subsequent sale or disposition of shares of stock or securities, in respect of which a loss has been disallowed, the basis for measuring gain or loss in the case of property so acquired shall be the basis in the case of the shares or securities so sold or disposed of, except that if the repurchase price was in excess of the sale price such basis shall be increased in the amount of the difference, or if the repurchase price was less than the sale price such basis shall be decreased in the amount of the difference.

(k) BAD DEBTS.

(1) GENERAL RULE. In computing net income there shall be allowed as a deduction debts which become worthless within the taxable year or, in the discretion of the tax commission, a reasonable addition to a reserve for bad debts. When satisfied that a debt is recoverable only in part, the tax commission may allow the debt as a deduction in an amount not in excess of the part charged off within the taxable year as a deduction. If a debt was actually worthless prior to January 1, 1954, but was not ascertained to be worthless and charged off prior to that date, a deduction may be taken therefor during the first taxable year ending after December 31, 1953; if a portion of a debt is claimed and allowed as a deduction in any year no deduction shall be allowed in any subsequent year for any portion of the debt which was charged off, regardless of whether or not claimed as a deduction in any prior year. This paragraph does not apply to a debt evidenced by a security as defined in paragraph (3). If a non-business debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange dur-

ing the taxable year of a capital asset held for not more than six months. The term "non-business debt" means a debt other than a debt evidenced by a security and other than a debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business. The basis for determining the amount of deduction allowed under this paragraph shall be the adjusted basis provided in section 53 (b) for determining the loss from the sale or other disposition of property.

(2) SECURITY LOSSES. If any securities, as defined in paragraph (3) become worthless within the taxable year and are capital assets, the loss resulting shall be considered as a loss from the sale or exchange, on the last day of the taxable year, of capital assets.

(3) DEFINITION — "SECURITIES". "Securities", as used in paragraphs (1) and (2) means bonds, debentures, notes, or certificates, or other evidences of indebtedness, issued by any corporation (including those issued by a government or political subdivision thereof) with interest coupons or in registered form.

(4) BAD DEBTS—POLITICAL. This subsection shall not apply in the case of a taxpayer, other than a bank, as defined in section 104, of the internal revenue code, with respect to debts owed by (A) any political party, (B) any national, state or local committee of any political party, or (C) any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidental or vice presidential electors or of any individual whose name is presented for election to any federal, state, or local elective public office, whether or not such individual is elected. For the purpose of this paragraph, the terms "contributions" and "expenditure" shall have the meanings prescribed for such terms in section 591 of title 18 of the United States code.

(1) DEPRECIATION. In computing net income there shall be allowed as a deduction a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business or of property held for the production of income, including a reasonable allowance for obsolescence. A taxpayer may elect to claim a deduction for amortization of emergency facilities, as defined by sections 124 and 124A of the internal revenue code, under regulations prescribed by the tax commission. In the case of property held by one person for life

with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allocable to each.

(m) DEPLETION. In computing net income there shall be allowed as a deduction, in the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case; such reasonable allowance in all cases to be made under rules and regulations prescribed by the tax commission. In any case in which it is ascertained as a result of operations or of development work that the recoverable units are greater or less than the prior estimate thereof the prior estimate (but not the basis for depletion) shall be revised and the allowance under this subsection for subsequent taxable years shall be based upon the revised estimate. Any mine using the unit depletion method in computing depletion allowance for Arizona state income tax purposes immediately prior to January 1, 1954, shall continue to use that method and in no subsequent year shall the unit rate of depletion allowance exceed that in use by the mine for the tax year of 1949.

In the case of leases the deductions shall be equitably apportioned between the lessor and the lessee. In the case of property held by one person for life with remainder to another person, the deduction shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant. In the case of property held in trust the allowable deduction shall be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the instrument creating the trust, or, in the absence of such provisions, on the basis of the trust income allowable to each.

The percentage of depletion allowable under this subsection shall be computed in accordance with the provisions of section 54 (b) (3) and (4).

(n) BASIS FOR DEPRECIATION AND DEPLETION. The basis upon which depletion, exhaustion,

wear and tear, and obsolescence are to be allowed in respect to any property shall be as provided in section 54.

(o) CHARITABLE AND OTHER CONTRIBUTIONS.

(1) CONTRIBUTIONS. In computing net income there shall be allowed as a deduction, in the case of an individual, contributions or gifts payment of which is made within the taxable year to or for the use of:

(A) The United States, any state, territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes.

(B) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

(C) Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if the posts, organizations, units, or societies are organized in the United States and if no part of their net earnings inures to the benefit of any private shareholder or individual.

(D) A fraternal society, order, or association, operating under the lodge system, but only if the contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals.

(2) CONTRIBUTIONS, LIMITATION. In the case of an individual deductions for contributions or gifts shall be allowed to an amount which in all cases listed in paragraph (1) combined does not exceed 20 per cent of the taxpayer's adjusted gross income. The contributions or gifts shall be allowed as deductions only if verified under rules and regulations prescribed by the tax commission.

(p) CONTRIBUTIONS OF AN EMPLOYER TO AN EMPLOYEE'S TRUST OR ANNUITY PLAN AND COMPENSATION UNDER A DEFERRED PAYMENT PLAN.

(1) PENSION FUND CONTRIBUTIONS. If contributions are paid by an employer to or under a stock bonus, pension, profit-sharing, or annuity plan, or if compensation is paid or accrued on account of any employee under a plan deferring the receipt of such compensation, such contributions or compensation shall not be deductible under subsection (a) but shall be deductible, if deductible under subsection (a) without regard to this subsection only to the following extent:

(A) In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under section 65 (a) in an amount determined as follows:

(i) An amount not in excess of 5 per cent of the compensation otherwise paid or accrued during the income year to all the employees under the trust, but such amount may be reduced for future years if found by the tax commission upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus

(ii) Any excess over the amount allowable under clause (i) necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the tax commission, but if such remaining unfunded cost with respect to any three individuals is more than 50 per cent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least five income years, or

(iii) In lieu of the amounts allowable under (i) and (ii) above, an amount equal to the normal cost of the plan, as determined under regulations prescribed by the tax commission, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 per cent of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan, as determined under regulations prescribed by the tax commission, except that in no case shall a deduction be allowed for any amount

(other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased.

(iv) Any amount paid in an income year in excess of the amount deductible in such year under the foregoing limitations shall be deductible in the succeeding taxable years in order of time to the extent of the difference between the amount paid and deductible in each such succeeding year and the maximum amount deductible for such year in accordance with the foregoing limitations.

(B) In the taxable year when paid, in an amount determined in accordance with subparagraph (A) of this paragraph, if the contributions are paid toward the purchase of retirement annuities and such purchase is a part of a plan which meets the requirements of section 65 (a) (3), (4), (5), and (6), and if refunds of premiums, if any, are applied within the current taxable year or next succeeding taxable year toward the purchase of such retirement annuities.

(C) In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under section 65 (a), and in an amount not in excess of 15 per cent of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any taxable year beginning after December 31, 1953, there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible, shall be carried forward and be deductible when paid in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any such succeeding taxable year shall not exceed 15 per cent of the compensation otherwise paid or accrued during such succeeding taxable year to the beneficiaries under the plan. In addition any amount paid into the trust in a taxable year beginning after December 31, 1953, in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 15 per cent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan. "Stock bonus or

profit-sharing trust" shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in subparagraph (A). If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for the purpose of applying the limitations in this subparagraph.

(D) In the taxable year when paid, if the plan is not one included in subparagraphs (A), (B), or (C), if the employees' rights to or derived from such employer's contribution or such compensation are nonforfeitable at the time the contribution or compensation is paid.

(E) For the purposes of subparagraphs (A), (B) and (C), a taxpayer on the accrual basis shall be deemed to have made a payment on the last day of the year of accrual if the payment is on account of such income year and is made within sixty days after the close of the taxable year of accrual.

(F) If amounts are deductible under paragraphs (A) and (C), or (B) and (C), or (A), (B) and (C), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed 25 per cent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans. In addition, any amount paid into such trust or under such annuity plans in a taxable year beginning after December 31, 1953, in excess of the amount allowable with respect to such year under the preceding provisions of this subparagraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this subparagraph shall not exceed 30 per cent of the compensation otherwise paid or accrued during such taxable years to the beneficiaries under the trusts or plans. This subparagraph shall not have the effect of reducing the amount otherwise deductible under subparagraphs (A), (B), and (C), if no employee is a beneficiary under more than one trust, or a trust and an annuity plan. If there is no plan, but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this paragraph shall apply as if there were such a plan.

(2) EMPLOYERS' CONTRIBUTIONS, WHERE NO PLAN. If there is no plan, but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or similar plan deferring the receipt of compensation, this paragraph shall apply as if there were a plan.

(3) SALESMAN - EMPLOYEES FOR PENSION PLANS. For the purpose of applying the provisions of paragraph (1), with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, the term "employee" shall include a full time life insurance salesman who is considered an employee for the purpose of subchapter A of Chapter 9 of the federal internal revenue code, or in the case of services performed before January 1, 1954, who would be considered an employee if services were performed during 1954.

(4) PENSION PLAN IN EFFECT PRIOR TO JANUARY 1, 1954. In the case of a stock bonus, pension, profit-sharing or annuity plan in effect on or before January 1, 1954:

(A) Such a plan shall not become subject to the requirements of section 65 until the beginning of the first taxable year beginning after December 31, 1953.

(B) Such a plan shall be considered as satisfying the requirements of section 65 for the period beginning with the beginning of the first taxable year following December 31, 1953, and ending on December 31, 1955, if the provisions of the plan satisfy such requirements by December 31, 1955, and if by that time all provisions of such plan which are necessary to satisfy such requirements are in effect and have been made effective for all purposes with respect to the portion of such period after December 31, 1953.

(C) If the contribution of an employer to such a plan in the employer's income year beginning in 1954 exceeds the maximum amount deductible for such year and under paragraph (1), the amount deductible in such year shall not be less than the sum of:

(i) The amount paid in such taxable year prior to January 1, 1954, and deductible under subsection (a); and

(ii) With respect to the amount paid in such taxable year on or after January 1, 1954, that proportion of the amount deductible for the taxable year under paragraph (1), which the number of months after December 31, 1953, in the taxable year bears to 12.

(5) PENSION PLAN IN EFFECT AFTER DECEMBER 31, 1953. In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after December 31, 1953, such a plan shall be considered as satisfying the requirements of section 65 for the period beginning with the date on which such plan was put into effect and ending December 31, 1955, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the portion of such period after December 31, 1953.

(6) PENSION PLAN IN EFFECT AFTER DECEMBER 31, 1954. In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after December 31, 1954, the plan will be considered as satisfying the requirements of section 65 for the period beginning with the date on which it was put into effect and ending with the fifteenth day of the fourth month following the close of the taxable year of the employer in which the plan was put into effect if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

(q) CHARITABLE AND OTHER CONTRIBUTIONS BY CORPORATIONS.

(1) CHARITABLE CONTRIBUTIONS BY CORPORATIONS. In computing net income there shall be allowed as a deduction in the case of a corporation contributions or gifts, payment of which is made within the taxable year to or for the use of:

(A) The United States, any state, territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclusively public purposes; or

(B) A corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States or of any state or territory, or of

the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, veteran rehabilitation service, literary, or educational purposes or for the prevention of cruelty to children or animals (but only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation. For disallowance of certain charitable, etc., deductions, otherwise allowable under this paragraph, the provisions of section 62 (g) (2) shall apply; or

(C) Posts or organizations of war veterans, or auxiliary units of, or trusts or foundations for, any such posts or organizations, if such posts, organizations, units, trusts, or foundations are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual; or

(D) A corporation or organization which is organized in the United States or any of its possessions by or for members of the armed forces of the United States for the purpose of aiding or assisting members of such forces or their relatives if no part of the net earnings of such corporation or organization inures to the benefit of any private shareholder or individual.

(E) The amount of aggregate deductions allowable under subparagraphs (A), (B), (C) and (D) of this subsection, is limited to the extent it does not exceed 5 per cent of the taxpayer's net income as computed without the benefits of this subsection.

Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the tax commission.

(2) CHARITABLE CONTRIBUTIONS BY CORPORATIONS—ACCRUAL BASIS. In the case of a bank or corporation reporting its net income on the accrual basis, at the election of the taxpayer any contribution or gift, payment of which is made after the close of the taxable year and on or before the fifteenth day of the fourth month following the close of such year shall, for the purposes of paragraph (1), be considered as paid during such taxable year if, during such year, the board

of directors authorized such contribution or gift. Such election shall be made only at the time of the filing of the return for the taxable year and shall be signified in such manner as the tax commission shall by regulations prescribe.

(r) SAVINGS BANKS, COOPERATIVE BANKS AND BUILDING AND LOAN ASSOCIATIONS—RETURN PAID OR CREDITED TO WITHDRAWABLE DEPOSITS. In computing net income there shall be allowed as a deduction in the case of a savings bank, cooperative bank or building and loan association, organized and operating wholly or partly on a mutual plan, or a savings and loan association, organized and operating wholly or partly on a mutual plan, the return paid or credited on or apportioned to their withdrawable shares, account or deposits.

(s) NET OPERATING LOSS DEDUCTION. In computing net income there shall be allowed as a deduction a net operating loss deduction computed under this subsection.

(1) DEFINITION OF NET OPERATING LOSS. As used in this subsection, the term "net operating loss" means the excess of the deductions allowed by this Act over the gross income, with the exceptions, additions, and limitations provided in paragraph (4).

(2) AMOUNT OF CARRY-BACK AND CARRY-OVER.

(A) NET OPERATING LOSS CARRY-BACK. If for any taxable year beginning after December 31, 1954, the taxpayer has a net operating loss, such net operating loss shall be a net operating loss carry-back for the preceding taxable year.

(B) NET OPERATING LOSS CARRY-OVER. If for any taxable year beginning after December 31, 1953, the taxpayer has a net operating loss, such net operating loss shall be a net operating loss carry-over for each of the five succeeding taxable years, except that the carry-over in the case of each such succeeding taxable year (other than the first succeeding taxable year) shall be the excess, if any, of the amount of such net operating loss over the sum of the net income for each of the intervening years computed:

(i) With the exceptions, additions, and limitations provided in paragraph (4) (A), (B), (D), and

(ii) By determining the net operating loss deduction for each intervening taxable year, without regard to such net operating loss or to the net operating loss for any succeeding taxable year and without regard to any reduction specified in paragraph (3).

For the purpose of the preceding sentence, the net operating loss for any taxable year beginning after December 31, 1953, shall be reduced by the amount, if any, of the net income for the preceding taxable year computed:

(i) With the exceptions, additions, and limitations provided in paragraph (4) (A), (B), (D), and

(ii) By determining the net operating loss deduction for such preceding taxable year without regard to such net operating loss and without regard to any reduction specified in paragraph (3).

(3) AMOUNT OF NET OPERATING LOSS DEDUCTION. The amount of the net operating loss deduction shall be the aggregate of the net operating loss carry-overs and of the net operating loss carry-backs to the taxable year reduced by the amount, if any, by which the net income computed with the exceptions and limitations provided in paragraph (4) (A), (B), (C), and (D) exceeds the net income computed without such deduction.

(4) EXCEPTIONS, ADDITIONS, AND LIMITATIONS. The exceptions, additions, and limitations referred to in paragraphs (1), (2), and (3) shall be as follows:

(A) The deduction for depletion shall not exceed the amount which would be allowable if computed without reference to discovery value or to percentage depletion;

(B) There shall be included in computing gross income the amount of interest received which is wholly exempt from the taxes imposed by this Act, decreased by the amount of interest paid or accrued which is not allowed as a deduction by section 23 (b), relating to interest on indebtedness incurred or continued to purchase or carry certain tax-exempt obligations;

(C) No net operating loss deduction shall be allowed;

(D) Gains and losses from sales or exchanges of capital assets shall be taken into account without regard

to the provisions of section 57 (b). The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from such sales or exchanges.

(E) Deductions, including federal income taxes, otherwise allowed by law not attributable to the operation of a trade or business regularly carried on by the taxpayer shall (in the case of a taxpayer other than a corporation) be allowed only to the extent of the amount of the gross income not derived from such trade or business. For the purposes of this subparagraph deductions and gross income shall be computed with the exceptions, additions, and limitations specified in subparagraphs (A) and (D) of this paragraph. This paragraph shall not apply with respect to deductions allowable for losses sustained in respect of property, if the losses arise from fire, storm, shipwreck, or other casualty, or from theft.

(5) NO CARRY-BACK TO YEAR PRIOR TO 1954. As used in this subsection, the term "preceding taxable year" and the term "preceding taxable years" do not include any taxable year beginning prior to January 1, 1954.

(t) ADOPTION EXPENSES.

(1) In computing net income, there shall be allowed as a deduction, except as limited under paragraphs (2) and (3), any expenses paid or incurred by the taxpayer or his spouse in connection with the adoption of a child by them. Such expenses include any medical and hospital expenses of the natural mother of an adopted child which are incident to the child's birth, and any welfare agency, legal and other fees or costs relating to the adoption.

(2) A husband and wife who file a joint return may deduct only those adoption expenses which exceed 5 per cent of the aggregate adjusted gross income of the husband and wife, and the maximum deduction in any such return for any such expenses shall not exceed two thousand five hundred dollars ($2,500.00).

(3) A husband or wife who files a separate return may deduct only those adoption expenses which exceed 5 per cent of the adjusted gross income of the taxpayer, and the maximum deduction in any such return for any such expense shall not exceed one thousand two hundred fifty dollars ($1,250.00).

(5) A husband and wife who have paid or incurred both medical expenses and adoption expenses which in the aggregate exceed 5 per cent of the aggregate adjusted gross income of the husband and wife shall be allowed a deduction in the amount of such excess, subject to the usual applicable limitations, notwithstanding that the amount paid or incurred for each such type of expenses does not exceed 5 per cent of the aggregate adjusted gross income.

(6) A husband and wife filing separate returns who has paid or incurred both medical expenses and adoption expenses which in the aggregate exceed 5 per cent of his or her adjusted gross income shall be allowed a deduction in the amount of such excess, subject to the usual applicable limitations, notwithstanding that the amount paid or incurred for each such type of expenses does not exceed 5 per cent of the adjusted gross income.

(u) ALIMONY. In computing net income there shall be allowed as a deduction in the case of a husband described in section 12 (e) (1), (2), and (4), amounts includible under those sections in the gross income of his wife, payment of which is made within the husband's taxable year. If the amount of any payment is, under section 12 (e) (1), (2) and (4) or under section 64 stated not to be includible in the husband's gross income, no deduction shall be allowed with respect to that payment under this subsection.

(v) BOND PREMIUM DEDUCTION. There shall be allowed as a deduction in the case of a bondholder, who makes the election in the method and under the conditions prescribed in paragraph (4), the deduction for amortizable bond premium provided in this subsection.

(1) GENERAL RULE. In the case of any bond, as defined in paragraph (3), the following rules shall apply to the amortizable bond premium (determined under paragraph (2)) on the bond for any taxable year beginning after December 31, 1953.

(A) In the case of a bond (other than a bond the interest on which is excludible from gross income), the amount of the amortizable bond premium for the taxable year shall be allowed as a deduction.

(B) In the case of any bond the interest on which is excludible from gross income, no deduction shall be

allowed for the amortizable bond premium for the taxable year.

(2) AMORTIZABLE BOND PREMIUM.

(A) For the purposes of subparagraph (B), the amount of bond premium, in the case of the holder of any bond, shall be determined with reference to the amount of the basis (for determining loss on sale or exchange) of such bond, and with reference to the amount payable on maturity or on earlier call date, with adjustments proper to reflect unamortized bond premium with respect to the bond, for the period prior to the date as of which paragraph (1) becomes applicable with respect to the taxpayer with respect to such bond. In no case shall the amount of bond premium on a convertible bond include any amount attributable to the conversion features of the bond.

(B) The amortizable bond premium of the taxable year shall be the amount of the bond premium attributable to such year.

(C) The determinations required under subparagraphs (A) and (B) shall be made—

(i) In accordance with the method of amortizing bond premium regularly employed by the holder of the bond, if such method is reasonable;

(ii) In all other cases, in accordance with regulations prescribing reasonable methods of amortizing bond premium, prescribed by the tax commission.

(3) As used in this subsection, "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness, issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof), with interest coupons or in registered form, but does not include any such obligation which constitutes stock in trade of the taxpayer or any such obligation of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or any such obligation held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

(4) The amount of the amortizable bond premium for the taxable year shall be allowed as a deduction only if a taxpayer has elected to claim such deduction. Such

election shall be made in accordance with such regulations as the tax commission shall prescribe. If such election is made with respect to any bond, it shall also apply to all such bonds held by the taxpayer at the beginning of the first taxable year to which the election applies and to all such bonds thereafter acquired by him, and shall be binding for all subsequent taxable years with respect to all such bonds of the taxpayer, unless, upon application by the taxpayer, the tax commission permits him, subject to such conditions as the tax commission deems necessary, to revoke such election.

(5) "SHORT-TERM MUNICIPAL BONDS" — REFERENCE. For special rules applicable, in the case of dealers in securities with respect to premium attributable to certain "short-term municipal bonds", see section 12 (g) (1) and (2).

(w) DEDUCTIONS, IN RESPECT OF DECEDENT.

(1) In computing net income, there shall be allowed as a deduction in the case of a person described in section 58 (b), the amount of the deductions in respect of a decedent to the extent allowed by that subsection;

(2) In computing net income, there shall be allowed as a deduction in the case of a person described in section 58 (a), the amount of the deductions in respect of a decedent to the extent allowed by section 58 (c).

(x) MEDICAL EXPENSES.

(1) IN GENERAL. In computing net income, there shall be allowed as a deduction, except as limited under paragraphs (2) and (3), expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent of the taxpayer specified in section 27 (b). The term "medical care", shall include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (including amounts paid for accident or health insurance), only when substantiated by a schedule showing to whom such amounts have been paid.

(2) MEDICAL EXPENSES, LIMITATION FOR JOINT RETURN. A husband and wife who file a joint return may deduct expenses paid for medical care, however the maximum deduction for the taxable year shall not exceed five thousand dollars ($5,000.00).

(3) MEDICAL EXPENSES, LIMITATION FOR SEPARATE RETURN. An individual who files a separate return may deduct expenses paid for medical care, however the maximum deduction for the taxable year shall not exceed five thousand dollars ($5,000.00) in the case of the head of a household, and shall not exceed two thousand five hundred dollars ($2,500.00) in the case of all other individuals.

(4) MEDICAL EXPENSES, OVER AGE 65. In the case of a husband and wife filing a joint return or an individual filing a separate return, if the husband or wife or the individual has reached the age of 65 before the close of the taxable year, the expenses for the medical care of the husband or wife or the individual are deductible without regard to the limitation specified in paragraphs (2) and (3). This paragraph does not relate to or in any way affect the deductibility of expenses incurred for the medical care of a dependent.

(y) DEDUCTIONS FOR CARE OF QUALIFIED DEPENDENTS. Every taxpayer, in reporting income for purposes of taxation, shall be entitled to the following deductions:

(1) For payments made by any taxpayer who provides a home in his own household for any dependent as defined in paragraph (2), a deduction for wages paid in cash or its equivalent not exceeding the sum of one hundred dollars ($100.00) per month to a housekeeper or nursemaid for services rendered in such household for the care and supervision of such dependents, if such care and supervision is necessary to permit the taxpayer to be gainfully employed. Provided, that no deductions shall be allowed for payments made to a person who, except for such payments would be a dependent of the taxpayer as defined in section 27 (c). Or, if no housekeeper or nursemaid is employed in the household of the taxpayer, he may deduct not exceeding the sum of one hundred dollars ($100.00) per month, fees paid to licensed nursery schools or rest homes for the care of such dependents, if such care and supervision is necessary to permit the taxpayer to be gainfully employed.

(2) A dependent for the purposes of this subsection shall be a child, step-child or adopted child of the taxpayer under the age of sixteen (16) years, or any other dependent as defined in section 27 (c) (including a spouse) who is physically or mentally incapable of self care.

(3) A deduction under this subsection shall be allowed only for months in which the taxpayer is gainfully employed on a full time basis for at least two weeks.

(4) Deductions under this subsection shall not be allowed to any taxpayer if the sum of his or her gross income together with the gross incomes of all members of his household exceed six thousand dollars ($6,000.00) per year. A member of the household, for purposes of this subsection, is any person set forth in section 27 (c) who resided in the home of the taxpayer for a period in excess of six months for the taxable year involved.

(z) AMOUNTS REPRESENTING TAXES AND INTEREST PAID TO COOPERATIVE APARTMENT CORPORATION.

(1) TENANT EXPENSES. In computing net income, there shall be allowed as a deduction in the case of a tenant-stockholder, amounts, not otherwise deductible, paid or accrued to a cooperative apartment corporation within the taxable year, if those amounts represent that proportion of the real estate taxes on the apartment building and the land on which it is situated, allowable as deductions under subsection (c), paid or incurred by the corporation, or of the interest paid or incurred by the corporation on its indebtedness contracted in the acquisition, construction, alteration, rehabilitation, or maintenance of the apartment building or in the acquisition of the land on which the building is located, which the stock of the corporation owned by the tenant-stockholder is of the total outstanding stock of the corporation, including that held by the corporation.

(2) DEFINITION—"COOPERATIVE APARTMENT CORPORATION". As used in paragraph (1) "cooperative apartment corporation" means a corporation—

(A) Having one and only one class of stock outstanding;

(B) All of the stockholders of which are entitled, solely by reason of their ownership of stock in the corporation, to occupy for dwelling purposes apartments in a building owned or leased by such corporation, and who are not entitled, either conditionally or unconditionally, except upon a complete or partial liquidation of the corporation, to receive any distribution not out of earnings and profits of the corporation, and

(C) Eighty per cent or more of the gross income of which for the taxable year in which the taxes and interest described in paragraph (1) are paid or incurred is derived from tenant-stockholders.

(3) DEFINITION — "TENANT-STOCKHOLDER". As used in paragraph (1), "tenant-stockholder" means an individual who is a stockholder in a cooperative apartment corporation, and whose stock is fully paid-up in an amount not less than an amount shown to the satisfaction of the tax commission as bearing a reasonable relationship to the portion of the value of the corporation's equity in the building and the land on which it is situated, which is attributable to the apartment which such individual is entitled to occupy.

(aa) OPTIONAL STANDARD DEDUCTION FOR INDIVIDUALS.

(1) STANDARD DEDUCTIONS. An individual, at his election, may take a standard deduction as follows:

(A) If his adjusted gross income is five thousand dollars ($5,000.00) or more, the standard deduction shall be five hundred dollars ($500.00);

(B) If his adjusted gross income is less than five thousand dollars ($5,000.00), the standard deduction shall be an amount equal to 10 per cent of the adjusted gross income upon the basis of which the tax applicable to the adjusted gross income of the taxpayer is determined under the tax table provided in section 2 (c).

(C) If the adjusted gross income of a married couple filing a joint return is less than ten thousand dollars ($10,000.00), the standard deduction shall be an amount equal to twice 10 per cent of one-half of the total adjusted gross income of both taxpayers upon the basis of which the tax applicable to one-half of the adjusted gross income of the taxpayers is determined under the tax table provided in section 2 (c).

(D) If the adjusted gross income of a married couple filing a joint return is ten thousand dollars ($10,000.00) or more, the standard deduction shall be one thousand dollars ($1,000.00).

(2) STANDARD DEDUCTIONS, IN LIEU OF ALL DEDUCTIONS SAVE THOSE IN SECTION 12 (f). The

standard deduction provided for in paragraph (1) shall be in lieu of all deductions other than those which under section 12 (f) are to be subtracted from gross income in computing adjusted gross income.

(3) STANDARD DEDUCTION, METHOD OF CLAIMING. The standard deduction shall be allowed if the taxpayer so elects in his return, and the tax commission shall by regulation prescribe the manner of signifying such election in the return.

An election to compute the tax under section 2 (c) is an election to take the standard deduction.

(4) STANDARD DEDUCTION, HUSBAND AND WIFE. In the case of a husband and wife, the standard deduction provided for in paragraph (1) shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction. For the purposes of this paragraph the determination of whether an individual is married shall be made as of the last day of the taxable year, unless his spouse dies during the taxable year, in which case such determination shall be made as of the date of such spouse's death.

(5) STANDARD DEDUCTION, LESS THAN 12-MONTH PERIOD. The standard deduction provided for by paragraph (1) shall not be allowed in the case of a taxable year of less than 12 months on account of a change in the accounting period.

(6) ELECTION TO TAKE STANDARD DEDUCTIONS REVOCABLE. Under regulations prescribed by the tax commission, a change of an election to take, or not to take, the standard deduction for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding, for the purposes of paragraph (4) to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

(A) The spouse makes a change of election with respect to the standard deduction for the taxable year covered in such separate return, consistent with the change of election sought by the taxpayer, and

(B) The taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed upon with the tax commission, of any deficiency, to the

extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

(bb) DEVELOPMENT EXPENSE, OIL AND GAS. Expenditures paid or incurred during the income year for the development of an oil or gas well if paid or incurred after December 31, 1953, may at the option of the taxpayer be deducted from gross income or charged to capital account.

(cc) DEVELOPMENT EXPENSE, MINES. (1) Except as provided in paragraph (2), in computing net income there shall be allowed as a deduction all expenditures paid or incurred during the taxable year for the development of a mine or other natural deposit (other than an oil or gas well) if paid or incurred after December 31, 1953, and after the existence of ores or minerals in commercially marketable quantities has been disclosed.

This subsection shall not apply to expenditures for the acquistion or improvement of property of a character which is subject to the allowance for depreciation provided in subsection (1), but allowances for depreciation shall be considered, for the purposes of this subsection, as expenditures.

(2) At the election of the taxpayer, made in accordance with regulations prescribed by the tax commission, expeditures described in paragraph (1) paid or incurred during the taxable year shall be treated as deferred expenses and shall be deductible on a ratable basis as the units of produced ores or minerals benefited by such expenditures are sold. In the case of such expenditures paid or incurred during the development stage of the mine or deposit, the election shall apply only with respect to the excess of such expenditures during the taxable year over the net receipts during the taxable year from the ores or minerals produced from such mine or deposit. The election must be for the total amount of such expenditures, or the total amount of such excess, as the case may be, with respect to the mine or deposit, and shall be binding for such taxable year.

(3) The amount of expenditures which are treated under paragraph (2) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, except that such amount, and the adjustments

to basis provided in section 54 (b) (2) (A), shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under section 53 of this Act.

(dd) DIVIDENDS FROM ARIZONA CORPORATIONS. Every taxpayer, in reporting income for purposes of taxation, shall be entitled to a deduction for dividends received from a corporation the income of which is subject to taxation under this Act, which corporation has filed a report of income as required by this Act, and the principal business of which is attributable to Arizona. For the purpose of this subsection the principal business of a corporation shall be considered attributable to Arizona if fifty (50) per cent or more of the entire net income or loss of the corporation after an adjustment for taxes has been made for the year preceding the payment of such dividends, was used in computing the average taxable income provided by this Act.

(ff) EXPLORATION EXPENSE. (1) In the case of expenditures paid or incurred during the taxable year for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral within the state of Arizona, and paid or incurred prior to the beginning of the development stage of the mine or deposit, in computing net income there shall be allowed as a deduction so much of such expenditures as does not exceed seventy-five thousand dollars ($75,000.00).

This subsection shall apply only with respect to the amount of such expenditures which, but for this subsection, would not be allowable as a deduction for the taxable year.

This subsection shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in subsection (1), but allowances for depreciation shall be considered, for the purposes of this subsection, as expenditures paid or incurred.

This subsection shall likewise apply with respect to amounts paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas.

(2) If the taxpayer elects, in accordance with regulations prescribed by the tax commission, to treat as de-

ferred expenses any portion of the amount deductible for the taxable year under paragraph (1), such portion shall not be deductible under paragraph (1) but shall be deductible on a ratable basis as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold. An election made for any taxable year shall be binding for such year.

(3) The amount of expenditures which are treated under paragraph (2) as deferred expenses shall be taken into account in computing the adjusted basis of the mine or deposit, but such amounts, and the adjustments to basis provided in section 54 (b) (2) (A) shall be disregarded in determining the adjusted basis of the property for the purpose of computing a deduction for depletion under section 53 of this Act.

(gg) FARMERS' COOPERATIVES. In the case of farmers, fruit growers, or like associations organized and operated on a cooperative or mutual basis, (1) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the necessary marketing expenses, which may include reasonable reserves on the basis of either the quantity or the value of the products furnished by them, or (2) for the purpose of purchasing, or producing, supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, in computing net income there shall be allowed as a deduction all income resulting from or arising out of such business activities for or with their members carried on by them or their agents when and to the extent distributed in cash to such members.

(hh) OTHER COOPERATIVES. In the case of any other association organized and operated on a cooperative or a mutual basis no deduction or exemption set forth in subsection (gg) shall be applicable.

Section 24. MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT. (a) REDUCTION FOR PRIOR TAXABLE YEAR. (1) WAR PROFITS, RENEGOTIATED. In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer; if a renegotiation is made in respect of that contract or subcontract and an amount of excessive profits received or accrued under the contract or subcontract for a taxable year

(hereinafter referred to as "prior taxable year") is eliminated, and in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of profits eliminated, or the amount of profits eliminated is applied as an offset against other amounts due the taxpayer, then the profits so eliminated shall be excluded from gross income for the prior taxable year if they were included in gross income for the prior taxable year.

(A) DEFINITION—"RENEGOTIATION". As used in this subsection, "renegotiation" includes any transaction which is a renegotiation within the meaning of the federal renegotiation act applicable to such transaction; any modification of one or more contracts with the United States or any agency thereof; and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

(B) DEFINITION — "EXCESSIVE PROFITS". As used in this subsection, "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by the applicable federal renegotiation act; any part of the contract price of a contract with the United States or any agency thereof; any part of the subcontract price of a subcontract under a contract; and any profits derived from one or more contracts or subcontracts.

(C) DEFINITION—"SUBCONTRACT". As used in this subsection, "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to that term by the applicable federal renegotiation act.

(D) DEFINITION — "RENEGOTIATION ACT". The term "federal renegotiation act" includes section 403 of the sixth supplemental national defense appropriation act (public law 528, seventy-seventh congress, second session), as amended or supplemented, and the renegotiation act of 1948, as amended or supplemented, and the renegotiation act of 1951, as amended or supplemented.

(2) WAR PROFITS, COST-PLUS-A-FIXED-FEE CONTRACT. In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed by the United States or any agency thereof is disallowed as an item of cost chargeable to that contract, and, in a taxable year ending after Decem-

ber 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed, or the amount disallowed is applied as an offset against other amounts due the taxpayer, for the purposes of this Act the amount so disallowed or so applied as an offset shall be allowed as a deduction in the taxable year in which the reimbursement for the item was received or was accrued to the extent that the taxpayer's taxable net income for the year in which the cost was incurred would have been reduced had no reimbursement been received or accrued.

(3) WAR PROFITS, YEAR OF DEDUCTION. The amount of the payment, repayment, or offset described in paragraphs (1) and (2) shall not constitute a deduction for the year in which paid or incurred.

(4) RENEGOTIATED PROFITS, DEDUCTED IN ACCORDANCE WITH ACCOUNTING METHOD. Paragraphs (1) to (3), inclusive, shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the tax commission that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under that method.

(b) RENEGOTIATED PROFITS, REFUND. Any overpayment in tax which results from the application of subsection (a) shall be credited or refunded as provided in this Act. Notwithstanding the provisions of any statute of limitations, credit or refund shall be made if claim therefor is filed within four years from the day prescribed for filing the return or within two years from the date of payment, repayment or offset described in subsection (a), whichever is later.

(c) RENEGOTIATED PROFITS, ABATEMENT. If prior to the payment of the last installment of tax for the taxable year the taxpayer becomes entitled to the exclusions or deductions provided in subsection (a) for its taxable year, the taxpayer may, under regulation prescribed by the tax commission, file a claim in abatement of any unpaid tax or portion thereof, but not in excess of the reduction in tax resulting from the application of this section.

(d) RENEGOTIATED PROFITS, EFFECT OF ABATEMENT. In any case in which a claim in abate-

ment is filed pursuant to subsection (c), and the tax commission makes an abatement, the tax disclosed by the original return shall, for the purpose of section 46 be deemed to be reduced by the amount of the tax abated.

Section 25. DEDUCTIONS FROM GROSS INCOME —DEDUCTIONS OF NONRESIDENTS. (a) DEDUCTIONS CONNECTED WITH TAXABLE INCOME. In the case of a nonresident the deductions allowed by section 23 shall unless otherwise provided in this section be allowed only to the extent that they are connected with the income arising from sources within this state and taxable under this Act to a nonresident. The proper apportionment and allocation of the deductions with respect to sources of income within and without the state shall be determined under rules and regulations prescribed by the tax commission.

(b) TAXES. Taxes or licenses paid or accrued to this state or its political subdivisions which are deductible under section 23 (c) are deductible by nonresidents even though not connected with income from sources within this state.

(c) CONTRIBUTIONS TO LOCAL CORPORATIONS. In the case of a nonresident the deductions for contributions and gifts shall be allowed only as to contributions or gifts to corporations or associations incorporated by or organized under the laws of this state or to this state or any political subdivision thereof for exclusively public purposes.

Section 26. DEDUCTIONS FROM GROSS INCOME —ITEMS NOT DEDUCTIBLE. (a) PERSONAL AND CAPITAL EXPENSES AND EXPENSES ALLOCABLE TO EXEMPT INCOME. In computing net income no deduction shall in any case be allowed in respect of:

(1) Personal, living, or family expenses, except extraordinary medical expenses deductible under section 23 (x).

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate, except expenditures incurred for the purpose of soil and water conservation and the prevention of erosion within the meaning of section 23 (a) (1) (B).

(3) Any amount expended in restoring property or in

making good the exhaustion thereof for which an allowance is or has been made.

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under the policy.

(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this Act.

(6) Any amount paid or accrued on indebtedness incurred or continued to purchase a single premium life insurance or endowment contract. For the purposes of this paragraph, if substantially all the premiums on a life insurance or endowment contract are paid within a period of four years from the date on which such contract is purchased, such contract shall be considered a single premium life insurance or endowment contract; or

(7) Amounts paid or accrued for such taxes and carrying charges as, under regulations prescribed by the tax commission, are chargeable to capital account with respect to property, if the taxpayer elects, in accordance with such regulations, to treat those taxes or charges as so chargeable.

(b) LOSSES FROM SALES OR EXCHANGES OF PROPERTY. (1) TRANSACTIONS, BETWEEN RELATED PERSONS. In computing net income no deduction shall in any case be allowed in respect of losses from sales or exchanges of property, directly or indirectly:

(A) Between members of a family as defined in paragraph (2) (D).

(B) Except in the case of distributions in liquidation, between an individual and a corporation more than 50 per cent in value of the outstanding stock of which is owned, directly or indirectly, by or for the individual.

(C) Between a partnership and a member thereof, between partnerships where more than 50 per cent of the partnership interest in each are owned by the same persons, and between a partnership and a corporation 50

per cent of the stock of which is owned or controlled by the partnership or members thereof.

(D) Between a grantor and a fiduciary of any trust.

(E) Between the fiduciary of a trust and the fiduciary of another trust, if the same person is a grantor with respect to each trust.

(F) Between a fiduciary of a trust and a beneficiary of such trust.

(2) STOCK OWNERSHIP, DETERMINATION FOR PARAGRAPH (1). For the purposes of determining, in applying paragraph (1), the ownership of stock:

(A) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

(B) An individual shall be considered as owning the stock of the partnership interest owned, directly or indirectly, by or for his family.

(C) An individual owning (otherwise than by the application of subparagraph (B)) any stock in a corporation shall be considered as owning the stock owned, directly or indirectly, by or for his partner.

(D) The family of an individual shall include only his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendents.

(E) Stock constructively owned by a person by reason of the application of subparagraph (A) shall, for the purpose of applying subparagraphs (A), (B) or (C), be treated as actually owned by such person, but stock constructively owned by an individual by reason of the application of subparagraph (B) or (C) shall not be treated as owned by him for the purpose of again applying either of those subparagraphs in order to make another the constructive owner of such stock.

(c) UNPAID EXPENSES AND INTEREST. In computing net income no deduction shall be allowed under section 23 (a) (1) and (2), relating to expenses incurred, or under section 23 (b) relating to interest accrued:

(1) If within the period consisting of the taxable

year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and

(2) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of that person for the taxable year in which or with which the taxable year of the taxpayer ends; and

(3) If, at the close of the taxable year of the taxpayer or at any time within two and one-half months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 26 (b).

The amount of expenses incurred or interest accrued the deduction of which is disallowed under this section in the year incurred or accrued, may be deducted in the year paid.

(d) LIFE OR TERMINABLE INTEREST, SHRINKAGE IN VALUE. Amounts paid under the laws of any state, territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, or by any deduction allowed by this Act (except the deductions provided for in subsections (1) and (m) of section 23) for the purpose of computing the net income of an estate or trust but not allowed under the laws of such state, territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

(e) OBLIGOR OF COVENANT BOND. In computing net income no deduction shall be allowed to the obligor of a covenant bond for the payment of the tax imposed by this Act, or any other tax paid pursuant to the tax-free covenant clause, nor shall such tax be included in the gross income of the obligee.

(f) EXPENSES OF UNHARVESTED CROP SOLD. Where an unharvested crop sold by the taxpayer is considered under the provisions of section 57 (j) (3) as "property used in the trade or business", in computing

net income no deduction (whether or not for the taxable year of the sale or whether for expenses, depreciation, or otherwise) attributable to the production of such crop shall be allowed.

(g) CHARITABLE CONTRIBUTIONS. In computing net income no deduction shall be allowed under section 23 (a) (1) for any contribution or gift which would be allowable as a deduction under section 23 (o) were it not for the 20 per cent limitation therein contained and for the requirement therein that payment must be made within the taxable year.

(h) ILLEGAL ACTIVITIES. In computing net income, no deductions shall be allowed to any taxpayer on any of his gross income derived from illegal activities as defined in chapter 43, article 27 and chapter 73, article 16, Arizona code annotated, 1939, as amended; nor shall any deductions be allowed to any taxpayer on any of his gross income derived from any other activities which tend to promote or to further, or are connected or associated with, such illegal activities.

(i) EMPLOYEE STOCK OPTIONS. Any amount attributable to the transfer of a share of stock pursuant to the exercise of a "restricted stock option", as defined in this Act by an employer bank or corporation, or its parent or subsidiary bank or corporation to an employee of the bank or corporation.

Section 27. CREDITS ALLOWED TAXPAYERS — CREDITS AGAINST NET INCOME. (a) PERSONAL EXEMPTIONS. There shall be allowed as a credit against net income, in the case of a single individual, a personal exemption of one thousand dollars ($1,000.00), or, in the case of a head of a household or a married individual, a personal exemption of two thousand dollars ($2,000.00). A husband and wife shall receive but one personal exemption of two thousand dollars ($2,000.00). If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

(1) There shall be an additional exemption of five hundred collars ($500.00) for the taxpayer if he is blind at the close of his taxable year; and

(2) There shall be an additional exemption of five hundred dollars ($500.00) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the

spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this paragraph the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death.

(3) For the purposes of this paragraph an individual is blind only if either his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(b) CREDIT FOR DEPENDENTS. There shall also be allowed as a credit six hundred dollars ($600.00) for each dependent.

(c) DEFINITION — "DEPENDENT". As used in subsection (b) the term "dependent" means any of the following persons over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

(1) A son or daughter of the taxpayer, or a descendent of either;

(2) A stepson or stepdaughter of the taxpayer;

(3) A brother, sister, stepbrother, or stepsister of the taxpayer;

(4) The father or mother of the taxpayer, or an ancestor of either;

(5) A stepfather or stepmother of the taxpayer;

(6) A son or daughter of a brother or sister of the taxpayer;

(7) A brother or sister of the father or mother of the taxpayer;

(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer.

As used in this subsection, the terms "brother" and "sister" include a brother or sister by the half-blood. For the purposes of determining whether any of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of such person by blood. A child shall be deemed legally adopted when placed in the custody of the taxpayer for adoption by the latter or his spouse. The term "dependent" does not include any individual who is a citizen or subject of a foreign country unless such individual is a resident of the United States or of a country contiguous to the United States. A payment to a wife which is includible under section 12 (e) or section 64, in the gross income of such wife shall not be considered a payment by her husband for the support of any dependent. If the taxpayer would not occupy the status of head of a household except by reason of there being one or more dependents for whom he would be entitled to credit under this section, the credit shall be disallowed with respect to one of the dependents.

(d) CREDIT OF ESTATES OR TRUSTS. There shall be allowed as a credit against net income in the case of an estate, an exemption of one thousand dollars ($1,000.00) and, in the case of a trust, an exemption of one hundred dollars ($100.00), provided that in the case of a trust, if the amount of tax otherwise due under this Act after applying said exemption is less than one dollar ($1.00) the amount of the exemption shall be the amount of the net income of such trust but in no event shall such exemption exceed two hundred dollars ($200.00).

(e) STATUS OF MARRIED PERSONS. For purposes of section 27 (a) and section 41 (a) (1), (2) and (6) (A), the determination of whether an individual is married or is the head of a household shall be made as of the last day of the taxable year, except if an individual or his spouse dies during the taxable year, such determination shall be made as of the date of death.

Section 28. CREDIT ALLOWED TAXPAYERS—CREDIT FOR TAXES PAID. (a) CREDIT, RESIDENTS. Subject to the following conditions, residents shall be allowed a credit against the taxes imposed by this Act for net income taxes imposed by and paid to another state or country on income taxable under this Act:

(1) The credit shall be allowed only for taxes paid to the other state or country on income derived from sources

within that state or country which is taxable under its laws irrespective of the residence or domicile of the recipient.

(2) The credit shall not exceed such proportion of the tax payable under this Act as the income subject to tax in the other state or country and also taxable under this Act bears to the taxpayer's entire income upon which the tax is imposed by this Act.

(b) CREDIT, NONRESIDENT. Subject to the following conditions, nonresidents shall be allowed a credit against the taxes imposed by this Act for net income taxes imposed by and paid to the state or country of residence on income taxable under this Act.

(1) The credit shall not be allowed for taxes paid to a state or country which allows its residents a credit against the taxes imposed by that state or country for income taxes paid or payable under this Act irrespective of whether its residents are allowed a credit against the taxes imposed by this Act for income taxes paid to that state or country.

(2) Credit shall be allowed only for such proportion of the taxes paid to the state or country of residence as the income taxable under this Act and also subject to tax in the state or country of residence bears to the entire income upon which the taxes paid to the state or country of residence are imposed.

(3) The credit shall not exceed such proportion of the tax payable under this Act as the income subject to tax in the state or country of residence and also taxable under this Act bears to the entire income taxable under this Act.

(c) ESTATE OR TRUST, CONSIDERED RESIDENT OF TAXING STATE. For the purposes of this section an estate or trust is considered a resident of the state or country legally entitled to tax the income of the estate or trust irrespective of whether the income is derived from sources within that state or country.

(d) CREDIT, ESTATES AND TRUSTS. If an estate or trust is a resident of this state and also a resident of another state or country, it shall, notwithstanding the limitations contained in subsections (a) and (b) of this section, be allowed a credit against the taxes imposed by this Act for net income taxes imposed by and paid to the

other state or country, subject to the following conditions:

(1) Credit shall be allowed only for such proportion of the taxes paid to the other state or country as the income taxable under this Act and also subject to tax in the other state or country bears to the entire income upon which the taxes paid to the other state or country are imposed.

(2) The credit shall not exceed such proportion of the tax payable under this Act as the income subject to tax in the other state or country and also taxable under this Act bears to the entire income taxable under this Act.

(e) CREDIT, RESIDENT BENEFICIARY OF AN ESTATE OR TRUST. A resident beneficiary of an estate or trust who is taxable on the income of the estate or trust under section 61 shall, subject to the following conditions, be allowed a credit against the taxes imposed by this Act on such income for net income taxes paid by the estate or trust to another state or country on such income.

(1) Credit shall be allowed only for such proportion of the tax paid to the other state or country by the estate or trust as the income of the estate or trust which is taxable to the beneficiary under this Act and also taxed to the estate or trust in the other state or country bears to the entire income of the estate or trust upon which the taxes paid to the other state or country were imposed.

(2) The credit shall not exceed such proportion of the tax payable under this Act as the income of the estate or trust which is taxable to the beneficiary under this Act and also taxed to the estate or trust in the other state or country bears to the beneficiary's entire income upon which the tax is imposed by this Act.

(f) CREDIT, WHERE NET INCOME TAX LEVIED ON PARTNERSHIP AS SUCH.

(1) A member of a partnership who is taxable on the income thereof shall, subject to the conditions prescribed in paragraphs (2) and (3) be allowed a credit against the taxes imposed by this Act on such income for net income taxes paid by the partnership to another state or country on such income.

(2) Credit shall be allowed only for such proportion of the tax paid to such other state or country by the partnership as the income of the partnership which is taxable to the partner under this Act and also taxed to the partnership in such other state or country bears to the entire income of the partnership upon which the taxes paid to such other state or country were imposed.

(3) The credit shall not exceed such proportion of the tax payable under this Act as the income of the partnership which is taxable to the partner under this Act and also taxed to the partnership in such other state or country bears to the partner's entire income upon which the tax is imposed by this Act.

(g) CREDIT, SUBSEQUENT REFUND. If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, the taxpayer shall immediately report that fact to the tax commission.

(h) REFUND, RECOVERY OF ERRONEOUS CREDIT. A tax equal to the credit allowed for the taxes credited or refunded by the other state or country is due and payable from the taxpayer upon notice and demand from the tax commission.

(i) INTEREST, WHERE CREDIT REFUNDED. Interest shall be added to and collected as a part of the tax at the rate of 6 per cent per annum from the date the credit was allowed under this Act to the date of the notice and demand.

(j) COLLECTION OF INTEREST, WHERE CREDIT REFUNDED. If the tax and interest are not paid within 10 days from the date of notice and demand, there shall be collected as a part of the tax interest upon the unpaid amount of tax and interest at the rate of 6 per cent per annum from the date of the notice and demand until the amount is paid.

(k) CREDIT NOT ALLOWABLE IF IT RESULTS IN ILLEGAL DISCRIMINATION. The credit against the taxes imposed by this Act for net income taxes paid to another state or country shall not be allowed to any taxpayer or any class of taxpayers if the allowances of the credit will result in any invalid or illegal discrimination against another taxpayer or another class of taxpayers.

Sec. 29. ALTERNATIVE OPTIONAL TAX IN CASE OF RESIDENT INDIVIDUALS AND RESIDENT MARRIED COUPLES. In lieu of the tax imposed by section 2, upon the amount of net income as defined in section 11 of every resident of the state in excess of the credits against net income provided in section 27, each individual resident of the state, or resident married couple, shall have the privilege and option of filing a return and paying a tax at the rates prescribed in section 2 upon the amount of net income for the same taxable year as now defined in section 21, of the United States Internal Revenue Code in excess of the credits against net income now provided in section 25 of the United States Internal Revenue Code; provided, however, that such amount of net income as so determined shall be further decreased by the amount of federal income tax paid or accrued within the taxable year by such individual resident or resident married couple of the state.

Section 31. ACCOUNTING PERIODS AND METHODS OF ACCOUNTING. (a) NET INCOME — HOW COMPUTED. The net income shall be computed upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be, in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not reflect the proper income, the computation shall be made in accordance with such method as in the opinion of the tax commission does reflect the proper income. If the taxpayer's annual accounting period is other than a fiscal year, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

(b) CHANGE OF ACCOUNTING PERIOD. If the taxpayer changes his or its accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the tax commission, be computed on the basis of such new accounting period subject to the provisions of section 37 (a) and (b).

(c) PERIOD IN WHICH ITEMS OF GROSS INCOME INCLUDED. (1) GENERAL RULE. The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer unless under the methods of accounting permitted under section 31 (a) any such items are to be

properly accounted for as of a different period. In the case of the death of a taxpayer, whose net income is computed upon the basis of the accrual method of accounting, amounts (except amounts includible in computing a partner's net income under section 71) accrued only by reason of the death of the taxpayer shall not be included in computing net income for the period in which falls the date of the taxpayer's death.

(2) NON-INTEREST-BEARING OBLIGATIONS ISSUED AT DISCOUNT AND REDEEMABLE AT FIXED AMOUNTS — ELECTION. In the case of a taxpayer owning non-interest-bearing obligations issued at a discount and redeemable for fixed amounts increasing at stated intervals, if the increase in the redemption price of the obligations occurring in the taxable year does not (under the method of accounting used in computing its net income) constitute income to the taxpayer in such year, the taxpayer may, at its election made in its return for any taxable year beginning after December 31, 1953, treat the increase as income received in the taxable year. If election is made with respect to such obligation, it shall apply also to all such obligations owned by the taxpayer at the beginning of the first taxable year to which it applies and to all such obligations thereafter acquired by the taxpayer and shall be binding for all subsequent income years, unless upon application by the taxpayer the tax commission permits the taxpayer, subject to such conditions as the tax commission deems necessary, to change to a different method. In the case of any obligations owned by the taxpayer at the beginning of the first income year to which its election applies, the increase in the redemption price of the obligations occurring between the date of acquisition and the first day of the taxable year shall also be treated as income received in such taxable year.

Section 32. ACCOUNTING FACTORS. (a) TAX FOR FISCAL YEAR TAXPAYERS, WHERE LAW CHANGED. The tax for any period beginning in one calendar year ("first calendar year") and ending in the following calendar year ("second calendar year") where the law applicable to the computation of taxes for taxpayers reporting on a calendar year basis differs for the second calendar year from the law applicable to the first calendar year, shall (except as otherwise provided) be the sum of:

(1) The same proportion of a tax for the entire period, determined under the law applicable to the first

calendar year and at the rates for such year, which the portion of such period falling within the first calendar year is of the entire period, and

(2) The same proportion of a tax for the entire period, determined under the law applicable to the second calendar year and at the rates for such year, which the portion of such period falling within the second calendar year is of the entire period.

(b) PAYMENT OR REFUND OF TAX WHERE CHANGE IN LAW. If any tax which has been paid under the law applicable to the first calendar year exceeds the tax imposed by subsection (a), the excess shall be refunded or credited to the taxpayer. Any tax in addition to that paid under the law applicable to the first calendar year made necessary by that subsection is immediately due and payable upon notice and demand from the tax commission.

(c) RESIDENT OR NONRESIDENT, CHANGE OF STATUS. When the status of a taxpayer changes from resident to nonresident, or from nonresident to resident, there shall be included in determining income from sources within or without this state, as the case may be, income and deductions accrued prior to the change of status even though not otherwise includible in respect of the period prior to such change, but the taxation or deduction of items accrued prior to the change of status shall not be affected by the change.

Section 33. DEDUCTION AND CREDIT, WHEN TAKEN. The deductions and credits provided for in this Act shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed, unless in order clearly to reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer whose net income is computed upon the basis of the accrual method of accounting, amounts except amounts includible in computing a partner's net income under section 71, accrued as deductions and credits only by reason of the death of the taxpayer, shall not be allowed in computing net income for the period in which falls the date of the taxpayer's death.

Section 34. INSTALLMENT BASIS. (a) INSTALLMENT SALES OF PERSONAL PROPERTY IN TRADE OR BUSINESS. Under regulations prescribed by the tax

commission a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(b) INSTALLMENT SALES, CASUAL PERSONAL PROPERTY AND REAL PROPERTY. In the case (1) of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year) for a price exceeding one thousand dollars ($1,000.00), or (2) of a sale or other disposition of real property, if in either case the initial payments do not exceed 30 per cent of the selling price, the income may, under regulations prescribed by the tax commission, be returned on the basis and in the manner prescribed by this section.

As used in this section, "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made.

(c) INSTALLMENT REPORTING, CONSISTENCY. If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sales or other dispositions of property made in any prior year shall not be excluded.

(d) GAIN OR LOSS UPON DISPOSITION OF INSTALLMENT OBLIGATIONS. (1) GAIN OR LOSS. If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (A) in the case of satisfaction at other than face value or a sale or exchange—the amount realized, or (B) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair market value of the obligation at the time of the distribution, transmission, or disposition.

(2) INSTALLMENT OBLIGATIONS, METHOD OF COMPUTATION. Any gain or loss resulting from the

application of paragraph (1) shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

(3) INSTALLMENT OBLIGATIONS, TRANSFERS BY DEATH. Paragraphs (1) and (2) do not apply to the transmission at death of installment obligations if there is filed with the tax commission at such time as it by regulation prescribes, a bond in such amount and with such sureties as it may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

(4) INSTALLMENT OBLIGATION — DISTRIBUTION IN LIQUIDATION. If an installment obligation is distributed by one corporation to another corporation in the course of a liquidation, and under section 52 (b) (6) and (7) no gain or loss with respect to the receipt of such obligation is recognized in the case of the recipient corporation, then no gain or loss with respect to the distribution of such obligation shall be recognized in the case of the distributing corporation.

(e) INSTALLMENT OBLIGATION — UNREPORTED INCOME IN YEAR OF DISSOLUTION. (1) Where a corporation elects to report income from the sale or other disposition of property as provided in this section, and the entire income therefrom has not been reported prior to the year the taxpayer ceases to be subject to the tax measured by net income imposed under this Act, the unreported income shall be included in the measure of the tax for the last year in which the taxpayer is subject to the tax measured by net income imposed under this Act. This section shall not be applicable where the installment obligation is transferred pursuant to a reorganization as defined in section 52 to another taxpayer a party to the reorganization subject to tax under this Act as the transferror. The determination of any deficiency resulting from this section shall be made under the provisions of section 77, but the period of limitation under that section, and the accrual of interest under section 81, shall commence on the date the taxpayer ceases to be subject to the tax imposed under this Act.

(2) "Cessation of business" as herein used means the failure to do business during an entire taxable year.

(f) INSTALLMENT OBLIGATION - UNREPORTED INCOME - BOND REQUIRED OR JEOPARDY ASSESSMENT. If the tax commission determines that the reporting of income from the sale or other disposition of property in the manner provided in this section may jeopardize the collection of a tax measured by such income, then, unless the taxpayer posts bond or other security in a form and amount satisfactory to the tax commission to guarantee the payment of any tax that may become due measured by such income, the tax commission may require that any of such income not previously reported shall be included in the computation of the measure of the tax for the last year during which the taxpayer was subject to the tax imposed under this Act.

Section 35. ALLOCATION OF INCOME DEDUCTIONS. (a) TRANSACTIONS BETWEEN RELATED PERSONS. In any case of two or more persons, organizations, trades, or businesses, whether or not organized in the United States and whether or not affiliated, owned or controlled directly or indirectly by the same interests, the tax commission is authorized to distribute, apportion, or allocate gross income, deductions, credits or allowances between or among such organizations, trades, or businesses, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such persons, organizations, trades or businesses. For the purpose of enforcing this subsection, the tax commission may require the filing of a combined report and such other information as it deems necessary.

(b) CONTROLLED CORPORATIONS. In any case of two or more corporations owned or controlled directly or indirectly by the same interests, the tax commission is authorized to distribute, apportion, or allocate gross income, deductions, credits or allowances, between or among such taxpayers, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such taxpayer. For the purpose of enforcing this subsection the tax commission may require the filing of a combined report and such other information as it deems necessary.

(c) TRANSACTIONS, BETWEEN HUSBAND AND WIFE. In any case where husband and wife file separate returns, the tax commission may distribute, apportion or allocate gross income between the spouses, if it is determined that such distribution, apportionment, or alloca-

tion is necessary in order to reflect the proper income of the spouses.

(d) INTERCOMPANY TRANSACTIONS. In the case of a corporation doing business within the meaning of this Act, whether under agreement or otherwise, in such manner as either directly or indirectly to benefit the members or stockholders of the corporation, or any of them, or any person or persons, directly or indirectly interested in such business, by rendering services of any nature whatsoever, or acquiring or disposing of its products or the goods or commodities in which it deals, at less than a fair price therefor, the tax commission, in order to prevent evasion of taxes or clearly to reflect the income of such corporation, may require a report of such facts as it deems necessary, and may determine the amount which shall be deemed to be the entire net income allocable to this state of the business of such corporation for the calendar or fiscal year, and compute the tax upon such net income. In determining the entire net income the tax commission shall have regard to the fair profits which, but for any agreement, arrangement, or understanding, might be or could have been obtained from dealing in such products, goods or commodities.

(e) CONSOLIDATED REPORTS REQUIRED. (1) CONSOLIDATED REPORT. In the case of a corporation liable to report under this Act owning or controlling, either directly or indirectly, another corporation, or other corporations, and in the case of a corporation liable to report under this Act and owned or controlled, either directly or indirectly, by another corporation, the tax commission may require a consolidated report showing the combined net income or such other facts as it deems necessary. The tax commission is authorized and empowered, in such manner as it may determine, to assess the tax against either of the corporations whose net income is involved in the report upon the basis of the combined entire net income and such other information as it may possess, or it may adjust the tax in such other manner as it shall determine to be equitable if it determines it to be necessary in order to prevent evasion of taxes or to clearly reflect the net income earned by said corporation or corporations from business done in this state.

(2) DEFINITION — "CONTROL". Direct or indirect ownership or control of more than 50 per cent of the voting stock of the taxpayer shall constitute ownership or control for the purposes of this section.

(f) BASIS OF TRANSFERROR—TAX EVASION—DEDUCTION DENIED. (1) If (A) any person or persons acquire, on or after January 1, 1954, directly or indirectly, control of a corporation, or (B) any corporation acquires, on or after January 1, 1954, directly or indirectly, property of a corporation, not controlled, directly or indirectly, immediately prior to such acquisition, by such acquiring person or corporation or its stockholders, the basis of which property, in the hands of the acquiring person or corporation, is determined by reference to the basis in the hands of the transferor corporation, and the principal purpose for which such acquisition was made is evasion or avoidance of tax under this Act by securing the benefit of a deduction or other allowance which such person or corporation would not otherwise enjoy, then such deduction or other allowance shall not be allowed. For the purposes of subparagraphs (A) and (B) of this paragraph, control means the ownership of stock possessing at least 50 per cent of the total combined voting power of all classes of stock entitled to vote or at least 50 per cent of the total value of shares of all classes of stock of the corporation.

(2) In any case to which paragraph (1) is applicable the tax commission is authorized—

(A) To allow as a deduction or allowance any part of any amount disallowed by such paragraph, if it determines that such allowance will not result in the evasion or avoidance of tax for which the acquisition was made; or

(B) To distribute, apportion, or allocate gross income, and distribute, apportion, or allocate the deductions or allowances the benefit of which was sought to be secured, between or among the persons and corporations, or properties, or parts thereof, involved, and to allow such deductions or allowances so distributed, apportioned, or allocated, but to give effect to such allowance only to such extent as it determines will not result in the evasion or avoidance of tax for which the acquisition was made; or

(C) To exercise its powers in part under subparagraph (A) and in part under subparagraph (B) of this paragraph.

(g) ALLOCATION FORMULA. When the income of a corporation subject to the tax imposed under this Act is derived from or attributable to sources both within and without the state, the tax shall be measured by the

net income derived from or attributable to sources within this state. Such income shall be determined by first deducting from the income of the taxpayer such part thereof, less related expenses if any, as follows the situs of the property or the residence of the recipient (provided, that the amount of interest and dividend income deductible under this provision as following the situs of the property or residence of the recipient shall be limited to the total interest and dividend income received in excess of the total interest, or related expenses if any, paid and allowable as a deduction from income attributable to sources within this state under section 23 during the income year), and the income attributable to sources within this state shall then be determined by (1) separate accounting thereof when requested by the taxpayer or required by the tax commission to more clearly reflect the income of the taxpayer, or, (2) an allocation upon the basis of sales, purchases, expenses of manufacture, payroll, value and situs of tangible property including leased property or by reference to any of these or other factors or by such other method of allocation as is fairly calculated to determine the net income derived from or attributable to sources within this state, provided that in no case shall the tax be less than would result from the use of the allocation method. Income from business carried on partly within and partly without this state shall be allocated in such a manner as is fairly calculated to apportion such income among the states or countries in which such business is conducted. Income attributable to isolated or occasional transactions in states or countries in which the taxpayer is not doing business shall be allocated to the state in which the taxpayer has its principal place of business or commercial domicile.

If the tax commission reallocates net income upon its examination of any return, it shall, upon the written request of the taxpayer, disclose to him the basis upon which its reallocation has been made.

Section 36. COMPENSATION FOR SERVICES RENDERED FOR A PERIOD OF THIRTY-SIX MONTHS OR MORE AND BACK PAY. (a) PERSONAL SERVICES. In the case of compensation (1) received for personal services rendered by an individual or a partnership, and covering a period of 36 calendar months or more from the beginning to the completion of such services, (2) all or at least 80 per cent of which is received or accrued in one taxable year, the tax attributable to any part thereof which is included in the gross income of any individual shall not be greater than the aggregate of the taxes attributable to such part had it been included in the gross

income of such individual ratably over that part of the period which precedes the date of such receipt or accrual.

(b) PATENT, COPYRIGHT, ETC. (1) DEFINITION OF ARTISTIC WORK OR INVENTIONS. As used in paragraph (2), "artistic work or invention", in the case of an individual, means (A) a literary, musical, or artistic composition of that individual or, (B) a patent or copyright covering an invention of a literary, musical, or artistic composition of that individual, (C) the work on which by that individual covered a period of 36 calendar months or more from the beginning to the completion of such composition or invention.

(2) COMPENSATION FOR ARTISTIC WORK OR INVENTIONS COVERING 36 MONTHS OR MORE. If, in the taxable year, the gross income of any individual from a particular artistic work or invention by him is not less than 80 per cent of the gross income in respect of such artistic work or invention in the taxable year plus the gross income therefrom in previous taxable years and the 12 months immediately succeeding the close of the taxable year, the tax attributable to the part of such gross income of the taxable year which is not taxable as a gain from the sale or exchange of a capital asset held for more than 6 months shall not be greater than the aggregate of the taxes attributable to such part had it been received ratably over that part of the period preceding the close of the taxable year but not more than 36 calendar months.

(c) DEFINITION OF MONTH. For the purpose of this section, a fractional part of a month shall be disregarded unless it amounts to more than half a month in which case it shall be considered as a month.

(d) BACK PAY IN GENERAL. (1) If the amount of the back pay received or accrued by an individual during the taxable year exceeds 15 per cent of the gross income of the individual for such year, the part of the tax attributable to the inclusion of such back pay in gross income for the taxable year shall not be greater than the aggregate of the increases in the taxes which would have resulted from the inclusion of the respective portions of such back pay in gross income for the taxable years to which such portions are respectively attributable, as determined under regulations prescribed by the tax commission.

(2) DEFINITIONS OF BACK PAY. For the purposes of this subsection, "back pay" means (A) remuner-

ation, including wages, salaries, retirement pay, and other similar compensation, which is received or accrued during the taxable year by an employee for services performed prior to the taxable year for his employer and which would have been paid prior to the taxable year except for the intervention of one of the following events: (i) Bankruptcy or receivership of the employer; (ii) dispute as to the liability of the employer to pay such remuneration, which is determined after the commencement of court proceedings; (iii) if the employer is the United States, a state, a territory, or any political subdivision thereof, of the District of Columbia, or any agency or instrumentality of any of the foregoing, lack of funds appropriated to pay such remuneration; or (iv) any other event determined to be similar in nature under regulations prescribed by the tax commission; and (B) wages or salaries which are received or accrued during the taxable year by an employee for services performed prior to the taxable year for his employer and which constitute retroactive wage or salary increases ordered, recommended, or approved by any federal or state agency, and made retroactive to any period prior to the taxable year; and (C) payments which are received or accrued during the taxable year as a result of an alleged violation by an employer of any state or federal law relating to labor standards or practices, and which are determined under regulations prescribed by the tax commission to be attributable to a prior taxable year. Amounts not includible in gross income shall not constitute "back pay".

Section 37. RETURNS FOR A PERIOD OF LESS THAN TWELVE MONTHS. (a) RETURNS FOR SHORT PERIOD RESULTING FROM CHANGE OF ACCOUNTING PERIOD. If a taxpayer, with the approval of the tax commission, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31st. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

(b) INCOME COMPUTED ON BASIS OF SHORT PERIOD. Where a separate return is made under sub-

section (a), on account of a change in the accounting period, and in all other cases where a separate return is required or permitted by regulations prescribed by the tax commission to be made for a fractional part of a year, the income shall be computed on the basis of the period for which the separate return is made. The due date of the separate return for such period is the fifteenth day of the fourth month following the close of that period.

(c) INCOME PLACED ON ANNUAL BASIS. (1) GENERAL RULE. If a separate return is made under subsection (a) on account of a change in the accounting period, the net income, computed on the basis of the period for which the separate return is made, hereafter referred to as the "short period", shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months in the short period. The tax shall be such part of the tax computed on such annual basis as the number of months in the short period is of 12 months.

(2) EXCEPTION. (A) SHORT PERIOD, ALTERNATIVE COMPUTATION. If the taxpayer establishes the amount of his net income for the period of 12 months beginning with the first day of the short period, computed as if the 12-month period were a taxable year, under the law applicable to that year, then the tax for the short period shall be reduced to an amount which is that part of the tax computed on the net income for the 12-month period as the net income computed on the basis of the short period is of the net income for the 12-month period.

(B) SHORT PERIOD, FILING RETURN. The taxpayer (other than a taxpayer to which the next sentence applies) shall compute the tax and file his return without the application of subparagraph (A). If the taxpayer (other than a corporation) was not in existence at the end of the 12-month period, then in lieu of the net income for the 12-month period there shall be used for the purposes of subparagraph (A) the net income for the 12-month period ending with the last day of the short period.

(C) SHORT PERIOD, TAX LIMITATIONS ON BENEFITS. The tax computed under subparagraph (A) shall in no case be less than the tax computed on the net income for the short period without placing the net income on an annual basis. The benefits of subparagraph (A) shall not be allowed unless the taxpayer makes application therefor in accordance with and at such time as regulations prescribed hereunder require, but not after

the time prescribed for the filing of the return for the first taxable year which ends on or after 12 months after the beginning of the short period.

(D) SHORT PERIOD, REFUND. The application, in case the return was filed without regard to subparagraph (A), shall be considered a claim for credit or refund with respect to the amount by which the tax is reduced under subparagraph (A). The tax commission shall prescribe such regulations as it may deem necessary.

(d) FRACTIONAL YEAR RETURN, PERSONAL EXEMPTION AND CREDIT. In the case of a return made for a fractional part of the year, under section 78 (b), the personal exemption and the credit for dependents shall be reduced respectively to amounts which bear the same ratio to the full credits provided as the number of months in the period for which return is made bears to 12 months.

(e) RETURNS WHERE TAXPAYER NOT IN EXISTENCE FOR TWELVE MONTHS. In the case of a taxpayer not in existence during the whole of an annual accounting period ending on the last day of a month, or, if the taxpayer has no annual accounting period or does not keep books during the whole of a calendar year, the return shall be made for the fractional part of the year during which the taxpayer was in existence.

Section 41. RETURNS. (a) INDIVIDUAL RETURNS. (1) RETURNS, FILING REQUIREMENTS. Every individual taxable under this Act shall make a return to the tax commission which shall contain or be verified by a written declaration that it is made under the penalties of perjury, stating specifically the items of his gross income and the deductions and credits allowed by this Act, if he has for the taxable year—

(A) A net income of one thousand dollars ($1,000.00) or over, if single;

(B) A net income of two thousand dollars ($2,000.00) or over, if married; or

(C) A gross income of five thousand dollars ($5,000.00) or over, regardless of the amount of net income.

(2) HUSBAND AND WIFE, RETURNS. If a husband and wife have for the taxable year an aggregate

net income of two thousand dollars ($2,000.00) or over, or an aggregate gross income of five thousand dollars ($5,000.00) or over—

(A) Each shall make such a return, or

(B) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income, as provided in section 2 (a) or (c). No joint return shall be made if husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year, nor if the taxable year of either spouse is a fractional part of a year under section 37 (a).

(C) In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (i) no return for the taxable year has been made by the decedent, (ii) no executor or administrator has been appointed, and (iii) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(3) DETERMINATION — HUSBAND AND WIFE. For the purposes of this section, the status as husband and wife of two individuals having taxable years beginning on the same day shall be determined—

(A) If both have the same taxable year—as of the close of such year; and

(B) If one dies before the close of the taxable year of the other—as of the time of such death.

(4) RETURNS BY AGENTS OR GUARDIANS. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of the taxpayer.

(5) ESTATE OR TRUST, RETURNS BY BENEFICIARY. Every resident or nonresident who is taxable upon income of an estate or trust shall include such income in his gross income.

(6) FIDUCIARY RETURNS. (A) REQUIREMENT OF RETURN. Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, for any of the following taxpayers for whom he acts, stating specifically the items of gross income of the taxpayer and the deductions and credits allowed under this Act:

(i) Every individual having a net income for the taxable year of one thousand dollars ($1,000.00) or over, if single.

(ii) Every individual having a net income for the taxable year of two thousand dollars ($2,000.00) or over, if married.

(iii) Every individual having a gross income for the taxable year of five thousand dollars ($5,000.00) or over, regardless of the amount of his net income.

(iv) Every estate the net income of which for the taxable year is one thousand dollars ($1,000.00) or over.

(v) Every trust the net income of which for the taxable year is one hundred dollars ($100.00) or over.

(vi) Every estate or trust the gross income of which for the taxable year is five thousand dollars ($5,000.00) or over, regardless of the amount of the net income.

(vii) Every decedent, for the year in which death occurred, and for prior years, if returns for such years should have been filed but have not been filed by the decedent, under such rules and regulations as the tax commission may prescribe.

(B) FIDUCIARY RETURN, WHERE SEVERAL FI-

DUCIARIES. Under such rules and regulations as the tax commission may prescribe, a return filed by one of two or more joint fiduciaries is sufficient. The fiduciary filing the return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, shall state (i) that he has sufficient knowledge of the affairs of the taxpayer for whom the return is made to enable him to make the return, and (ii) that the return is, to the best of his knowledge and belief, true and correct.

(C) FIDUCIARY RETURNS, LIABILITY SAME AS INDIVIDUAL. Any fiduciary required to make a return is subject to all the provisions of this Act which apply to individuals.

(7) PARTNERSHIP RETURNS. Returns by partnerships are provided for in section 71 (d).

(8) SEPARATE RETURNS AFTER FILING JOINT RETURNS. (A) IN GENERAL. If a husband and wife have filed a joint return for a taxable year for which separate returns could have been made by them under paragraph (2) (A), and the time prescribed by this Act for filing the return for such taxable year has expired, the husband and his spouse may nevertheless make separate returns for such taxable year. Separate returns filed by the spouses in such a case shall constitute their returns for such taxable year, and all payments, credits, refunds or other repayments made or allowed with respect to the joint return for such taxable year shall be taken into account in determining the extent to which the taxes based on the separate returns have been paid.

(B) WHEN CHANGE UNDER SUBPARAGRAPH (A) MAY BE MADE. Separate returns may be filed under subparagraph (A) only if there is paid in full, at or before the time of filing such returns;

(i) All amounts previously assessed with respect to both spouses for such taxable year;

(ii) All amounts shown as the tax by the spouses upon their joint return for such taxable year; and

(iii) Any amount determined, at the time of the filing of the separate returns, as a deficiency with respect to the spouses for such taxable year if, prior to such filing, a notice of proposed deficiency under section 77 (c) has been mailed.

(C) WHEN CHANGE UNDER SUBPARAGRAPH (A) MAY NOT BE MADE. Separate returns cannot be filed under subparagraph (A):

(i) After the expiration of four years from the last date prescribed by this Act for filing the return for such taxable year (determined without regard to any extension of time granted for the filing of the joint return);

(ii) After there has been mailed to the spouses, with respect to such taxable year, a notice of deficiency under section 77 (c), if the spouses, as to such notice, file a protest under section 77 (e) or appeal under section 77 (f);

(iii) After the spouses have commenced a suit in court for the recovery of any part of the tax paid for taxable year with respect to the joint return; or

(iv) After the spouses have entered into a closing agreement under section 75 (1) with respect to such taxable year as to the tax payable by the spouse under their joint return.

(D) INCOME AND DEDUCTION ELECTIONS PER JOINT RETURN IRREVOCABLE. If separate returns are made under subparagraph (A), any election (other than the election to file the joint return) made by the spouses in their joint return for such taxable year with respect to the treatment of any income, deduction, or credit shall not be changed in the making of the separate returns where such election would have been irrevocable if the separate returns had not been filed.

(E) ELECTION PER SUBPARAGRAPH (A) AFTER DEATH OF EITHER SPOUSE. If separate returns are made under subparagraph (A) after the death of either spouse, such return with respect to the decedent can be be made only by his executor or administrator.

(F) PENALTIES—SUBPARAGRAPH (A). Where the aggregate amount of the taxes shown by the spouses on their separate returns filed pursuant to subparagraph (A) exceeds the tax shown on their joint return:

(i) If any of such excess is attributable to negligence or intentional disregard of rules and regulations of the tax commission (but without intent to defraud) at the time of making the joint return, then 5 per cent of the total amount of such excess on each return shall be

assessed, collected, and paid in the same manner as if it were a deficiency.

(ii) If any part of such excess is attributable to fraud with intent to evade tax at the time of the making of the joint return, then 50 per cent of the total amount of such excess shall be so assessed, collected, and paid, in lieu of the 50 per cent addition to the tax provided in section 80 (e).

(G) RULES FOR APPLICATION OF SECTIONS 77 (d) and 80 (a). For the purposes of section 77 (d) (relating to periods of limitations upon assessment and collection), and for the purposes of section 80 (a) (relating to delinquent returns), separate returns made under subparagraph (A) shall be deemed to have been filed on the date on which the joint return was filed.

(H) RULES FOR APPLICATION OF SECTION 84. For the purposes of section 84 (relating to refunds and credits), separate returns made under subparagraph (A) shall be deemed to have been filed on the last date prescribed by this Act for filing the return for such taxable year (determined without regard to any extension of time granted for the filing of the joint return).

(I) STATUTE OF LIMITATIONS — SUBPARAGRAPH (A). If separate returns are made under subparagraph (A) the period of limitations provided in section 77 (d) on the making of assessments and collecting taxes shall with respect to such returns include one year immediately after the date of filing of such separate returns (computed without regard to the provisions of subparagraph (G)).

(J) RULE FOR APPLICATION OF SECTION 79. For the purposes of section 79 (relating to criminal penalties in the case of fraudulent returns) the term "return" includes a joint return filed by spouses with respect to a taxable year for which separate returns are made under subparagraph (A) after the filing of such joint return.

(9) JOINT RETURN AFTER FILING SEPARATE RETURN. (A) IN GENERAL. If an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse under paragraph (2), and the time prescribed by this Act for filing the return for such taxable year has expired, such individual and his spouse may nevertheless make a joint return for such taxable year. A joint return

filed by the husband and wife in such a case shall constitute the return of the husband and wife for such taxable year, and all payments, credits, refunds, or other repayments made or allowed with respect to the separate return of either spouse for such taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid.

(B) PAYMENTS REQUIRED BEFORE A JOINT RETURN CAN BE MADE. A joint return can be made under subparagraph (A) only if there is paid in full at or before the time of the filing of the joint return:

(i) All amounts previously assessed with respect to either spouse for such taxable year;

(ii) All amounts shown as the tax by either spouse upon his separate return for such taxable year; and

(iii) Any amount determined, at the time of the filing of the joint return, as a proposed deficiency with respect to either spouse for such taxable year if, prior to such filing, a notice under section 77 (c) of such proposed deficiency has been mailed.

(C) TIME FOR MAKING JOINT RETURN. A joint return cannot be made under subparagraph (A):

(i) After the expiration of four years from the last date prescribed by law for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse);

(ii) After there has been mailed to either spouse, with respect to such taxable year, a notice of deficiency under section 77 (c), if the spouse as to such notice, files a protest under section 77 (e) or appeal under section 77 (f);

(iii) After either spouse has commenced a suit in any court for the recovery of any part of the tax for such taxable year; or

(iv) After either spouse has entered into a closing agreement under section 75 (1) with respect to such taxable year.

(D) ELECTIONS MADE IN SEPARATE RETURNS. If a joint return is made under this paragraph, any elec-

tion (other than the election to file a separate return) made by either spouse in his separate return for such taxable year with respect to the treatment of any income, deduction, or credit of such spouse shall not be changed in the making of the joint return where such election would have been irrevocable if the joint return had not been made.

(E) DEATH OF SPOUSE. If a joint return is made under this paragraph after the death of either spouse, such return with respect to the decedent can be made only by his executor or administrator.

(F) ADDITIONS TO THE TAX. Where the amount shown as the tax by the husband and wife on a joint return made under this paragraph exceeds the aggregate of the amounts shown as the tax upon the separate return of each spouse;

(i) If any part of such excess is attributable to negligence or intentional disregard of rules and regulations (but without intent to defraud) at the time of the making of such separate return, then 5 per cent of the total amount of such excess shall be assessed, collected, and paid in the same manner as if it were a deficiency;

(ii) If any part of such excess is attributable to fraud with intent to evade tax at the time of the making of such separate return, then 50 per cent of the total amount of such excess shall be so assessed, collected, and paid, in lieu of the 50 per cent addition to the tax provided in section 80 (e).

(G) RULES FOR APPLICATION OF SECTION 77 (d) AND SECTION 80 (a). For the purposes of section 77 (d) (relating to period of limitations upon assessment and collection), and for the purposes of section 80 (a) (relating to delinquent returns), a joint return made under subparagraph (A) shall be deemed to have been filed;

(i) Where both spouses filed separate returns prior to making the joint return, on the date the last separate return was filed (but not earlier than the last date prescribed by this Act for filing the return of either spouse).

(ii) Where one spouse filed a separate return prior to the making of the joint return, and the other spouse had less than one thousand dollars ($1,000.00) of net income and less than five thousand dollars ($5,000.00)

of gross income for such taxable year, on the date of the filing of such separate return (but not earlier than the last date prescribed by law for the filing of such separate return).

(iii) Where only one spouse filed a separate return prior to the making of a joint return and the other spouse had a net income of more than one thousand dollars ($1,000.00) or a gross income of more than five thousand dollars ($5,000.00) for such taxable year, on the date of the filing of such joint return.

(H) RULES FOR APPLICATION OF SECTION 84. For the purposes of section 84 (relating to refunds and credits), a joint return made under subparagraph (A) shall be deemed to have been filed on the last date prescribed by this Act for filing the return for such taxable year (determined without regard to any extension of time granted to either spouse).

(I) ADDITIONAL TIME FOR ASSESSMENT. If a joint return is made under subparagraph (A), the period of limitations provided in section 77 (d) on the making of assessments and collecting taxes shall with respect to such return include one year immediately after the date of the filing of such joint return (computed without regard to the provisions of subparagraph (G)).

(J) RULE FOR APPLICATION OF SECTION 79. For the purposes of section 79 (relating to penalties in the case of fraudulent returns) the term "return" includes a separate return filed by a spouse with respect to a taxable year for which a joint return is made under this paragraph after the filing of such separate return.

(10) RETURNS BY PERSONS OUTSIDE THE AMERICAS. In any case in which it is determined by the tax commission, under regulations prescribed by it, that by reason of an individual being outside the states of the union and the District of Columbia, it is impossible or impracticable to perform any one or more of the acts specified in this Act, then in determining, under this Act whether the act was performed within the time prescribed therefor, in respect of any liability for taxes, interest or penalties affected by the failure to perform the act within such time, and in determining the amount of any credit or refund (including interest) affected by that failure, there shall be disregarded the period such person was thus unable to conform to the provisions of this Act.

(b) CORPORATION RETURNS. (1) REQUIREMENT. Every corporation subject to the tax imposed by this Act shall make a return to the tax commission, stating specifically the items of its gross income and the deductions and credits allowed by this Act, and such other information as the tax commission may by regulations prescribe for the purpose of carrying out the provisions of this Act.

(2) RETURNS—PENALTIES OF PERJURY. In the case of a corporation, every return required by this Act to be filed with the tax commission shall be signed by the president, or other principal officer and the treasurer or chief accounting officer, of the taxpayer and contain or be verified by a written declaration that it is made under the penalties of perjury.

In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of a bank or corporation, such receivers, trustees, or assignees shall make returns for such bank or corporation in the same manner and form as such a bank or corporation is required to make a return.

(3) COLLECTION OF TAX FROM RECEIVERS, TRUSTEES AND ASSIGNEES. Any tax due on the basis of returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the bank or corporation of whose business or property they have custody and control.

(c) AMENDED RETURNS — FEDERAL ADJUSTMENTS. If the amount of net income for any year of any taxpayer as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in net income, such taxpayer shall report such change or corrected net income, or the results of such renegotiation, within 90 days after the final determination of such change or correction or renegotiation, or as required by the tax commission, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with such department shall also file within 90 days thereafter an amended return with the tax commission which shall contain such information as it shall require.

Section 42. RETURNS—TIME AND PLACE FOR

FILING RETURNS. (a) RETURNS, PLACE AND FORM OF FILING. All returns required by this Act shall be in such form as the tax commission may from time to time prescribe, and shall be filed with the tax commission. The tax commission shall prepare blank forms for the returns and shall distribute them throughout the state and furnish them upon application. Failure to receive or secure the form does not relieve any taxpayer from making any return required.

(b) RETURNS, TIME OF FILING. (1) GENERAL RULE. Returns made on the basis of the calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

(2) RETURNS, EXTENSIONS FOR FILING. The tax commission, whenever in its judgment good cause exists, and under such rules and regulations as it shall prescribe, may grant a reasonable extension of time for filing the return or for payment of the tax, or any installment thereof, disclosed by the return, due or to become due within the period of the extension. If a return filed pursuant to an extension granted by the commission is not accompanied by a copy of the extension the taxpayer shall be subject to all the legal penalties, the same as if the extension had not been granted, provided, however, that if the extension has been lost or destroyed, the taxpayer may file affidavit of loss and request a duplicate of the extension. No extension or extensions may aggregate more than six months from the due date provided for the filing of returns.

(3) MEMBERS OF ARMED FORCES, EXTENSION OF TIME. (A) In the case of a taxpayer who is serving as a member of the armed forces of the United States or any auxiliary branch thereof, or the merchant marine, beyond the boundaries of the continental United States, the tax commission shall automatically grant, without application being made therefor, an extension of time, free from interest and penalties, for filing the return, for payment of the tax, for taking any of the steps required by section 77 (e) and (f), and section 84 (b) (1), (f) and (g), until 180 days after his discharge or release from active service therein or until 180 days after the termination of the present emergency, as declared by the president of the United States by executive order number 2914, dated December 19, 1950, whichever first occurs.

(B) "Continental United States", as used in subparagraph (A), means the 48 states of the United States and the District of Columbia.

Section 43. RETURNS EXECUTED BY TAX COMMISSION. (a) FALSE OR FRAUDULENT RETURN. If any taxpayer files a false or fraudulent return, or fails or neglects to file a return, with intent to evade tax, the tax commission, at any time, may require a return, or a supplementary return, under oath, or may make an estimate of the net income from any available information, and may propose to assess the amount of tax, interest and penalties due. All the provisions of this Act relative to delinquent taxes shall be applicable to the tax, interest and penalties computed hereunder.

(b) RIGHT OF PROTEST. When any assessment is proposed under subsection (a) the taxpayer shall have the right to protest the same and to have an oral hearing thereon if requested; and to appeal to the tax commission from the tax commission's action on the protest. The taxpayer must proceed under this section in the manner and within the time prescribed by section 77.

(c) NO RETURN FILED. If, in the case of a taxpayer subject to the tax imposed by this Act, any return required by this Act is not made, the tax commission, at any time, may require a return, under oath, or may make an estimate of the net income, from any available information, and may compute and levy the amount of tax, interest and penalties due under this Act. All the provisions of this Act, not in conflict herewith, relative to delinquent taxes shall be applicable to the tax, interest and penalties computed and levied hereunder. A proceeding in court for the collection of the tax, interest and penalties provided for in this section may be begun without assessment at any time.

Section 44. RETURNS OF EXEMPT ORGANIZATIONS. (a) RETURNS OF UNRELATED BUSINESS INCOME. Every organization, otherwise exempt under section 47, but having section 49 net income, shall file a return, verified by an executive officer under penalties of perjury in the form prescribed by the tax commission, within three months and fifteen days of the close of the taxable years, reporting its income from such activities and shall pay a tax at the rates prescribed in section 2 on its section 49 net income as defined in section 49 (c).

(b) INFORMATION RETURNS. Every organization exempt under section 47 except:

(1) A religious organization exempt under section 47 (a) (4); or

(2) An educational organization exempt under section 47 (a) (4), if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; or

(3) A charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under section 47 (a) (4), if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; or

(4) An organization exempt under section 47 (a) (4), if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subsection (1); or

(5) An organization exempt solely under section 47 (a) (2) shall file an annual return, at such time and in such manner as the tax commission may by regulations prescribe, setting forth—

(A) Its gross receipts for the year,

(B) Its expenses attributable to such income and incurred within the year,

(C) Its disbursements within the year for the purposes for which it is exempt,

(D) Its accumulation of income within the year,

(E) Its aggregate accumulations of income at the beginning of the year,

(F) Its disbursements out of principal in the current and prior years for the purposes for which it is exempt,

(G) A balance sheet showing its assets, liabilities and net worth as of the beginning of such year, and

(H) Such other information as the tax commission may by regulation prescribe.

(c) INFORMATION RETURN; INCOME LESS THAN $25,000.00. An organization otherwise required to file the return specified in subsection (b) need not file it if its gross income does not exceed twenty-five thousand dollars ($25,000.00).

Section 45. PUBLICITY OF RETURNS. (a) RETURNS TO BE KEPT FOR AT LEAST FOUR YEARS. The tax commission shall preserve reports and returns for four years and thereafter until it orders them to be destroyed.

(b) DISCLOSURE OF INFORMATION IN RETURNS. (1) JUDICIAL ORDER, RETURN INFORMATION DISCLOSED PURSUANT TO. Such information may be disclosed in accordance with proper judicial order in cases or actions instituted for the enforcement of this Act or for the prosecution of violations of this Act.

(2) DEPARTMENT OF LAW MAY HAVE INFORMATION—COUNTY ATTORNEYS MAY HAVE INFORMATION WHEN AUTHORIZED BY ATTORNEY GENERAL. The attorney general or any county attorney authorized in writing by the attorney general shall have the right to inspect the reports or returns of any taxpayer filing a report or return under this Act, when required for the purpose of instituting action for the enforcement of this Act or any other law relating to taxes or for the prosecution of violations of this Act or any other law relating to taxes.

(3) RECIPROCAL EXCHANGE OF INFORMATION. The tax commission may permit the commissioner of internal revenue of the United States, or other tax officials of this state, or the proper officer of any state imposing an income tax or a tax measured by income, or the authorized representative of any such officer, to inspect the income tax returns of any individual, estate, trust or partnership, or may furnish to the officer or his authorized representative an abstract of the return of income of any taxpayer or supply him with information concerning any item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any taxpayer. Permission shall be granted or information furnished to the officer or his representative only if the statutes of the United States or of the other state, as the case may be, grant substantially similar privileges to the tax commission of this state.

(c) PENALTY FOR DISCLOSING INFORMATION CONTAINED IN THE RETURN. (1) IN GENERAL.

Except as otherwise provided in this section, it is a misdemeanor for the tax commission, any deputy, agent, clerk, or other officer or employee, to disclose in any manner information as to the amount of income or any particulars set forth or disclosed in any report or return required under this Act. Any violation of this paragraph shall, upon conviction thereof, be punishable by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment not to exceed one year, or both, at the discretion of the court.

(2) INFORMATION, PENALTY FOR UNLAWFUL USE. The information furnished or secured pursuant to subsection (b) (2) or (3) shall be used solely for the purpose of administering the tax acts or laws administered by the person or agency obtaining it. Any unwarranted disclosure or use of the information by the person or agency, or the employees and officers thereof, is a misdemeanor. Any violation of this paragraph shall, upon conviction thereof, be punishable by a fine not to exceed one thousand dollars ($1,000.00) or by imprisonment not to exceed one year, or both, at the discretion of the court.

(d) DISCLOSURE OF INFORMATION, REIMBURSEMENT FOR COSTS THEREOF. Whenever under this Act or any law heretofore or hereafter enacted, the tax commission is required or permitted to disclose information, to furnish abstracts, or to permit access to its records, to or by any official, department, bureau, or agency of this state (including its political subdivisions), or any other state, or the United States, it may charge the official, department, bureau, or agency for the reasonable cost of its services.

(e) STATISTICS. Subsection (a) does not prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the publication of the percentage of dividends paid by any taxpayer which is deductible by the recipients thereof under the provisions of this Act.

Section 46. PAYMENT OF TAX. (a) TAX, WHEN PAYABLE. The tax imposed under this Act shall be paid on the fifteenth day of April following the close of the calendar year, or, if the return is made on the basis of a fiscal year, on the fifteenth day of the fourth month following the close of the fiscal year, but in the case of corporations subject to the tax imposed by this Act, one-half of the amount of tax disclosed by the return shall be due and payable as a first installment of the tax on

or before the fifteenth day of the fourth month following the close of the income year, and the balance of the tax shall be due and payable as a second installment on or before the fifteenth day of the sixth month following the close of the taxable year.

(b) INSTALLMENT PAYMENTS, ELECTION. In the case of a taxpayer, other than a corporation, on or before the date prescribed for the payment of the tax the taxpayer may elect to pay the tax in three equal installments. The first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the fifteenth day of the fourth month, and the third installment on the fifteenth day of the eighth month, after that date. Notwithstanding the provisions of this section, if the amount paid on or before the due date of the first installment is less than the tax as corrected in accordance with the provisions of section 77 (i), the taxpayer shall be deemed to have elected to pay the tax in three equal installments in the manner provided herein. If any installment is not paid on or before the date fixed for its payment, the whole amount of tax unpaid shall be paid upon notice and demand from the tax commission.

(c) PAYMENTS, MAY BE PAID IN ADVANCE. Any taxpayer may elect to pay the tax or any installment prior to the date prescribed for its payment.

(d) REMITTANCES, PAYABLE TO TAX COMMISSION. The tax, and any interest and penalties, shall be paid to the tax commission. Remittances may be in the form of a check, payable to the tax commission, during such time and under such regulations as the tax commission may prescribe. If a check is not paid by the bank on which it is drawn, the taxpayer tendering the check remains liable for the payment of the tax, and all interest and penalties, as if he had not tendered the check.

(e) HUSBAND AND WIFE, LIABILITY FOR TAX. The spouse who controls the disposition of or who receives or spends community income as well as the spouse who is taxable on such income is liable for the payment of the taxes imposed by this Act on such income. Where a joint return is filed by a husband and wife, the liability for the tax on the aggregate income is joint and several.

(f) EXTENSION OF TIME. Where an extension of time for filing returns has been granted by the tax commission, the first installment of the tax provided for in

subsection (a) shall be paid prior to the expiration of such extension.

Section 47. EXEMPTIONS FROM TAX ON CORPORATIONS. (a) ORGANIZATION EXEMPT AS SPECIFIED. The following organizations are exempt from the taxes imposed under this Act, except as provided in section 49 of this Act.

(1) LABOR, AGRICULTURAL, HORTICULTURAL, OTHER THAN CO-OPERATIVES. Labor, agricultural, or horticultural organizations, other than cooperative organizations described in section 23 (gg) and (hh).

(2) FRATERNAL BENEFICIARY SOCIETIES. Fraternal beneficiary societies, orders, or organizations, (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order or organization or their dependents.

(3) CEMETERY COMPANIES. Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; or any corporation chartered for burial purposes is a a cemetery corporation and not permitted by its charter to engage in any business not necessarily related to that purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual member thereof.

(4) RELIGIOUS, CHARITABLE, EDUCATIONAL, ETC. Corporations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

(5) BUSINESS LEAGUES, ETC. Business leagues, chambers of commerce, real estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) CIVIC LEAGUES. Civic leagues or organiza-

tions not organized for profit but operated exclusively for the promotion of social welfare, or local organizations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(7) SOCIAL CLUBS. Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(8) HOLDING COMPANIES. Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this Act.

(9) VOLUNTARY EMPLOYEES' BENEFICIARY ORGANIZATIONS. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident, or other benefits to the members of such organizations or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per cent or more of the income consists of amounts collected from members and amounts contributed to the organization by the employer of the members for the sole purpose of making such payments and meeting expenses.

(10) TEACHERS' OR PUBLIC EMPLOYEES' RETIREMENT FUND ORGANIZATIONS. Teachers' or public employees' retirement fund organizations of a purely local character, if (A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and (B) the income consists solely of amounts received from public taxation, amounts received from assessments upon the salaries of members, and income in respect of investments. For the purposes of this paragraph, "public employees" means employees of the state, and its political subdivisions.

(11) RELIGIOUS OR APOSTOLIC ORGANIZATIONS. Religious or apostolic organizations or corporations, if such organizations or corporations have a common treasury or community treasury, even if such corporations or organizations engage in business for the common benefit of the members, but only if the members

thereof include (at the time of filing their returns) in their gross income their pro rata shares, whether distributed or not, of the net income of the organizations or corporations for such year. Any amount so included in the gross income of a member shall be treated as a dividend received.

(12) VOLUNTARY BENEFICIARY ORGANIZATIONS — U. S. GOVERNMENT. Voluntary employees' beneficiary organizations providing for the payment of life, sick, accident or other benefits to the members of such organization or their dependents or their designated beneficiaries, if (A) admission to membership in such organization is limited to individuals who are officers or employees of the United States government, and (B) no part of the net earnings of such organization inures (other than through such payments) to the benefit of any private shareholder or individual.

(13) DIVERSIFIED MANAGEMENT COMPANIES. Corporations classified as diversified management companies under section 5 of the federal investment company act of 1940, and registered as provided in that act.

(b) FEEDER ORGANIZATIONS. An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under any subsection of this section on the ground that all of its profits are payable to one or more organizations exempt under this section from taxation. For the purposes of this subsection, the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property).

(c) INSURANCE COMPANIES. There shall be exempt from taxation under the provisions of this Act insurance companies paying to the state tax upon premium income derived from sources within this state.

Section 48. REQUIREMENTS FOR EXEMPTION OF CERTAIN ORGANIZATIONS UNDER SECTION 47 (a) (4) AND FOR DEDUCTIBILITY OF CONTRIBUTIONS MADE TO SUCH ORGANIZATIONS. (a) EXCLUDED ORGANIZATIONS. This section shall apply to any organization described in section 47 (a) (4) except—

(1) A religious organization (other than a trust);

(2) An educational organization which normally maintains a regular faculty and curriculum and normally has

a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on;

(3) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 47 (a) (4) from the United States or any state or political subdivision thereof or from direct or indirect contributions from the general public;

(4) An organization which is operated, supervised, controlled, or principally supported by a religious organization (other than a trust) which is itself not subject to the provisions of this section; and

(5) An organization the principal purposes or function of which are the providing of medical or hospital care or medical education or medical research.

(b) DEFINITION—"PROHIBITED TRANSACTION". For the purposes of this section, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of this section—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth, to; or

(6) Engages in any other transaction which results in a substantial diversion of its income or corpus to; the creator of such organization (if a trust); a person who has made a substantial contribution to such organization;

a member of the family (as defined in section 26 (b) (2) (D)) of an individual who is the creator of such trust or who has made a substantial contribution to such organization, or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 per cent or more of the total combined voting power of all classes of stock entitled to vote or 50 per cent or more of the total value of shares of all classes of stock of the corporation.

(c) DENIAL OF EXEMPTION. (1) GENERAL RULE. No organization subject to the provisions of this section, except those specified in subsection (a), which has engaged in a prohibited transaction after December 31, 1953, shall be exempt from taxation under section 47 (a) (4).

(2) PERIOD AFFECTED BY DENIAL. An organization shall be denied exemption from taxation under section 47 (a) (4) by reason of paragraph (1) only for taxable years subsequent to the taxable year during which it is notified by the tax commission that it has engaged in a prohibited transaction, unless such organization entered into such prohibited transaction with the purpose of diverting corpus or income of the organization from its exempt purposes, and such transaction involved a substantial part of the corpus or income of such organization.

(d) APPLICATION FOR REINSTATEMENT OF EXEMPTION. Any organization denied exemption under section 47 (a) (4) by reason of the provisions of subsection (c) with respect to any taxable year following the taxable year in which notice of denial of exemption was received, may, under regulations prescribed by the tax commission, file claim for exemption, and if the tax commission pursuant to such regulations, is satisfied that such organizations will not knowingly again engage in a prohibited transaction, such organization shall be exempt with respect to taxable years subsequent to the year in which such claim is filed.

(e) CHARITABLE CONTRIBUTIONS — LIMITATIONS — PROHIBITED TRANSACTIONS. No gift or bequest for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), otherwise allowable as a deduction, shall be allowed as a deduction if made to an organization which, in the income year of the organization in which the gift or bequest is made, is not exempt under section 47 (a) (4) by reason

of the provisions of this section. With respect to any taxable year of the organization for which the organization is not exempt pursuant to the provisions of subsection (c) by reason of having engaged in a prohibited transaction with the purpose of diverting the corpus or income, and which taxable year is the same, or prior to, the taxable year of the organization in which such transaction occurred, such deducation shall be disallowed the donor only if it was a party to such prohibited transaction. For the purpose of this section, the term "gift or bequest" means any gift, contribution, bequest, devise, legacy, or transfer.

(f) UNREASONABLE ACCUMULATIONS OF SURPLUS. In the case of any organization described in section 47 (a) (4) to which subsections (a) through (e) are applicable, if the amounts accumulated out of income during the taxable year or any prior taxable year and not actually paid out by the end of the taxable year—

(1) Are unreasonable in amount or duration in order to carry out the charitable, educational, or other purposes or function constituting the basis for such organization's exemption under section 47 (a) (4), or

(2) Are used to a substantial degree for purposes or functions other than those constituting the basis for such organization's exemption under section 47 (a) (4), or

(3) Are invested in such a manner as to jeopardize the carrying out of the charitable, educational, or other purpose or function constituting the basis for such organization's exemption under section 47 (a) (4); exemption under section 47 (a) (4) shall be denied for the taxable year.

Section 49. TAXATION OF BUSINESS INCOME OF CERTAIN SECTION 47 ORGANIZATIONS. (a) IN GENERAL. Every organization and trust described in subsection (b) shall be subject to the tax imposed under section 2 upon its "section 49" net income as defined in subsection (c).

(b) ORGANIZATION SUBJECT TO TAX. The tax imposed under subsection (a) shall apply in the case of any organization or trust other than a church or a convention or association of churches which is exempt, except as provided in this section, from taxation under this Act by reason of section 47 (a) (1) through (13), section 62 (a), and section 65. Such taxes shall also apply

to an organization described in section 47 (a) (8) if the income is payable to an organization which itself is subject to the tax imposed under this section or to a church or to a convention or association of churches.

(c) DEFINITION — "SECTION 49 NET INCOME". The "section 49" net income of an organization or trust means the amount by which its unrelated business net income, as defined in subsection (d), exceeds one thousand dollars ($1,000.00).

(d) DEFINITION — "UNRELATED BUSINESS NET INCOME". The term "unrelated business net income" means the gross income derived by any organization or trust from any unrelated trade or business, as defined in subsection (e), regularly carried on by it, less the deductions allowable by section 23, which are directly connected with the carrying on of such trade or business, subject to the exceptions, additions, and limitations prescribed in this subsection.

(1) There shall be excluded all dividends, interest, and annuities, and all deductions directly connected with such income.

(2) There shall be excluded all royalties, including overriding royalties, whether measured by production or by gross or net income from the property, and all deductions directly connected with such income.

(3) There shall be excluded all rents from real property (including personal property leased with the real property), and all deductions directly connected with such rents.

(4) Notwithstanding paragraph (3) in the case of a section 49 lease (as defined in subsection (f)), there shall be included, as an item of gross income derived from an unrelated trade or business, the amount ascertained under subsection (i) (1), and there shall be allowed, as a deduction, the amount ascertained under subsection (i) (2).

(5) There shall be excluded all gains or losses from the sale, exchange, or other disposition of property other than (A) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, or (B) property held primarily for sale to customers in the ordinary course of the trade or business.

(6) In computing the "unrelated business net income"

there shall be allowed the net operating loss deduction provided in section 23 (s), except that (A) in computing such net operating loss for any taxable year, the amount of the net operating loss carry-back or carry-over to any taxable year shall be determined under said section 23 (s) without taking into account any amount of income or deduction which is excluded under this section in computing the unrelated business net income; and (D) the terms "preceding taxable year" and "preceding taxable years" as used in section 23 (s) shall not include any taxable year for which the organization was not subject to the provisions of this section.

(7) There shall be excluded all income derived from research for (A) the United States or any of its agencies or instrumentalities, or (B) any state or political subdivision thereof; and there shall be excluded all deductions directly connected with such income.

(8) (A) In the case of a college, university, or hospital, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(B) In the case of an organization operated primarily for the purposes of carrying on fundamental research, the results of which are freely available to the general public, there shall be excluded all income derived from research performed for any person, and all deductions directly connected with such income.

(9) (A) In the case of any organization described in subsection (b), the so-called "charitable contribution" deduction allowed by section 23 (q) shall be allowed (whether or not directly connected with the carrying on of the trade or business), but shall not exceed 5 per cent of the unrelated business net income computed without the benefit of this subparagraph.

(B) In the case of any trust described in section 62 (a), the so-called "charitable contribution" deduction allowed by section 62 (a) shall be allowed (whether or not directly connected with the carrying on of the trade or business), and for such purpose a distribution made by the trust to a beneficiary described in section 62 (a) (2) shall be considered as a gift or contribution. The deduction allowed by this subparagraph shall not exceed 15 per cent of the unrelated business net income computed without the benefit of this subparagraph.

If a trade or business regularly carried on by a part-

nership, of which an organization is a member, is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business net income shall, subject to the exceptions, additions, and limitations contained in paragraphs (1) through (9), above, include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income. If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business net income shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization. In the case of an organization described in section 44 (b) (2) which is a member of a partnership of all whose members are organizations described in section 44 (b) (2), if a trade or business regularly carried on by such partnership is an unrelated trade or business with respect to such organization, such organization shall, for taxable years beginning before January 1, 1954, be allowed a deduction in an amount equal to the portion of the gross income of such partnership from such unrelated trade or business which such organization is required (by a provision of a written contract executed by such organization prior to January 1, 1954, which provision expressly deals with the disposition of the gross income of the partnership) to pay within the taxable year in discharge of indebtedness incurred by such organization in acquiring its share of such trade or business, or to irrevocably set aside within the taxable year for the discharge of such indebtedness (to the extent that such amount has been so paid or set aside) if (i) such partnership was formed prior to January 1, 1954, for the purpose of carrying on such trade or business, and (ii) substantially all the assets used in carrying on such trade or business were acquired by it or by its members prior to such date. As used in the preceding sentence, the word "indebtedness" does not include indebtedness incurred after January 1, 1954.

(e) "UNRELATED TRADE OR BUSINESS". The term "unrelated trade or business" means, in the case of any organization subject to the tax imposed by subsection (a), any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemp-

tion under section 47, except that such term shall not include any trade or business—

(1) In which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

(2) Which is carried on, in the case of an organization described in section 47 (a) (4) by the organization primarily for the convenience of its members, students, patients, officers, or employees; or

(3) Which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

The term "unrelated trade or business" means in the case of a trust computing its unrelated business net income under this section for the purpose of section 62 (g) (1), any trade or business regularly carried on by such trust or by a partnership of which it is a member. If a publishing business carried on by an organization during an income year beginning before January 1, 1954, is, without regard to this sentence, an unrelated trade or business, but before the beginning of the third succeeding income year the business is carried on by it (or by a successor who acquired such business in a liquidation which would constitute a tax-free exchange under section 52 (b) (6) and (7)) in such manner that the conduct thereof is substantially related to the exercise or performance by such organization (or such successor) of its educational or other purpose or function described in section 47 (a) (4), such publishing business shall not be considered, for the income year, as an unrelated trade or business.

(f) "SECTION 49 LEASE". The term "section 49 lease" means a lease for a term of more than five years of real property by an organization or trust (or by a partnership of which it is a member), if at the close of the lessor's taxable year there is a section 49 lease indebtedness (as defined in subsection (g)) with respect to such property. In computing the term of a lease which contains an option for renewal or extension, the term of such lease shall be considered as including any period for which such option may be exercised; and the term of any lease made pursuant to an exercise of such option shall include the period during which the prior lease was in effect. If real property is acquired subject to a lease, the term of such lease shall be considered to begin on

the date of such acquisition. No lease shall be considered a section 49 lease if (1) such lease is entered into primarily for purposes which are substantially related (aside from the need of such organization for income or funds or the use it makes of the rents derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption, or (2) the lease is of premises in a building primarily designed for occupancy, and occupied, by the organization. If a lease for more than five years to a tenant is for only a portion of the real property, and space in the real property is rented during the taxable year under a lease for not more than five years to any other tenant of the organization, leases of the real property for more than five years shall be considered as section 49 leases during the taxable year only if—

(A) the rents derived from the real property during the taxable year under such leases represents 50 per cent or more of the total rents derived during the taxable year from the real property; or the area of the premises occupied under such leases represents, at any time during the taxable year, 50 per cent or more of the total area of the real property rented at such time; or

(B) The rent derived from the real property during the taxable year from any tenant under such a lease, or from a group of tenants (under such leases) who are (i) members of an affiliated group or (ii) partners, represents more than 10 per cent of the total rents derived during the taxable year from such property; or the area of the premises occupied by any one such tenant, or by any such group of tenants, represents at any time during the taxable year more than 10 per cent of the total area of the real property rented at such time. For the purposes of this subparagraph an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if stock possessing at least 95 per cent of the voting power of all classes of stock and at least 95 per cent of each class of the non-voting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations and the common parent corporation owns directly stock possessing at least 95 per cent of the voting power of all classes of stock and at least 95 per cent of each class of the non-voting stock of at least one of the other includible corporations. As used in the preceding sentence, the term "stock" does not include non-voting stock which is limited and preferred as to dividends. As used in this sub-

paragraph, the term "includible corporation" means any corporation except corporations exempt from taxation under section 47 and a corporation which is a resident of a foreign country.

(g) "SECTION 49 LEASE INDEBTEDNESS". The term "section 49 lease indebtedness" means, with respect to any real property leased for a term of more than five years, the unpaid amount of—

(1) The indebtedness incurred by the lessor in acquiring or improving such property;

(2) The indebtedness incurred prior to the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement; and

(3) The indebtedness incurred subsequent to the acquisition or improvement of such property if such indebtedness would not have been incurred but for such acquisition or improvement and the incurrence of such indebtedness was reasonably forseeable at the time of such acquisition or improvement.

Where real property is acquired subject to a mortgage or other similar lien, the amount of the indebtedness secured by such mortgage or lien shall be considered (whether the acquisition was by gift, devise, or purchase) as an indebtedness of the lessor incurred in acquiring such property even though the lessor did not assume or agree to pay such indebtedness, except that where real property was acquired by a gift, bequest, or devise prior to January 1, 1954, subject to a mortgage or other similar lien, the amount of such mortgage or other similar lien shall not be considered as an indebtedness of the lessor incurred in acquiring such property.

Where real property was acquired by gift, bequest, or devise prior to January 1, 1954, subject to a lease requiring improvements in such property upon the happening of stated contingencies, indebtedness incurred in improving such property in accordance with the terms of such lease shall not be considered as an indebtedness for purposes of this subsection. In the case of a corporation described in section 47 (a) (8), all of the stock of which was acquired prior to January 1, 1954, by an organization described in section 47 (a) (1), (4) or (5) or by a trust described in section 62 (a) (2) and section 65 (and more than one-third of such stock was acquired

by such organization or trust by a gift or bequest), any indebtedness incurred by such corporation prior to January 1, 1954, and any indebtedness incurred by such corporation on or after such date in improving real property in accordance with the terms of a lease entered into prior to such date, shall not be considered as an indebtedness with respect to such corporation or such organization for purposes of this section. In determining the amount of the section 49 lease indebtedness where only a portion of the real property is subject to a section 49 lease, proper allocation to the premises covered by such lease shall be made of the indebtedness incurred by the lessor with respect to the real property.

(h) DEFINITION — "REAL PROPERTY". For the purposes of this section, the term "real property" and the term "premises" include personal property of the lessor leased by it to a lessee of its real estate if the lease of such personal property is made under, or in connection with, the lease of such real estate.

(i) COMPUTATION OF UNRELATED BUSINESS NET INCOME. In computing under subsection (d) the unrelated business net income for any taxable year—

(1) There shall be included with respect to each section 49 lease, as an item of gross income derived from an unrelated trade or business, an amount which is the same percentage (but not in excess of 100 per cent) of the total rents derived during the taxable year under such lease as (A) the section 49 lease indebtedness, at the close of the taxable year, with respect to the premises covered by such lease is of (B) the adjusted basis, at the close of the taxable year, of such premises.

(2) There shall be allowed with respect to each section 49 lease, as a deduction to be taken into account in computing unrelated business net income, an amount which is the same percentage (but not in excess of 100 per cent) of the sum determined under paragraph (3) as the amount determined under subparagraph (A) of paragraph (1) is of the amount determined under subparagraph (B) of such paragraph.

(3) The sum referred to in paragraph (2) is the sum of the following deductions allowable under section 23:

(A) Taxes and other expenses paid or accrued during the taxable year upon or with respect to the real property subject to the section 49 lease.

(B) Interest paid or accrued during the taxable year on the section 49 lease indebtedness.

(C) A reasonable allowance for exhaustion, wear and tear (including a reasonable allowance for obsolescense) of the real property subject to such lease.

Where only a portion of the real property is subject to the section 49 lease, there shall be taken into account under subparagraph (A), (B), or (C) only those amounts which are properly allocable to the premises covered by such lease.

Section 51. GAIN OR LOSS — DETERMINATION OF GAIN OR LOSS.

(a) COMPUTATION OF GAIN OR LOSS. The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 53 (b) for determining gain, and the loss shall be the excess of the adjusted basis provided in that section for determining loss over the amount realized.

(b) AMOUNT REALIZED. The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of any property (other than money) received.

(c) RECOGNITION OF GAIN OR LOSS. In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this Act shall be determined under the provisions of section 52.

(d) INSTALLMENT SALES, GAIN. Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

Section 52. GAIN OR LOSS — RECOGNITION OF GAIN OR LOSS. (a) GENERAL RULE. Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 51, shall be recognized, except as otherwise provided in this section.

(b) EXCHANGES SOLELY IN KIND. (1) EXCHANGE OF PROPERTY HELD FOR PRODUCTIVE

USE OR INVESTMENT. No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, or stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

(2) EXCHANGE OF STOCK FOR STOCK OF SAME CORPORATION. No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(3) EXCHANGE OF STOCK FOR STOCK ON REORGANIZATION. No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for the stock or securities in such corporation or in another corporation a party to the reorganization.

(4) EXCHANGE OF PROPERTY FOR STOCK ON REORGANIZATION. No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

(5) TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph applies only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

Where the transferee assumes a liability of a transferor, or where property of a transferor is transferred subject to a liability, then for the purpose only of determining whether the amount of stock or securities received by each of the transferors is in the proportion required by this paragraph, the amount of such liability (if under subsection (k) it is not to be considered as "other prop-

erty or money") shall be considered as stock or securities received by such transferor.

(6) PROPERTY RECEIVED BY CORPORATION ON COMPLETE LIQUIDATION OF ANOTHER. No gain or loss shall be recognized upon the receipt by a corporation of property distributed in complete liquidation of another corporation. For the purposes of this paragraph a distribution shall be considered to be in complete liquidation only if:

(A) The corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) possessing at least 80 per cent of the total combined voting power of all classes of stock entitled to vote and the owner of at least 80 per cent of the total number of shares of all other classes of stock (except non-voting stock which is limited and preferred as to dividends), and was at no time on or after the date of the adoption of the plan of liquidation and until the receipt of the property the owner of a greater percentage of any class of stock than the percentage of such class owned at the time of the receipt of the property; and

(B) No distribution under the liquidation was made before the first day of the first taxable year of the corporation beginning after December 31, 1953; and either

(C) The distribution is by such other corporation in complete cancellation or redemption of all its stock, and the transfer of all the property occurs within the taxable year; in such case the adoption by the shareholders of the resolution under which is authorized the distribution of all the assets of such corporation in complete cancellation or redemption of all its stock, shall be considered an adoption of a plan of liquidation even though no time for the completion of the transfer of the property is specified in such resolution; or

(D) Such distribution is one of a series of distributions by such other corporation in complete cancellation or redemption of all its stock in accordance with a plan of liquidation under which the transfer of all the property under the liquidation is to be completed within three years from the close of the income year during which is made the first of the series of distributions under the plan, except that if such transfer is not completed within such period, or if the taxpayer does not continue qualified

under subparagraph (A) until the completion of such transfer, no distribution under the plan shall be considered a distribution in complete liquidation.

(7) TRANSFERS NOT COMPLETED DURING TAXABLE YEAR. If the transfer provided in paragraph (6) of all the property does not occur within the taxable year, the tax commission may require of the taxpayer, such bond, or waiver of the statute of limitations on assessment and collection, or both, as it may deem necessary to insure, if the transfer of the property is not completed within such three-year period or if the taxpayer does not continue qualified under subsection (b) (6) (A) until the completion of such transfer, the assessment and collection of all taxes imposed by this Act then due or to become due, to the extent attributable to property so received. A distribution otherwise constituting a distribution in complete liquidation within the meaning of this paragraph and paragraph (6) shall not be considered as not constituting such a distribution merely because it does not constitute a distribution or liquidation within the meaning of the corporate law under which the distribution is made; and for the purposes of this paragraph and paragraph (6) a transfer of property of such other corporation to the taxpayer shall not be considered as not constituting a distribution (or one of a series of distributions) in complete cancellation or redemption of all the stock of such other corporation, merely because the carrying out of the plan involves

(i) The transfer under the plan to the taxpayer by such other corporation of property, not attributable to shares owned by the taxpayer, upon an exchange described in subsection (b) (4); and

(ii) The complete cancellation or redemption under the plan as a result of exchanges described in subsection (b) (3), of the shares not owned by the taxpayer.

(8) GAIN OR LOSS — EXCHANGES AND DISTRIBUTIONS IN OBEDIENCE TO ORDERS OF F.S.E.C. No gain or loss shall be recognized to a shareholder from a distribution of stock or securities in liquidation of a corporation made pursuant to an order of the federal securities and exchange commission under authority vested in it by the public utility holding company act of 1935, as amended.

(9) LOSS NOT RECOGNIZED ON CERTAIN RAILROAD REORGANIZATIONS. No loss shall be recog-

nized if property of a railroad corporation as defined in section 77m of the national bankruptcy act, as amended, is transferred, after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership proceeding, or

(B) In a proceeding under section 77 of the national bankruptcy act, as amended, to a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding. The term "reorganization", as used in this paragraph, shall not be limited by the definition of such term in subsection (g).

(10) GAIN OR LOSS NOT RECOGNIZED ON REORGANIZATION OF CORPORATIONS IN CERTAIN RECEIVERSHIP AND BANKRUPTCY PROCEEDINGS. No gain or loss shall be recognized if property of a corporation (other than a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended) is transferred in pursuance of an order of the court having jurisdiction of such corporation—

(A) In a receivership, foreclosure, or similar proceeding, or

(B) In a proceeding under section 77B or chapter X of the national bankruptcy act, as amended — to another corporation organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, in exchange solely for stock or securities in such other corporation.

(11) DISTRIBUTION OF STOCK NOT IN LIQUIDATION. If there is distributed, in pursuance of a plan of reorganization, to a shareholder of a corporation which is a party to the reorganization, stock (other than preferred stock) in another corporation which is a party to the reorganization, without the surrender by such shareholder of stock, no gain to the distributee from the receipt of such stock shall be recognized unless it appears that—

(A) Any corporation which is a party to such reorganization was not intended to continue the active conduct of a trade or business after such reorganization, or

(B) The corporation whose stock is distributed was

used principally as a device for the distribution of earnings and profits to the shareholders of any corporation a party to the reorganization.

(c) GAIN FROM EXCHANGES NOT SOLELY IN KIND. (1) If an exchange would be within the provisions of subsection (b) (1), (2), (3) or (5), or within the provisions of subsection (1) of this section, if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraphs or by subsection (1) to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

(2) If a distribution made in pursuance of a plan of reorganization is within the provisions of paragraph (1) of this subsection but has the effect of the distribution of a taxable dividend, there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after January 1, 1933. The remainder, if any, of the gain recognized under paragraph (1), shall be taxed as a gain from the exchange of property.

(d) SAME — GAIN OF CORPORATION. If an exchange would be within the provisions of subsection (b) (4) or (10) of this section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then:

(1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

(2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property so received, which is not so distributed.

(e) LOSS FROM EXCHANGES NOT SOLELY IN KIND. If an exchange would be within the provisions of subsection (b) (1) to (5), inclusive, or (10), or within the

provisions of subsection (1), of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

(f) INVOLUNTARY CONVERSION. If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compusorily or involuntarily converted—

(1) Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(2) Into money, and the disposition of the converted property occurred before January 1, 1954, no gain shall be recognized if such money is forthwith in good faith, under regulations prescribed by the tax commission, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund. If any part of the money is not so expended, the gain shall be recognized to the extent of the money which is not so expended (regardless of whether such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain). For the purposes of this paragraph and paragraphs (3) and (4), the term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.

(3) Into money or into property not similar or related in service or use to the converted property, and the disposition of the converted property (as defined in paragraph (2)) occurred after January 1, 1954, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph.

(A) NONRECOGNITION OF GAIN. If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property, at the election of the taxpayer the gain

shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock. Such election shall be made at such time and in such manner as the tax commission may by regulations prescribe. For the purpose of this paragraph—

(i) No property or stock acquired before the disposition of the converted property shall be considered to have been acquired for the purpose of replacing such converted property unless held by the taxpayer on the date of such disposition; and

(ii) The taxpayer shall be considered to have purchased property or stock only if, but for the provisions of section 53 (a) (9), the unadjusted basis of such property or stock would be its cost within the meaning of section 53 (a).

(B) PERIOD WITHIN WHICH PROPERTY MUST BE REPLACED. The period referred to in subparagraph (A) shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending—

(i) One year after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

(ii) Subject to such terms and conditions as may be specified by the tax commission, at the close of such later date as the tax commission may designate upon application by the taxpayer. Such application shall be made at such time and in such manner as the tax commission may by regulations prescribe.

(C) TIME FOR ASSESSMENT OF DEFICIENCY ATTRIBUTABLE TO GAIN UPON CONVERSION. If a taxpayer has made the election provided in subparagraph (A), then

(i) The statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain upon such conversion is realized, attributable to such gain shall not expire prior to the expiration of four years from the date the tax commission is notified by the taxpayer (in such manner as the tax commission may

by regulations prescribe) of the replacement of the converted property or of an intention not to replace, and

(ii) Such deficiency may be assessed prior to the expiration of such four-year period notwithstanding the provisions of section 77(d) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

(D) TIME FOR ASSESSMENT OF OTHER DEFICIENCY ATTRIBUTABLE TO ELECTION. If the election provided in subparagraph (A) is made by the taxpayer and such other property or such stock was purchased prior to the beginning of the last taxable year in which any part of the gain upon such conversion is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 77(d) or the provisions of any other law or rule of law which would otherwise prevent such assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed.

(4) INVOLUNTARY CONVERSION—RESIDENCE. This subsection shall not apply in the case of property used by a taxpayer as his principal residence, if the destruction, theft, seizure, requisition, or condemnation of the residence, or the sale or exchange of such residence under threat or imminence thereof, occurs after January 1, 1954.

(g) DEFINITION OF REORGANIZATION. As used in this section (other than subsection (b)(10) and subsection (1) and in section 53 (other than section 53(a) (20)):

(1) The term "reorganization" means

(A) A statutory merger or consolidation, or

(B) The acquisition by one corporation in exchange solely for all or a part of its voting stock: Of at least 80 per cent of the voting stock and at least 80 per cent of the total number of shares of all other classes of stock of another corporation; or of substantially all the properties of another corporation, but in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of another, or the fact that property acquired is subject to a liability, shall be disregarded, or

(C) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its shareholders or both are in control of the corporation to which the assets are transferred, or

(D) A recapitalization, or

(E) A mere change in identity, form, or place of organization, however effected.

(2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

(h) DEFINITION OF CONTROL. "Control", as used in this section, means the ownership of stock possessing at least 80 per cent of the total combined voting power of all classes of stock entitled to vote and at least 80 per cent of the total number of shares of all other classes of stock of the corporation.

(i) FOREIGN CORPORATIONS. In determining the extent to which gains shall be recognized in the case of any of the exchanges (made after January 1, 1954) described in subsection (b)(3), (4), (5) or (6) or described in so much of subsection (c) as refers to subsection (b)(3) or (5) or described in subsection (d), a corporation created or organized in a foreign country shall not be considered as a corporation unless, prior to such exchange, it has been established to the satisfaction of the tax commission that the exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of income or franchise taxes.

(j) INSTALLMENT OBLIGATIONS. For nonrecognition of gain or loss in the case of installment obligations, see section 34(d).

(k) ASSUMPTION OF LIABILITY NOT RECOGNIZED. Where upon an exchange the taxpayer receives as part of the consideration property which would be permitted by subsection (b)(4), (5) or (10) of this section, to be received without the recognition of gain if it were the sole consideration, and as part of the consideration another party to the exchange assumes a liability of the taxpayer or acquires from the taxpayer property subject to a liability, the assumption or acquisition shall not

be considered as "other property or money" received by the taxpayer within the meaning of subsection (c), (d) or (e) of this section, and shall not prevent the exchange from being within the provisions of subsection (b)(4), (5) or (10), except that if, taking into consideration the nature of the liability and the circumstances in the light of which the arrangement for the assumption or acquisition was made, it appears that the principal purpose of the taxpayer with respect to the assumption or acquisition was a purpose to avoid state income tax on the exchange, or, if not such purpose, was not a bona fide business purpose, the assumption or acquisition (in the amount of the liability) shall, for the purposes of this section, be considered as money received by the taxpayer upon the exchange.

In any suit or proceeding where the burden is on the taxpayer to prove that the assumption or acquisition is not to be considered as money received by the taxpayer, the burden shall not be considered sustained unless the taxpayer sustains the burden by the clear preponderance of the evidence.

(1) EXCHANGES BY SECURITY HOLDERS IN CONNECTION WITH CERTAIN CORPORATE REORGANIZATIONS. No gain or loss shall be recognized upon an exchange consisting of the relinquishment or extinguishment of stock or securities in a corporation the plan of reorganization of which is approved by the court, in a proceeding described in subsection (b)(10), in consideration of the acquisition solely of stock or securities in a corporation organized or made use of to effectuate such plan of reorganization.

(m) GAIN FROM SALE OR EXCHANGE TO EFFECTUATE POLICIES OF FEDERAL COMMUNICATIONS COMMISSION. If the sale or exchange of property (including stock in a corporation) is certified by the federal communications commission to be necessary or appropriate to effectuate the policies of the commission with respect to the ownership and control of radio broadcasting stations, such sale or exchange shall, if the taxpayer so elects, be treated as an involuntary conversion of such property within the meaning of subsection (f) of this section. For the purposes of subsection (f) of this section, as made applicable by the provisions of this subsection, stock of a corporation operating a radio broadcasting station, whether or not representing control of such corporation, shall be treated as property similar or related in service or use to the property so converted. The part of the gain, if any, upon such sale or exchange to

which subsection (f) is not applied shall nevertheless not be recognized, if the taxpayer so elects, to the extent that it is applied to reduce the basis for determining gain or loss upon sale or exchange of property, of a character subject to the allowance for depreciation under section 23 (1), remaining in the hands of the taxpayer immediately after the sale or exchange, or acquired in the same taxable year. The manner and amount of such reduction shall be determined under regulations prescribed by the tax commission. Any election made by the taxpayer under this subsection shall be made by a statement to that effect in his return for the taxable year in which the sale or exchange takes place, and such election shall be binding for the taxable year and all subsequent taxable years.

(n) GAIN FROM SALE OR EXCHANGE OF RESIDENCE. (1) NONRECOGNITION OF GAIN. If property (hereinafter in this subsection called "old residence") used by the taxpayer as his principal residence is sold by him and, within a period beginning one year prior to the date of such sale and ending one year after such date, property (hereinafter in this subsection called "new residence") is purchased and used by the taxpayer as his principal residence, gain (if any) from such sale shall be recognized only to the extent that the taxpayer's selling price of the old residence exceeds the taxpayer's cost of purchasing the new residence.

(2) RULES FOR APPLICATION OF SUBSECTION. For the purposes of this subsection:

(A) An exchange by the taxpayer of his residence for other property shall be considered as a sale of such residence, and the acquisition of a residence upon the exchange of property shall be considered as a purchase of such residence.

(B) If the taxpayer's residence (as a result of its destruction in whole or in part, theft, or seizure) is compulsorily or involuntarily converted into property or into money, such destruction, theft, or seizure shall be considered as a sale of the residence; and if the residence is so converted into property which is used by the taxpayer as his residence, such conversion shall be considered as a purchase of such property by the taxpayer.

(C) In the case of an exchange or conversion described in subparagraph (A) or (B), in determining the extent to which the selling price of the old residence exceeds the taxpayer's cost of purchasing the new residence,

the amount realized by the taxpayer upon such exchange or conversion shall be considered the selling price of the old residence.

(D) A residence any part of which was constructed or reconstructed by the taxpayer shall be considered as purchased by the taxpayer. In determining the taxpayer's cost of purchasing a residence, there shall be included only so much of his cost as is attributable to the acquisition, construction, reconstruction, and improvements made which are properly chargeable to capital account, during the period specified in paragraph (1).

(E) If a residence is purchased by the taxpayer prior to the date of his sale of the old residence, the purchased residence shall not be treated as his new residence if sold or otherwise disposed of by him prior to the date of the sale of the old residence.

(F) If the taxpayer, during the period described in paragraph (1), purchases more than one residence which is used by him as his principal residence at some time within one year after the date of the sale of the old residence, only the last of the residences so used by him after the date of such sale shall constitute the new residence. If within the one year referred to in the preceding sentence property used by the taxpayer as his principal residence is destroyed, stolen, seized, requisitioned, or condemned, or is sold or exchanged under threat or imminence thereof, then for the purposes of the preceding sentence such one year shall be considered as ending with the date of such destruction, theft, seizure, requisition, condemnation, sale or exchange.

(G) In the case of a new residence the construction of which was commenced by the taxpayer prior to the expiration of one year after the date of the sale of the old residence, the period specified in paragraph (1), and the one year referred to in subparagraph (f) of this paragraph, shall be considered as including a period of 18 months beginning with the date of the sale of the old residence.

(3) LIMITATION. The provisions of paragraph (1) shall not be applicable with respect to the sale of the taxpayer's residence if within one year prior to the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of the provisions of paragraph (1). For the purposes of this paragraph, the

destruction, theft, seizure, requisition, or condemnation of property or the sale or exchange of property under threat or imminence thereof, shall not be considered as a sale of such property.

(4) BASIS OF NEW RESIDENCE. Where the purchase of a new residence results, under paragraph (1), in the nonrecognition of gain upon the sale of an old residence, in determining the adjusted basis of the new residence as of any time following the sale of the old residence, the adjustments to basis shall include a reduction by an amount equal to the amount of the gain not so recognized upon the sale of the old residence. For this purpose, the amount of the gain no so recognized upon the sale of the old residence includes only so much of such gain as is not recognized by reason of the cost, up to such time, of purchasing the new residence.

(5) TENANT STOCKHOLDER IN COOPERATIVE APARTMENT CORPORATION. For the purposes of this subsection, section 53 (b) (1) (G) and section 57 (h) (6), references to property used by the taxpayer as his principal residence, and references to the residence of a taxpayer, shall include stock held by a tenant-stockholder (as defined in section 23 (z) (3), in a cooperative apartment as defined in section 23 (z) (2) if—

(A) In the case of stock sold, the apartment which the taxpayer was entitled to occupy as such stockholder was used by him as his principal residence, and

(B) In the case of stock purchased, the taxpayer used as his principal residence the apartment which he was entitled to occupy as such stockholder.

(6) HUSBAND AND WIFE. If the taxpayer and his spouse, in accordance with regulations which shall be prescribed by the tax commission pursuant to this paragraph, consent to the application of subparagraph (B) of this paragraph, then—

(A) For the purposes of this subsection, the words "taxpayer's selling price of the old residence" shall mean the selling price (of the taxpayer, or of the taxpayer and his spouse) of the old residence, and the words "taxpayer's cost of purchasing the new residence" shall mean the cost (to the taxpayer, his spouse or both) of purchasing the new residence (whether held by the taxpayer, his spouse, or the taxpayer and his spouse) ; and

(B) So much of the gain upon the sale of the old

residence as is not recognized solely by reason of this paragraph, and so much of the adjustment under paragraph (4) to the basis of the new residence as results solely from this paragraph, shall be allocated between the taxpayer and his spouse as provided in such regulations.

This paragraph shall apply only if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence. In case the taxpayer and his spouse do not consent to the application of subparagraph (B) of this paragraph, then the recognition of gain upon the sale of the old residence shall be determined under this subsection without regard to the rules provided in this paragraph.

(7) STATUTE OF LIMITATIONS. If the taxpayer during a taxable year sells at a gain property used by him as his principal residence, then—

(A) The statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire prior to the expiration of four years from the date the tax commission is notified by the taxpayer (in such manner as the commission may by regulations prescribe) of—

(i) The taxpayer's cost of purchasing the new residence which the taxpayer claims results in nonrecognition of any part of such gain,

(ii) The taxpayer's intention not to purchase a new residence within the period specified in paragraph (1), or

(iii) A failure to make such purchase within such period; and

(B) Such deficiency may be assessed prior to the expiration of such four-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

Section 53. BASIS FOR DETERMINING GAIN OR LOSS, UNADJUSTED BASIS. (a) IN GENERAL—BASIS IS COST. The basis of property shall be the cost of such property except that—

(1) LAST INVENTORY VALUE. If the property

should have been included in the last inventory, the basis shall be the last inventory value thereof.

(2) PROPERTY ACQUIRED BY GIFT AFTER 1920. If the property was acquired by gift after December 31, 1920, the basis shall be the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift, except that if such basis (adjusted for the period prior to the date of the gift as provided in subsection (b)) is greater than the fair market value of the property at the time of the gift, then for the purpose of determining loss the basis shall be such fair market value. If the facts necessary to determine the basis in the hands of the donor or the last preceding owner are unknown to the donee, the tax commission shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the tax commission finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the tax commission as of the date or approximate date at which, according to the best information that the tax commission is able to obtain, such property was acquired by such donor or last preceding owner.

(3) BASIS, PROPERTY ACQUIRED BY TRANSFER IN TRUST. If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a gift, bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

(4) BASIS, PROPERTY ACQUIRED BY TRANSFER IN TRUST OR BY GIFT PRIOR TO DECEMBER 31, 1920. If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of the property at the time of its acquisition.

(5) PROPERTY TRANSMITTED AT DEATH. (A) BASIS, PROPERTY ACQUIRED BY BEQUEST, DEVISE, OR INHERITANCE. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of the property at the time of its acquisition.

In the case of property transferred in trust to pay the

income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, or to make any change in the enjoyment thereof through the exercise of power to alter, amend or terminate the trust, the basis of the property in the hands of the persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after his death, be the same as if the trust instrument had been a will executed on the day of the grantor's death.

For the purpose of this paragraph, property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising the power by bequest or devise.

(B) BASIS, SURVIVING SPOUSE'S SHARE OF COMMUNITY PROPERTY. For the purposes of this paragraph the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, territory or possession of the United States or any foreign country shall be considered to be property "acquired by bequest, devise, or inheritance" from the decedent, if the death of the decedent is after the effective date of this Act, and if at least one-half of the whole community interest in such property is includible in determining the value of the decedent's gross estate under the Arizona estate tax act of 1937, as amended.

(C) BASIS, SURVIVOR'S INTEREST IN JOINT AND SURVIVOR'S ANNUITY. For the purposes of this paragraph the survivor's interest in a joint and survivor's annuity shall be considered to be property "acquired by bequest, devise or inheritance" from the decedent if the death of the decedent was after December 31, 1953, and if the value of any part of such interest was required to be included in determining the value of the decedent's interest taxable under the Arizona estate tax act of 1937, as amended.

(6) PROPERTY ACQUIRED AFTER FEBRUARY 28, 1913. If the property was acquired, after February 28, 1913, upon an exchange described in section 52 (b) to (e), inclusive, or section 52 (1), the basis (except as provided in paragraphs (15) or (17) of this subsection) shall be the same as in the case of the property exchanged, decreased in the amount of money received by the taxpayer and increased in the amount of gain or

decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which such exchange was made. If the property so acquired consisted in part of the type of property permitted by section 52 (b) or section 52 (1), to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for the purpose of this paragraph, be considered as money received by the taxpayer upon the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

(7) PROPERTY ACQUIRED IN TAX-FREE REORGANIZATION. If the property was acquired:

(A) After December 31, 1917, and in an income year beginning before January 1, 1936, by a corporation in connection with a reorganization, and immediately after the transfer an interest or control in such property of 50 per cent or more remained in the same persons or any of them, or

(B) In an income year beginning after December 31, 1935, by a corporation in connection with a reorganization, then the basis shall be the same as it would be in the hands of the transferror, increased in the amount of gain or decreased in the amount of loss recognized to the transferror upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee as the consideration in whole or in part for the transfer.

(8) PROPERTY ACQUIRED AFTER DECEMBER 31, 1920. If the property was acquired after December 31, 1920, by a corporation:

(A) By the issuance of its stock or securities in con-

nection with a transaction described in section 52 (b) 5, (including, also, cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or

(B) As paid-in surplus or as a contribution to capital. then the basis shall be the same as it would be in the hands of the transferror, increased in the amount of gain or decreased in the amount of loss recognized to the transferror upon such transfer under the law applicable to the year in which the transfer was made.

(9) INVOLUNTARY CONVERSION. (A) BASIS, PROPERTY ACQUIRED UPON INVOLUNTARY CONVERSION. If the property was acquired after February 28, 1913, as a result of a compulsory or involuntary conversion described in section 52 (f), (1) or (2), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon the conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which the conversion was made. In the case of property purchased by the taxpayer which resulted, under the provisions of section 52 (f) (3), in the nonrecognition of any part of the gain realized as a result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than one piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

(B) BASIS, PROPERTY ACQUIRED UPON INVOLUNTARY CONVERSION AFTER DECEMBER 31, 1953. This paragraph shall not apply in respect of property acquired as a result of a compulsory or involuntary conversion of property used by the taxpayer as his principal residence, if the destruction, theft, seizure, requisition, or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1953.

(10) BASIS, SECURITIES ACQUIRED IN A WASH SALE. If the property consists of stock or securities the acquisition of which (or the contract or option to

acquire which) resulted in the nondeductibility (under section 23 (j), relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, the basis shall be the basis of the stock or securities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which the substantially identical stock or securities were sold or otherwise disposed of.

(11) PROPERTY ACQUIRED DURING AFFILIATION. In the case of property acquired by a corporation, during a period of affiliation, from a corporation with which it was affiliated, the basis of such property, after such period of affiliation, shall be determined, in accordance with regulations prescribed by the tax commission without regard to inter-company transactions in respect of which gain or loss was not recognized. The basis in case of property acquired by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of the United States internal revenue code or the federal revenue act of 1928 or the federal revenue act of 1932 or the federal revenue act of 1934 or the federal revenue act of 1936 or the federal revenue act of 1938, shall be determined in accordance with regulations prescribed under section 141 of the United States internal revenue code or the federal revenue act of 1928 or the federal revenue act of 1932 or the federal revenue act of 1934 or the federal revenue act of 1936 or the federal revenue act of 1938. The basis in the case of property held by a corporation during any period, in the taxable year 1929 or any subsequent taxable year, in respect of which a consolidated return is made by such corporation under section 141 of the United States internal revenue code or the federal revenue act of 1928 or the federal revenue act of 1932 or the federal revenue act of 1934 or the federal revenue act of 1936 or the federal revenue act of 1938, shall be adjusted in respect of any items relating to such period, in accordance with regulations prescribed under section 141 of the United States internal revenue code or the federal revenue act of 1928 or the federal revenue act of 1932 or the federal revenue act of 1934 or the federal revenue act of 1936 or the federal revenue act of 1938, applicable to such period.

(12) BASIS, WHERE PRESCRIBED BY REVENUE ACT OF 1932. If the property was acquired after February 28, 1913, in any taxable year beginning prior to January 1, 1934, and the basis thereof for the purposes

of the federal revenue act of 1932 was prescribed by sections 113 (a), (6), (7), or (9) of that act, for the purposes of this Act, the basis shall be the basis therein prescribed in the federal revenue act of 1932.

(13) BASIS, PARTNERSHIP PROPERTY. If the property was acquired after February 28, 1913, by a partnership and the basis is not otherwise determined under any other paragraph of this subsection, then the basis shall be the same as it would be in the hands of the transferror, increased in the amount of gain or decreased in the amount of loss recognized to the transferror upon the transfer under the law applicable to the year in which the transfer was made. If the property was distributed in kind by a partnership to any partner, the basis of the property in the hands of the partner shall be such part of the basis in his hands of his partnership interest as is properly allocable to the property.

(14) BASIS, PROPERTY ACQUIRED BEFORE MARCH 1, 1913. In the case of property acquired before March 1, 1913, if the basis otherwise determined under this subsection, adjusted (for the period prior to March 1, 1913) as provided in subsection (b), is less than the fair market value of the property as of March 1, 1913, the basis for determining gain shall be such fair market value. In determining the fair market value of stock in a corporation as of March 1, 1913, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(15) PROPERTY RECEIVED IN COMPLETE LIQUIDATION. If the property was received by a corporation upon distribution in complete liquidation of another corporation within the meaning of section 52 (b) (6), then the basis shall be the same as it would be in the hands of the transferror.

(16) BASIS, WHERE PRESCRIBED BY REVENUE ACT OF 1934. If the property was acquired after March 1, 1913, in any taxable year beginning prior to January 1, 1936, and the basis thereof for the purpose of the federal revenue act of 1934 was prescribed by section 113 (a) (6), (7), or (8) of that act, for the purposes of this Act, the basis shall be the same as the basis therein prescribed in the federal revenue act of 1934.

(17) BASIS, SECURITIES ACQUIRED PURSUANT TO F. S. E. C. ORDER. In the case of stocks or securities received by a taxpayer on or after January 1, 1943,

under circumstances described in section 52 (b) (8), the basis of such stocks or securities shall be the same as that of the stocks or securities for the surrender of which they were acquired.

(18) STOCK RIGHTS ACQUIRED AFTER FEBRUARY 28, 1913. (A) If the property was acquired by a shareholder in a corporation and consists of stock in such corporation, or rights to acquire such stock acquired by him after February 28, 1913, in a distribution by such corporation, and

(i) the right to acquire such stock was acquired in an income year beginning before January 1, 1936 (except as provided in subparagraph (B)), or

(ii) the right to acquire such stock was acquired in an income year beginning after December 31, 1935, and its distribution did not constitute income to the shareholder within the meaning of the sixteenth amendment to the Constitution of the United States; then the basis of the stock in respect of which the rights were declared and the right to acquire stock, respectively, shall, in the shareholder's hands be determined by allocating between the stock and the right to acquire stock the adjusted basis of the stock, such allocation to be made under regulations which shall be prescribed by the tax commission.

(B) If a stock right was acquired prior to January 1, 1936, for the purpose of the tax imposed by this Act, and it constituted income within the purview of the sixteenth amendment to the Constitution of the United States, the basis of the stock in respect of which the rights were declared shall not be affected and the basis of the right shall be its fair market value as of the date of its acquisition.

(C) Where the shareholder acquired the right to acquire such stock in an income year beginning before January 1, 1954, and sold the same, and there was included in the gross income for such year of sale the entire amount of the proceeds of such sale, then if before January 1, 1955, the taxpayer has not asserted (by claim for a refund or credit or otherwise) that any part of the proceeds of the sale of such rights should be excluded from gross income for the year of its sale, the basis of the stock shall be determined without regard to subparagraphs (A) and (B), and no part of the proceeds of the sale of such rights shall ever be excluded from the gross income for the year of such sale.

(19) RAILROAD CORPORATION — PROPERTY ACQUIRED AFTER DECEMBER 31, 1942. If the property of a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended, was acquired after December 31, 1938, in pursuance of an order of the court having jurisdiction of such corporation—

(A) In receivership proceeding, or

(B) In a proceeding under section 77 of the national bankruptcy act, as amended, and the acquiring corporation is a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended, organized or made use of to effectuate a plan of reorganization approved by the court in such proceeding, the basis shall be the same as it would be in the hands of the railroad corporation whose property was so acquired. The term "reorganization", as used in this paragraph, shall not be limited by the definition of such term in section 52 (g).

(20) PROPERTY ACQUIRED ON REORGANIZATION OF CERTAIN CORPORATIONS. If the property was acquired by a corporation upon a transfer to which section 52 (b) (10), or so much of section 52 (d) or (e) as relate to section 52 (b) (10), is applicable, the basis in the hands of the acquiring corporation shall be the same as it would be in the hands of the corporation whose property was so acquired, increased in the amount of gain recognized to the corporation whose property was so acquired under the law applicable to the year in which the acquisition occurred, and such basis shall not be adjusted under subsection (b) (3) by reason of a discharge of indebtedness pursuant to the plan of reorganization under which such transfer was made.

(21) ADJUSTMENTS, STOCK AFTER REORGANIZATION. If the property consists of stock distributed to a taxpayer in connection with a transaction described in section 52 (b) (11), (hereinafter in this paragraph called "new stock"), or consists of stock in respect of which such distribution was made (hereinafter in this paragraph called "old stock"), then the basis of the new stock and of the old stock, respectively, shall, in the shareholder's hands, be determined by allocating between the old stock and the new stock the adjusted basis of the old stock; such allocation to be made under regulations prescribed by the tax commission.

(b) ADJUSTED BASIS, GENERAL. The adjusted basis for determining the gain or loss from sale or other

disposition of property, whenever acquired, shall be the the basis determined under subsection (a), adjusted as hereinafter provided.

(1) ADJUSTMENTS IN RESPECT OF PROPERTY. Proper adjustment in respect of the property shall in all cases be made—

(A) For expenditures, receipts, losses, or other items properly chargeable to capital account, but no such adjustment shall be made for taxes or other carrying charges or expenditures described in section 23 (a) (1) (B), for which deductions have been taken by the taxpayer in determining net income for the income year or prior income years.

(B) For exhaustion, wear and tear, obsolescense, amortization, and depletion: In the case of a taxpayer subject to the tax imposed by this Act, to the extent allowed for Arizona income tax purposes prior to January 1, 1954, (but not less than the amount allowable) under the provisions of this Act. However, if a taxpayer has not claimed an amortization deduction for an emergency facility, an adjustment shall be made only to the extent ordinarily provided under section 23 (1).

(C) In the case of stock (to the extent not provided for in the foregoing subparagraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the federal revenue act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the federal revenue act of 1918 or 1921).

(D) In the case of taxpayers subject to the tax imposed by this Act, in the case of any bond (as defined in section 23 (v) (3)) the interest on which is wholly exempt from the tax imposed by this Act, to the extent of the amortizable bond premium disallowable as a deduction pursuant to section 23 (v) (1) (B), and in the case of any other bond (as defined in such section) to the extent of the deductions allowable pursuant to section 23 (v) (1) (A) with respect thereto.

(E) In the case of property pledged to the commodity credit corporation, to the extent of the amount received

as a loan from the commodity credit corporation and treated by the taxpayer as income for the year in which received pursuant to section 13 (b) (1) and (2), and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability.

(F) In the case of any short-term municipal bond (as defined in section 12 (g) (1) and (2), to the extent provided in section 12 (g) (1) (B).

(G) In the case of a residence the acquisition of which resulted, under the provisions of section 52 (n), in the nonrecognition of any part of the gain realized upon the sale, exchange, or involuntary conversion of another residence, proper adjustment shall be made to the extent provided in section 52 (n) (4).

(2) DEFINITION—"SUBSTITUTED BASIS". The term "substituted basis" as used in this section means a basis determined under any provisions of subsection (a) of this section, providing that the basis shall be determined:

(A) By reference to the basis in the hands of a transferror, donor, or grantor, or

(B) By reference to other property held at any time by the person for whom the basis is to be determined.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in paragraph (1) of this subsection shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferror, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(3) DISCHARGE OF INDEBTEDNESS — EXCLUSION FROM GROSS INCOME. Where in the case of a taxpayer any amount is excluded from gross income under section 12 (b) (14), on account of the discharge of indebtedness, the whole or a part of the amount so excluded from gross income shall be applied in a reduction of the basis of any property held (whether before or after the time of the discharge) by the taxpayer during any portion of the income year in which such discharge occurred. The amount to be so applied (not in excess of

the amount so excluded from gross income, reduced by the amount of any deduction disallowed under section 12 (b) (14)), and the particular properties to which the reduction shall be allocated, shall be determined under regulations (prescribed by the tax commission) in effect at the time of the filing of the consent by the taxpayer referred to in section 12 (b) (14). The reduction shall be made as of the first day of the income year in which the discharge occurred except in the case of property not held by the taxpayer on such first day, in which case it shall take effect as of the time the holding of the taxpayer began.

(4) ADJUSTMENT FOR DEDUCTIONS DISALLOWED UNDER SECTION 26 (f). Proper adjustments shall be made for deductions to the extent disallowed under section 26 (f), notwithstanding the provisions of any other paragraph of this subsection.

(5) DEVELOPMENT OF MINES. Proper adjustment shall also be made for amounts allowed as deductions under section 23 (cc) and resulting in a reduction of the taxpayer's taxes under this Act, but not less than the amounts allowable under such subsection.

(c) ADJUSTMENTS — LESSEE IMPROVEMENTS. Neither the basis nor the adjusted basis of any portion of real property shall, in the case of the lessor of the property, be increased or diminished on account of income derived by the lessor in respect of the property and excludible from gross income under section 12 (b) (16). If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of the property was included in gross income of the lessor for any taxable year beginning before January 1, 1954, the basis of each portion of the property shall be properly adjusted for the amount so included in gross income.

Section 54. GAIN OR LOSS—BASIS FOR DEPRECIATION AND DEPLETION. (a) BASIS, DEPRECIATION. The basis upon which exhaustion, wear and tear, and obsolescense are to be allowed in respect of any property shall be the adjusted basis provided in section 53 (b), for the purpose of determining the gain upon the sale or other disposition of the property.

(b) BASIS FOR DEPLETION. (1) GENERAL RULE. The basis upon which depletion is to be allowed in respect of any property shall be the adjusted basis

provided in section 53 (b), for the purpose of determining the gain upon the sale or other disposition of such property, except as provided in the remainder of this subsection.

(2) DISCOVERY VALUE IN THE CASE OF MINES. (a) BASIS FOR DEPLETION, MINES. In the case of mines (except mines in respect of which percentage depletion is allowable under paragraph (4) of this subsection) the basis for depletion shall be the fair market value of the property as of January 1, 1954.

In the case of mines (except mines in respect of which percentage depletion is allowable under paragraph (4) of this subsection) discovered by the taxpayer after December 31, 1953, the basis for depletion shall be the fair market value of the property at the date of discovery or within 30 days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost.

(B) DEPLETION ALLOWANCE, LIMITATION. The depletion allowance under section 23 (m) based on discovery value provided in subsection (b) (2) (A), shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made. The only cases where the depletion allowance shall be less than it would be if computed without reference to discovery value is in those mines on the unit basis method of computing Arizona state income tax prior to January 1, 1954.

(C) DEFINITION—"DISCOVERIES". "Discoveries" shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after December 31, 1953, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(3) PERCENTAGE DEPLETION, OIL AND GAS WELLS. In the case of oil and gas wells the allowance for depletion under section 23 (m) shall be 27½ per cent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the tax-

payer in respect of the property. The allowance shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property, except that in no case shall the depletion allowance be less than it would be if computed without reference to this paragraph.

(4) PERCENTAGE DEPLETION, MINES. (A) In general the allowance for depletion under section 23 (m) shall be:

(i) In the case of sand, gravel, slate, stone (including pumice and scoria), brick and tile clay, shale, oyster shell, clam shell, granite, marble, sodium chloride, and if from brine wells, calcium chloride, magnesium chloride, and bromine, 5 per cent;

(ii) In the case of coal, asbestos, brucite, dolomite, magnesite, perlite, wollastonite, calcium carbonate other than calcium carbonates specified in item (i), and magnesium carbonates, 10 per cent;

(iii) In the case of metal mines, aplite, bauxite, fluorspar, flake graphite, vermiculite, beryl, garnet, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball and sagger clay, china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, borax, fuller's earth, tripoli, refractery and fire clay, quartzite, diatomaceous earth, metallurgical grade limestone, chemical grade limestone and potash, 15 per cent;

(iv) In the case of sulphur, 23 per cent; of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property.

The allowance shall not exceed 50 per cent of the net income of the taxpayer (computed without allowance for depletion) from the property. Only with respect to those mines using the unit depletion method in computing depletion allowance for Arizona state income tax purposes immediately prior to January 1, 1954, shall the depletion allowance be less than it would be if computed by the percentage depletion method.

(B) DEFINITION—"GROSS INCOME FROM THE PROPERTY". As used in this paragraph the term "gross income from the property" means the gross income from mining. The term "mining", as used herein, shall

be considered to include not merely the extraction of the ores or minerals from the ground but also the ordinary treatment processes normally applied by mine owners or operators in order to obtain the commercially marketable mineral product or products, and so much of the transportation of ores or minerals (whether or not by common carrier) from the point of extraction from the ground to the plants or mills in which the ordinary treatment processes are applied thereto as is not in excess of 50 miles unless the tax commission finds that the physical and other requirements are such that the ore or mineral must be transported a greater distance to such plants or mills. The term "ordinary treatment processes", as used herein, shall include the following;

(i) In the case of coal—cleaning, breaking, sizing, and loading for shipment;

(ii) In the case of sulphur—pumping to vats, cooling, breaking, and loading for shipment;

(iii) In the case of iron ore, bauxite, ball and sagger clay, rock asphalt, and minerals which are customarily sold in the form of a crude mineral product—sorting, concentrating, and sintering to bring to shipping grade and form, and loading for shipment; and

(iv) In the case of lead, zinc, copper, gold, silver, or fluorspar ores, potash, and ores which are not customarily sold in the form of crude mineral product—crushing, grinding, and benefication by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic), cynadation, leaching, crystallization, precipitation (but not including as an ordinary treatment process electrolytic deposition, roasting, thermal or electric smelting or refining), or by substantially equivalent processes or combination of processes used in the separation or extraction of the product or products from the ore, including the furnacing of quicksilver ores.

Section 55. GROSS INCOME—DIVIDENDS AND OTHER DISTRIBUTIONS.

(a) DEFINITION OF DIVIDEND AND GENERAL STATEMENT. (1) DEFINITION — "DIVIDEND". "Dividend" as used in this Act means any distribution made by a corporation to its shareholders, whether in money or in other property.

(A) Out of its earnings or profits accumulated after January 1, 1933, or

(B) Out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year) without regard to the amount of the earnings and profits at the time the distribution was made.

(2) GENERAL STATEMENT. In the determination of gross income under this Act, corporate distributions received by a taxpayer shall be included in gross income to the extent provided in this section.

(b) DIVIDENDS, SOURCE OF. For the purpose of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before January 1, 1933, may be distributed exempt from tax after the earnings and profits accumulated after December 31, 1932, have been distributed, but any such tax free distribution shall be applied against and reduce the adjusted basis of the stock provided in section 53.

(c) DISTRIBUTION IN LIQUIDATION. (1) IN GENERAL. Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from the exchange shall be determined under section 51 and shall be recognized only to the extent provided in section 52.

(2) DISTRIBUTION OF CAPITAL — EFFECT ON RECIPIENT. In the case of amounts distributed in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable) the part of the distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits.

(3) DISTRIBUTION OF CAPITAL — EFFECT ON DECLARER. In the case of amounts distributed in partial liquidation (other than a distribution to which the provisions of subsection (h) of this section are applicable), the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of section 55 (b) for the purpose of determining the taxibility of subsequent distributions by the corporation.

(d) DISTRIBUTION OF CAPITAL — EFFECT ON BASIS. If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before January 1, 1933, and is not a dividend, the amount of the distribution shall be applied against and reduce the adjusted basis of the stock provided in section 53, and if in excess of that basis, the excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(e) STOCK DIVIDEND—GENERAL RULE. A distribution made by a corporation to its shareholders in its shares or in rights to acquire its share shall be treated as a dividend to the extent that it constitutes income to the shareholder within the meaning of the sixteenth amendment to the Constitution of the United States.

(f) STOCK DIVIDEND — ELECTION OF SHAREHOLDERS AS TO MEDIUM OF PAYMENT. Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either—

(1) In its shares or in rights to acquire its shares, of a class which if distributed without election would not be included in gross income under subsection (e) of this section, or

(2) In money or any other property (including its shares or rights to acquire its shares, of a class which if distributed without election would be included in gross income under subsection (e) of this section), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(g) REDEMPTION OF STOCK — IN GENERAL. (1) If a corporation cancels or redeems its stock (whether or not the stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after January 1, 1933, shall be treated as a taxable dividend.

(2) REDEMPTION OF STOCK THROUGH USE OF A SUBSIDIARY CORPORATION. If stock of a corpora-

tion (hereinafter referred to as the issuing corporation) is acquired by another corporation (hereinafter referred to as the acquiring corporation) and the issuing corporation controls (directly or indirectly) the acquiring corporation, the amount paid for the acquisition of the stock shall constitute a taxable dividend from the issuing corporation to the extent that the amount paid for such stock would have been considered, under paragraph (1), as essentially equivalent to a taxable dividend if such amount had been distributed by the acquiring corporation to the issuing corporation and had been applied by the issuing corporation in redemption of its stock. For the purposes of this paragraph, "control" means the ownership of stock possessing at least 50 per cent of the total combined voting power of all classes of stock entitled to vote or at least 50 per cent of the total value of shares of all classes of stock of the corporation.

(h) EFFECT ON EARNINGS AND PROFITS OF DISTRIBUTION OF STOCK. The distribution heretofore or hereafter made to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation:

(1) If no gain to the distributee from the receipt of such stock or securities was recognized under the provisions of the federal revenue act of 1936 or prior federal revenue acts in effect at the time of the distribution, or

(2) If the distribution was not subject to tax in the hands of the distributee under the federal revenue act of 1936 or prior federal revenue acts in effect at the time of the distribution because it did not constitute income to him within the meaning of the sixteenth amendment to the Constitution of the United States or because exempted to him under section 115 (f) of the federal revenue act of 1934, or a corresponding provision of a prior federal revenue act.

As used in this subsection, "stock or securities" includes rights to acquire stock or securities.

(i) DEFINITION—"PARTIAL LIQUIDATION". As used in this Act, "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(j) DIVIDEND, NONPECUNIARY. If the whole or

any part of a dividend is paid to a shareholder in any medium other than money, the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

(k) EARNINGS, PROFITS—TAX-FREE TRANSACTIONS. The gain or loss realized from the sale or other disposition (after December 31, 1932) of property by a corporation for the purpose of the computation of earnings and profits of the corporation for any period beginning after December 31, 1932, shall be determined by using as the adjusted basis the adjusted basis (under the law applicable to the year in which the sale or other disposition was made) for determining gain. Gain or loss so realized shall increase or decrease the earnings and profits to, but not beyond, the extent to which such a realized gain or loss was recognized in computing net income under the law applicable to the year in which such sale or disposition was made. Where, in determining the adjusted basis used in computing such realized gain or loss, the adjustment to the basis differs from the adjustment proper for the purpose of determining earnings or profits, then the latter adjustment shall be used in determining the increase or decrease above provided. A loss with respect to which a deduction is disallowed under section 23 (j) shall not be deemed to be recognized.

Where a corporation receives (after December 31, 1932) a distribution from a second corporation which (under the law applicable to the year in which the distribution was made) was not a taxable dividend to the shareholders of the second corporation, the amount of such distribution shall not increase the earnings and profits of the first corporation in the following cases:

(1) No such increase shall be made in respect of the part of such distribution which (under such law) is directly applied in reduction of the basis of the stock in respect of which the distribution was made.

(2) No such increase shall be made if (under such law) the distribution causes the basis of the stock in respect of which the distribution was made to be allocated between such stock and the property received.

For the purposes of this section "law applicable to the year" shall be deemed to refer to this Act or, prior to the effective date of the "income tax act of 1933", as amended, the United States revenue act in force for the year

in which the distribution, sale or other disposition was made.

(1) EARNINGS AND PROFITS — INCREASE BECAUSE OF 1913 VALUE.

(1) If any increase or decrease in the earnings or profits for any period beginning after December 31, 1932, with respect to any matter would be different had the adjusted basis of the property involved been determined without regard to its 1913 value, then, except as provided in paragraph (2), an increase (properly reflecting such difference) shall be made in that part of the earnings and profits consisting of increase in value of property accrued before January 1, 1933.

(2) If the application of subsection (k) to a sale or other disposition after December 31, 1932, results in a loss which is to be applied in decrease of earnings and profits for any period beginning after December 31, 1913, then, notwithstanding subsection (k), and in lieu of the rule provided in paragraph (1) of this subsection, the amount of such loss so to be applied shall be reduced by the amount, if any, by which the adjusted basis of the property used in determining the loss, exceeds the adjusted basis computed without regard to the value of the property on March 1, 1913, and if such amount so applied in reduction of the decrease exceeds such loss, the excess over such loss shall increase that part of the earnings and profits consisting of increase in value of property accrued before March 1, 1913.

Section 57. CAPITAL GAINS OR LOSSES. (a) DEFINITION — "CAPITAL ASSETS". "Capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

(1) Stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or

(2) Property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 23 (1); or

(3) Real property used in the trade or business of the taxpayer; or

(4) A copyright; a literary, musical, or artistic composition; or similar property; held by—

(i) A taxpayer whose personal efforts created such property, or

(ii) A taxpayer in whose hands the basis of such property is determined, for the purpose of determining gain from a sale or exchange, in whole or in part by reference to the basis of such property in the hands of the person whose personal efforts created such property.

(b) DEDUCTION FROM GROSS INCOME. In the case of any taxpayer other than a corporation, only the following percentages of the gain or loss recognized upon the sale or exchange of a capital asset shall be taken into account in computing net income:

(1) 100 per cent if the capital asset has been held for not more than 6 months;

(2) 50 per cent if the capital asset has been held for more than 6 months.

(c) TAXABILITY TO EMPLOYEE OF TERMINATION PAYMENTS. Amounts received from the assignment or release by an employee, after more than 20 years' employment, of all his rights to receive, after termination of his employment, and for a period of not less than five years (or for a period ending with his death), a percentage of future profits or receipts of his employer shall be considered an amount received from the sale or exchange of a capital asset held for more than 6 months, if such rights were included in the terms of the employment of such employee for not less than 12 years, and if the total of the amounts received for such assignment or release are received in one taxable year and after the termination of such employment.

(d) LIMITATION ON CAPITAL LOSSES. Losses from sales or exchanges of capital assets shall be allowed only to the extent of one thousand dollars ($1,000.00) plus the gains from such sales or exchanges.

(e) CAPITAL LOSS CARRY-OVER. If, for any taxable year beginning after December 31, 1953, the taxpayer has a net capital loss, the amount thereof shall be a capital loss in each of the five succeeding taxable years to the extent that such amount has not been deducted in a prior year.

(f) RETIREMENT OF BONDS, ETC. Amounts received by the holder upon the retirement of bonds, debentures, notes, or certificates or other evidences of indebtedness issued by any corporation (including those issued by a government or political subdivision thereof), with interest coupons or in registered form, shall be considered as amounts received in exchange therefor.

(g) GAINS AND LOSSES FROM SHORT SALES, ETC. For the purposes of this Act—

(1) Gains or losses from short sales of property shall be considered as gains or losses from sale or exchanges of capital assets; and

(2) Gains or losses attributable to the failure to exercise privileges or options to buy or sell property shall be considered as gains or losses from sales or exchanges of capital assets held for not more than 6 months; and

(3) Gain from the sale or exchange of property, to the extent that the adjusted basis of such property is less than its adjusted basis determined without regard to section 124A of the internal revenue code (relating to amortization deduction), shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in subsection (j).

(h) DETERMINATION OF PERIOD FOR WHICH HELD—FOR THE PURPOSE OF THIS SECTION. (1) HOLDING PERIOD. In determining the period for which the taxpayer has held property received on an exchange, for purposes of subsection (b) of this section, there shall be included the period for which he held the property exchanged if under the provisions of section 53 the property received has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged. For the purposes of this paragraph, an involuntary conversion described in section 52 (f) shall be considered an exchange of the property converted for the property acquired.

(2) HOLDING PERIOD, WHERE SUBSTITUTED BASIS. In determining the period for which the taxpayer has held property, however acquired, for purposes of subsection (b) of this section, there shall be included the period for which the property was held by any other person, if under the provisions of section 53 the property has, for the purpose of determining gain or loss from

a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of the other person.

(3) HOLDING PERIOD FOR STOCK OR SECURITIES, WHERE NO GAIN WAS RECOGNIZED UNDER REVENUE ACT OF 1928 OR 1932. In determining the period for purposes of subsection (b) of this section, for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under the provisions of section 112 (g) of the federal revenue act of 1928 or the federal revenue act of 1932, or under the provisions of section 371 (c) of the federal revenue act of 1938, there shall be included the period for which he held the stock or securities in the distributing corporation prior to the receipt of the stock or securities upon the distribution.

(4) HOLDING PERIOD, EFFECT OF WASH SALES. In determining the period for purposes of subsection (b) of this section, for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 23 (j), relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(5) HOLDING PERIOD, OF STOCK ACQUIRED THROUGH EXERCISE OF RIGHTS. In determining the period for purposes of subsection (b) of this section, for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire the stock or securities, there shall be included only the period beginning with the date upon which the right to acquire was exercised.

(6) HOLDING PERIOD, RESIDENCE ACQUIRED UNDER SECTION 52(n). In determining the period for which the taxpayer has held a residence, the acquisition of which resulted under section 52 (n) in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, there shall be included the period for which such other residence had been held as of the date of such sale, exchange or involuntary conversion.

(i) GAIN FROM SALE OF CERTAIN PROPERTY BETWEEN SPOUSES OR BETWEEN AN INDIVIDUAL

AND A CONTROLLED CORPORATION. (1) TREATMENT OF GAIN AS ORDINARY INCOME. In the case of a sale or exchange, directly or indirectly, of property described in paragraph (2)—

(A) Between a husband and wife; or

(B) Between an individual and a corporation more than 80 per cent in value of the outstanding stock of which is owned by such individual, his spouse, and his minor children and minor grandchildren; any gain recognized to the transferror from the sale or exchange of such property shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in subsection (j).

(2) This subsection shall apply only in the case of a sale or exchange of property by a transferror which in the hands of the transferee is property of a character which is subject to the allowance for depreciation provided in section 23 (1).

(j) GAINS AND LOSSES FROM INVOLUNTARY CONVERSION AND FROM THE SALE OR EXCHANGE OF CERTAIN PROPERTY USED IN THE TRADE OR BUSINESS. (1) DEFINITION OF "PROPERTY USED IN THE TRADE OR BUSINESS". For the purposes of this subsection, the term "property used in the trade or business" means property used in the trade or business, of a character which is subject to the allowance for depreciation provided in section 23 (1) held for more than 6 months, and real property used in the trade or business held for more than 6 months which is not—

(A) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or

(B) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or

(C) A copyright, a literary, musical or artistic composition, or similar property, held by a taxpayer described in subsection (a) (4) of this section.

Such term also includes timber with respect to which subsection (k) (1) or (2) is applicable and unharvested crops to which paragraph (3) is applicable. Such term also includes livestock, regardless of age, held by the

taxpayer for draft, breeding, or dairy purposes, and held by him for 12 months or more from the date of acquisition. It does not include poultry.

(2) GAINS AND LOSSES FROM SALES OF PROPERTY USED IN TRADE OR BUSINESS, TREATMENT OF. If, during the taxable year, the recognized gains upon sales or exchanges of property used in the trade or business, plus the recognized gains from the compulsory or involuntary conversion, as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof, of property used in the trade or business and capital assets held for more than 6 months into other property or money, exceed the recognized losses from the sales, exchanges, and conversions, the gains and losses shall be considered as gains and losses from sales or exchanges of capital assets held for more than 6 months. If the gains do not exceed the losses, the gains and losses shall not be considered as gains and losses from sales or exchanges of capital assets. For the purposes of this paragraph:

(A) In determining under this paragraph whether gains exceed losses, the gains and losses described therein shall be included only if and to the extent taken into account in computing net income except that subsections (b) and (d) shall not apply.

(B) Losses upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of property used in the trade or business or capital assets held for more than 6 months shall be considered losses from a compulsory or involuntary conversion.

(3) UNHARVESTED CROP, PROPERTY USED IN TRADE OR BUSINESS. In the case of an unharvested crop on land used in the trade or business and held for more than 6 months, if the crop and the land are sold or exchanged (or compulsorily or involuntarily converted as described in paragraph (2)), at the same time and to the same person, the crop shall be considered as "property used in the trade or business".

(k) GAIN OR LOSS IN THE CASE OF TIMBER. (1) If the taxpayer so elects upon his return for a taxable year, the cutting of timber (for sale or for use in the taxpayer's trade or business) during such year by the taxpayer who owns, or has contract right to cut, such timber (providing he has owned such timber or has held

such contract right for a period of more than 6 months prior to the beginning of such year) shall be considered as a sale or exchange of such timber cut during such year. In case such election has been made, gain or loss to the taxpayer shall be recognized in an amount equal to the difference between the adjusted basis for depletion of such timber in the hands of the taxpayer and the fair market value of such timber. Such fair market value shall be the fair market value as of the first day of the taxable year in which such timber is cut, and shall thereafter be considered as the cost of such cut timber to the taxpayer for all purposes for which such cost is a necessary factor. If a taxpayer makes an election under this paragraph, such election shall apply with respect to all timber which is owned by the taxpayer or which the taxpayer has a contract right to cut and shall be binding upon the taxpayer for the taxable year for which the election is made and for all subsequent years, unless the tax commission, on showing of undue hardship, permits the taxpayer to revoke his election; such revocation, however, shall preclude any further elections under this section except with the consent of the tax commission.

(2) In the case of the disposal of timber (held for more than 6 months prior to such disposal) by the owner thereof under any form or type of contract by virtue of which the owner retains an economic interest in such timber, the difference between the amount received for such timber and the adjusted basis thereof shall be considered as though it were a gain or loss, as the case may be, upon the sale of such timber.

(1) SHORT SALES. In the case of a short sale of property made by the taxpayer after the effective date of this Act, if substantially identical property has been held by the taxpayer on the date of such short sale for not more than 6 months (determined without regard to the effect, under paragraph (1) of this subsection, of such short sale on the holding period), or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof—

(1) Any gain upon the closing of such short sale shall be considered as a gain upon the sale or exchange of a capital asset held for not more than 6 months (notwithstanding the period of time any property used to close such short sale has been held); and

(2) The holding period of such substantially identical property shall be considered to begin (notwithstanding the provisions of subsection (h)) on the date of the clos-

ing of the short sale, or on the date of a sale, gift or other disposition of such property, whichever date occurs first. This subparagraph shall apply to such substantially identical property in the order of the dates of the acquisition of such property, but only to so much of such property as does not exceed the quantity sold short.

For the purpose of this subsection, the acquisition of an option to sell property at a fixed price shall be considered as a short sale, and the exercise or failure to exercise such option shall be considered as a closing of such short sale.

(m) COLLAPSIBLE CORPORATIONS. (1) TREATMENT OF GAIN TO SHAREHOLDERS. Gain from the sale or exchange (whether in liquidation or otherwise) of stock of a collapsible corporation, to the extent that it would be considered (but for the provisions of this subsection) as gain from the sale or exchange of a capital asset held for more than 6 months, shall, except as provided in paragraph (3), be considered as gain from the sale or exchange of property which is not a capital asset.

(2) DEFINITION — "COLLAPSIBLE CORPORATION". (A) For the purposes of this subsection, the term "collapsible corporation" means a corporation formed or availed of principally for the manufacture, construction, or production of property, for the purchase of property which (in the hands of the corporation) is property described in subsection (a) (1), or for the holding of stock in a corporation so formed or availed of, with a view to—

(i) The sale or exchange of stock by its shareholders (whether in liquidation or otherwise), or a distribution to its shareholders, prior to the realization by the corporation manufacturing, constructing, producing, or purchasing the property of a substantial part of the net income to be derived from such property, and

(ii) The realization by such shareholders of gain attributable to such property.

(B) For the purposes of subparagraph (A), a corporation shall be deemed to have manufactured, constructed, produced, or purchased property, if—

(i) It engaged in the manufacture, construction, or production of such property to any extent.

(ii) It holds property having a basis determined, in whole or in part, by reference to the cost of such property in the hands of a person who manufactured, constructed, produced, or purchased the property, or

(iii) It holds property having a basis determined, in whole or in part, by reference to the cost of property manufactured, constructed, produced, or purchased by the corporation.

(3) LIMITATIONS ON APPLICATION OF SUBSECTION. In the case of gain realized by a shareholder upon his stock in a collapsible corporation—

(A) This subsection shall not apply unless, at any time after the commencement of the manufacture, construction, or production of the property, or at the time of the purchase of the property described in subsection (a) (1), or at any time thereafter, such shareholder (i) owned (or was considered as owning) more than 10 per cent in value of the outstanding stock of the corporation, or (ii) owned stock which was considered as owned at such time by another shareholder who then owned (or was considered as owning) more than 10 per cent in value of the outstanding stock of the corporation;

(B) This subsection shall not apply to the gain recognized during a taxable year unless more than 70 per cent of such gain is attributable to the property so manufactured, constructed, produced, or purchased; and

(C) This subsection shall not apply to gain realized after the expiration of 3 years following the completion of such manufacture, construction, production, or purchase.

For the purposes of subparagraph (A), the ownership of stock shall be determined in accordance with the rules prescribed by section 26 (b) (2), except that, in addition to the persons prescribed by subparagraph (D) of that paragraph, the family of an individual shall include the spouses of that individual's brothers and sisters (whether by the whole or half blood) and the spouses of that individual's lineal descendents.

(n) DEALERS IN SECURITIES. (1) CAPITAL GAINS. Gain by a dealer in securities from the sale or exchange of any security shall in no event be considered as gain from the sale or exchange of a capital asset unless—

(A) The security was, prior to the expiration of the thirtieth day after the date of its acquisition or after the date of the enactment of this Act (whichever is the later), clearly identified in the dealer's records as a security held for investment; and

(B) The security was not, at any time after the expiration of such thirtieth day, held by such dealer primarily for sale to customers in the ordinary course of his trade or business.

(2) Loss by a dealer in securities from the sale or exchange of any security shall in no event be considered as loss from the sale or exchange of property which is not a capital asset if at any time after the thirtieth day following the date of the enactment of this Act the security was clearly identified in the dealer's records as a security held for investment.

(3) For the purposes of this subsection the term "security" means any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe to or purchase any of the foregoing.

(o) BONDS, ETC., LOSSES OF BANKS. For the purpose of this section, in the case of a bank, as defined in section 104 (a) of the Internal Revenue Code, (as amended Oct. 20, 1951, 2:07 p.m., E.S.T., C. 520, Title III, Sec. 313 (h), 65 State. 491), if the losses of the taxable year from sales or exchanges of bonds, debentures, notes, or certificates, or other evidence of indebtedness issued by any corporation (including one issued by a government or political subdivision thereof) with interest coupons or in registered form, exceed the gains of the taxable year from such sales or exchanges, no such sale or exchange shall be considered a sale or exchange of a capital asset.

Section 58. GROSS INCOME AND DEDUCTIONS IN RESPECT OF DECEDENTS. (a) INCLUSIONS IN GROSS INCOME. (1) DECEDENT'S GROSS INCOME — TO WHOM TAXABLE. The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period shall be included in the gross income, for the taxable year when received, of:

(A) The estate of the decedent, if the right to re-

ceive the amount is acquired by the decedent's estate from the decedent;

(B) The person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or

(C) The person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

(2) INCOME IN CASE OF SALE. (A) If a right, described in paragraph (1), to receive an amount is transferred by the estate of the decedent or a person who receives such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of the right at the time of such transfer plus the amount by which any consideration for the transfer exceeds the fair market value.

(B) As used in this paragraph, "transfer" includes sale, exchange, or other disposition, but does not include a transfer to a person pursuant to the right of that person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(3) CHARACTER OF INCOME DETERMINED BY REFERENCE TO DECEDENT. The right, described in paragraph (1), to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or such person in the transaction by which the decedent acquired that right. The amount includible in gross income under paragraph (1) or (2) shall be considered in the hands of the estate or such person to have the character which it would have had in the hands of the decedent if the decedent had lived and received that amount.

(b) DEDUCTIONS ATTRIBUTABLE TO DECEDENT'S GROSS INCOME. (1) IN GENERAL. The amount of any deduction specified in section 23(a) (1) and (2), (b) (c) and (d) (relating to deductions for

expenses, interest and taxes), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed, in the taxable year when paid, to the estate of the decedent. But if the estate of the decedent is not liable to discharge the obligation to which the deduction relates the amount of the deduction shall be allowed to the person who, by reason of the death of the decedent or by bequest, devise, or inheritance acquires, subject to that obligation, from the decedent an interest in property of the decedent.

(2) DEPLETION, ATTRIBUTABLE TO DECEDENT'S GROSS INCOME DEDUCTIBILITY OF. The amount of any deduction specified in section 23(m) (relating to deduction for depletion), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed to the person described in subsection (a) (1) (A), (b) or (C) who, in the manner described therein, received the income to which the deduction relates, in the taxable year when the income is received.

(c) DEDUCTION FOR ESTATE TAX. (1) ALLOWANCE OF DEDUCTION. A person who includes an amount in gross income under subsection (a) shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the Arizona inheritance tax attributable to the net value for inheritance tax purposes of all items described in subsection (a) (1) as the value for inheritance tax purposes of the items of gross income or portions thereof in respect of which that person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance tax purposes of all the items described in subsection (a) (1).

(2) DEFINITION — "INHERITANCE TAX". As used in paragraph (1), the term "inheritance tax" means the tax imposed upon the beneficiary of the decedent under the Arizona estate tax act of 1937. The net value for inheritance tax purposes of all the items described in subsection (a) (1) shall be the excess of the value for inheritance tax purposes of all the items described in subsection (a) (1) over the deductions from the gross estate in respect of claims which represent the deductions described in subsection (b). The inheritance tax attributable to the net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax

computed without including in the gross estate the net value.

Section 59. DEDUCTIONS FROM GROSS INCOME—WAR LOSSES. (a) WAR LOSSES. In computing net income there shall be allowed as a deduction losses sustained during the taxable year and not compensated for by insurance or otherwise of property destroyed or seized after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in war.

(1) Property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in war shall be deemed to have been destroyed or seized on a date chosen by the taxpayer in the manner provided in paragraph (4), which falls between—

(A) The latest date, as established to the satisfaction of the tax commission, on which such property may be considered as not destroyed or seized, and

(B) The earliest date, as established to the satisfaction of the tax commission, on which such property may be considered as having already been destroyed or seized.

For the purposes of this paragraph property within an area which comes under the control of a country at war with the United States after the date war with such country is declared by the United States shall be deemed to have been destroyed or seized in the course of military or naval operations by such country and the date specified in subparagraph (A) shall not be later than the latest date determined by the tax commission as the date on which such area was under the control of the United States or a country not at war with the United States, and the date specified in subparagraph (B) shall not be later than the earliest date determined by the tax commission as the date on which such area may be considered under the control of the country which is at war with the United States.

(2) Property within any country at war with the United States, or within an area under the control of any such country on the date war with such country was declared by the United States, shall be deemed to have been destroyed or seized on the date war with such country was declared by the United States.

(3) Any interest in, or with respect to, property de-

scribed in paragraph (1) or (2) (including any interest represented by a security) which becomes worthless shall be considered to have been destroyed or seized (and the loss therefrom shall be considered a loss from the destruction or seizure) on the date chosen by the taxpayer which falls between the dates specified in paragraph (1), or on the date prescribed in paragraph (2), as the case may be, when the last property (described in the applicable paragraph) to which the interest relates would be deemed destroyed or seized under the applicable paragraph. This paragraph shall apply only if the interest would have become worthless if the property had been destroyed. For the purpose of this paragraph, an interest shall be deemed to have become worthless notwithstanding the fact that such interest has a value if such value is attributable solely to the possibility of recovery of the property, compensation (other than insurance or similar indemnity) on account of its destruction or seizure, or both. Sections 23 (g) and 23 (k) (2) shall not apply to any interest which under this section is considered to have been destroyed or seized. Under regulations prescribed by the tax commission, a taxpayer which owns 100 per cent (excluding qualifying shares) of each class of stock of a corporation may elect to determine the worthlessness of its interest, described in this paragraph, in or with respect to the property of the corporation without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the income year with respect to such interest.

(4) Taxpayer's choice of a date under paragraph (1) or (3) shall be effective only if made within such time and in such manner as may be prescribed by regulations prescribed by the tax commission.

(b) EXTENT OF LOSS DETERMINED. In the case of any property or interest in or with respect to property deemed to be destroyed or seized under subsection (a):

(1) The amount of the loss on account of such property or interest shall be determined with regard to any recoveries with respect thereto in the taxable year but without regard to any possibility of recovering such property or interest, or of receiving any compensation (other than insurance or similar indemnity) on account of such property or interest in the taxable year or in any future taxable year.

(2) The taxpayer may choose to decrease the amount of the loss by all obligations or liabilities of the taxpayer with respect to such property or interest discharged or satisfied out of the property or interest upon its destruction or seizure, if the tax commission is satisfied that such obligations or liabilities are so discharged or satisfied in a subsequent income year, or that the taxpayer is unable to determine whether or not such obligations or liabilities are in fact discharged or satisfied.

No loss shall be deemed to have been sustained upon the destruction or seizure of such property or interest to the extent that it is compensated for by the discharge or satisfaction of obligations and liabilities of the taxpayer out of such property or interest in the income year in which such destruction or seizure is deemed to have occurred. The taxpayer's choice under this subsection shall be effective only if made within such time and in such manner as may be prescribed by regulations by the tax commission.

(c) RECOVERY OF PROPERTY. (1) GENERAL RULE. Upon the recovery in the taxable year of any money or property in respect of property considered under subsection (a) as destroyed or seized in any prior taxable year, the amount of such recovery shall be included in gross income to the extent provided in paragraph (2).

(2) INCLUSION IN GROSS INCOME. (A) The amount of the recovery of any money or property in respect of property considered under subsection (a) as destroyed or seized in any prior taxable year shall be an amount equal to the aggregate of such money and the fair market value of such property, determined as of the date of the recovery.

(B) To the extent that such amount plus the aggregate of the amounts of previous such recoveries do not exceed that part of the aggregate of the allowable deductions in prior taxable years on account of the destruction or seizure of property described in subsection (a) which did not result in a reduction of any tax of the taxpayer under this Act, such amount shall not be includible in gross income and shall not be deemed gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed that part of the aggregate of such deductions which did not result in a reduction of any tax of the taxpayer under this Act and do not exceed that part of the

aggregate of such deductions which did result in a reduction of any tax of the taxpayer under this Act, such amount shall be included in gross income but shall not be deemed a gain upon the involuntary conversion of property as a result of its destruction or seizure. To the extent that such amount plus the aggregate of the amounts of previous such recoveries exceed the aggregate of the allowable deductions in prior income years on account of the destruction or seizure of property described in subsection (a), such amount shall be considered a gain upon the involuntary conversion of property as a result of its destruction or seizure and shall be recognized or not recognized as provided in section 52 (f). If for any previous taxable year the taxpayer chooses under subsection (b) to treat any obligations and liabilities as discharged or satisfied out of the property or interest described in subsection (a), and if such obligations and liabilities were not so discharged or satisfied, the amount of such obligations and liabilities treated as discharged or satisfied under subsection (b) shall be considered for the purposes of this section as a deduction by reason of this section which did not result in a reduction of any tax of the taxpayer under this Act. An allowable deduction for any income year on account of the destruction or seizure of property described in subsection (a), shall, to the extent not allowed in computing the tax of the taxpayer for such income year, be considered an allowable deduction which did not result in a reduction of any tax of the taxpayer under this Act.

(3) For the purposes of paragraphs (1) and (2), the restoration in whole or in part of the value of any interest described in subsection (a) (3) by reason of any recovery of money or property in respect of property to which such interest related and which was considered under subsection (a) (1) or (2) as destroyed or seized shall be deemed a recovery of property in respect of property considered under subsection (a) as destroyed or seized.

(d) UNADJUSTED BASIS. The unadjusted basis of property recovered in respect of property considered destroyed or seized under subsection (a) shall be determined under this section. Such basis shall be an amount equal to the fair market value of such property, determined as of the date of the recovery, reduced by an amount equal to the excess of the aggregate of such fair market value and the amounts of previous recoveries of money or property in respect of property considered under subsection (a) as destroyed or seized over the aggregate of the allowable deductions in prior income years

on account of the destruction or seizure of property described in subsection (a), and increased by that portion of the amount of the recovery which under subsection (c) is treated as a recognized gain from the involuntary conversion of property. Upon application of the taxpayer, the aggregate of the bases (determined under the preceding sentence) of any properties recovered in respect of properties considered under subsection (a) as destroyed or seized may be allocated among the properties so recovered in such manner as the tax commission may determine under regulations prescribed by it, and the amount so allocated to any such property so recovered shall be the unadjusted basis of such property in lieu of the unadjusted basis of such property determined under the preceding sentence.

(e) CORPORATE LIQUIDATION — 50 PER CENT OWNED BY TAXPAYER. (1) If a taxpayer owns not less than 50 per cent of each class of stock of a corporation, if such corporation has property described in subsection (a) (1) or (2) deemed to be destroyed or seized, the adjusted basis for determining loss of which is at least 75 per cent of the adjusted basis for determining loss of all such corporation's property, and if such corporation completely liquidates (by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2)) within one year after such property is deemed to be destroyed or seized, or by December 31, 1953, whichever is the later, then that part of the loss by the taxpayer on such liquidation which would be attributable to the destruction or seizure of such property as established to the satisfaction of the tax commission, shall be treated for the purposes of this Act as a loss by the taxpayer upon the destruction or seizure of the part of the stock or other interest of the taxpayer to which such loss is allocable. Such part of the stock or other interest of the taxpayer shall be treated for the purposes of subsections (b), (c) and (d) as property described in subsection (a) (3).

(2) For the purposes of paragraph (1)—

(A) In determining the adjusted basis of all the property of the corporation there shall be excluded money in money in the United States, bank deposits, the right to receive money from any person not situated in a country at war with the United States or in a territory under the control of such a country, and obligations issued or guaranteed as to principal or interest by the United States,

except that there shall not be excluded any such property which is destroyed or seized as described in subsection (a) within or before the taxable period.

(B) The adjusted basis of property of such corporation shall be determined as of the date immediately preceding the first date on which any property was destroyed or seized, as described in subsection (a), or as of any later date falling within or before the taxable period, on the basis of which such determination will produce a greater amount.

(f) RULES AND REGULATIONS. The determination as to whether and to what extent an allowable deduction on account of the destruction or seizure of property described in subsection (a) did or did not result in a reduction of any tax of the taxpayer under this Act shall be made in accordance with regulations prescribed by the tax commission.

Section 60. EMPLOYEE STOCK OPTIONS. (a) TIME AND CONDITIONS FOR EXERCISING EMPLOYEE STOCK OPTION. If a share of stock is transferred to an individual pursuant to his exercise after December 31, 1953, of a restricted stock option, and no disposition of such share is made by him within two years from the date of the granting of the option nor within six months after the transfer of such share to him, no income shall result at the time of the transfer of such share to the individual upon his exercise of the option with respect to such share. This subsection and subsection (b) shall not apply unless

(1) The individual, at the time he exercises the restricted stock option, is an employee of the corporation granting such option or of a parent or subsidiary corporation of such corporation, or

(2) The option is exercised by him within three months after the date he ceases to be an employee of any of such corporations.

(b) OPTION PRICE LESS THAN 95 PER CENT OF FAIR MARKET VALUE. If no disposition of a share of stock acquired by an individual upon his exercise after December 31, 1953, of a restricted stock option is made by him within two years from the date of the granting of the option nor within six months after the transfer of such share to him, but, at the time the restricted stock option was granted, the option price was less than 95 per cent of the fair market value at such time of such share, then, in the event of any disposition of such share

by him, or in the event of his death (whenever occurring) while owning such share, there shall be included as compensation (and not as gain upon the sale or exchange of a capital asset) in his gross income, for the taxable year in which falls the date of such disposition or for the taxable year closing with his death, whichever is applicable, an amount equal to the amount (if any) by which the option price is exceeded by the lesser of—

(1) The fair market value of the share at the time of such disposition or death, or

(2) The fair market value of the share at the time the option was granted.

In the case of the disposition of such share by the individual, the basis of the share in his hands at the time of such disposition shall be increased by an amount equal to the amount so includible in his gross income.

(c) EXCHANGES. If stock transferred to an individual upon his exercise of the option is exchanged by him for stock or securities in an exchange within the provisions of section 52 (b) (2) or (3), or if new stock, as described in section 53(a) (18), is acquired upon a distribution with respect to such stock, the stock or securities acquired in such exchange and such new stock shall be considered as having been transferred to him upon his exercise of such option. A similar rule shall be applied in the case of a series of such exchanges or acquisitions.

(d) DEFINITIONS — FOR THE PURPOSES OF THIS SECTION. (1) "RESTRICTED STOCK OPTION". The term "restricted stock option" means an option granted after December 31, 1953, to an individual, for any reason connected with his employment by a corporation, if granted by the employer corporation or its parent or subsidiary corporation, to purchase stock of any such corporations, but only if—

(A) At the time such option is granted the option price is at least 85 per centum of the fair market value at such time of the stock subject to the option; and

(B) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable during his lifetime, only by him; and

(C) Such individual, at the time the option is granted,

does not own stock possessing more than 10 per cent of the total combined voting power of all classes of stock of the employer corporation or of its parent or subsidiary corporation. For the purposes of this subsection—

(i) Such individual shall be considered as owning the stock owned, directly or indirectly, by or for his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendents; and

(ii) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries.

(2) "PARENT CORPORATION". The term "parent corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations ending with the employer corporation if, at the time of granting of the option, each of the corporations other than the employer corporation owns stock possessing more than 50 per cent of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(3) "SUBSIDIARY CORPORATION". The term "subsidiary corporation" means any corporation (other than the employer corporation) in an unbroken chain of corporations beginning with the employer corporation if, at the time of the granting of the option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing more than 50 per cent of the total combined voting power of all classes of stock in one of the other corporations in such chain.

(4) "DISPOSITION". The term "disposition" includes a sale, exchange, gift, or any transfer of legal title, but does not include—

(A) A transfer from a decedent to his estate or a transfer by bequest or inheritance;

(B) An exchange which is within the provisions of section 52 (b) (2) or (3); or

(C) A mere pledge or hypothecation.

(5) DATE OF OPTION SUBJECT TO APPROVAL OF STOCKHOLDERS. If the grant of an option is subject to approval by stockholders, the date of grant of the

option shall be determined as if the option had not been subject to such approval.

(e) MODIFICATION OF OPTION. For the purposes of subsection (d), if the terms of any option to purchase stock are modified, extended, or renewed, the following rules shall be applied with respect to transfers of stock made upon an exercise of the option after the making of such modification, extension, or renewal:

(1) Such modification, extension, or renewal shall be considered as the granting of a new option;

(2) The fair market value of such stock at the time of the granting of such option shall be considered as

(A) The fair market value of such stock on the date of the original granting of the option;

(B) The fair market value of such stock on the date of the making of such modification, extension, or renewal; or

(C) The fair market value of such stock at the time of the making of any intervening modification, extension, or renewal, whichever is the highest.

Section 61. IMPOSITION OF TAX UPON ESTATES AND TRUSTS. (a) INCOME INCLUDIBLE. The taxes imposed by this Act upon individuals apply to the income of estates or of any kind of property held in trust (other than so-called Massachusetts trusts), including:

(1) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust.

(2) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct.

(3) Income received by estates of deceased persons during the period of administration or settlement of the estate.

(4) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) ESTATE OR TRUST, TAXABILITY. Except as otherwise provided in sections 62 and 64, the income of an estate or trust is taxable to the estate or trust. The tax applies to the entire net income of an estate, if the decedent was a resident, regardless of the residence of the fiduciary or beneficiary, and to the entire net income of a trust, if the fiduciary or beneficiary is a resident, regardless of the residence of the settler.

(c) TRUST, TAXABILITY DEPENDENT UPON RESIDENCE OF FIDUCIARY. Where the taxability of income under sections 61, 62, 63, 64, 65, 66, 67, 68, 69, and 71, inclusive, depends on the residence of the fiduciary and there are two or more fiduciaries for the trust, the income taxable under subsection (b) shall be apportioned according to the number of fiduciaries resident in this state pursuant to rules and regulations prescribed by the tax commission.

(d) TRUST, TAXABILITY DEPENDENT UPON RESIDENCE OF BENEFICIARY. Where the taxability of income under this Act depends on the residence of the beneficiary and there are two or more beneficiaries of the trust, the income taxable under subsection (b) shall be apportioned according to the number and interest of beneficiaries resident in this state pursuant to rules and regulations prescribed by the tax commission.

(e) ESTATE OR TRUST TAXES, CHARGE UPON SAME. Taxes on income of an estate or trust which is taxable to the estate or trust are a charge upon the estate or trust and shall be paid by the fiduciary.

(f) TRUST TAXES, LIABILITY OF BENEFICIARIES. If, for any reason, the taxes imposed on income of a trust which is taxable to the trust because the fiduciary or beneficiary is a resident of this state are not paid when due and remain unpaid when such income is distributable to the beneficiaries, or in case the income is distributable to the beneficiaries, before the taxes are due, if the taxes are not paid when due, such income shall be taxable to the beneficiaries when distributable to them except that in the case of nonresident beneficiaries such income shall be taxable only to the extent it is derived from sources within this state.

Section 62. NET INCOME OF ESTATES AND TRUSTS. (c) COMPUTATION. (1) NET INCOME. Except as otherwise provided in this section as to deductions, the net income of the estate or trust shall be com-

puted in the same manner and on the same basis as in the case of an individual.

(2) DEDUCTION—CHARITABLE CONTRIBUTIONS. There shall be allowed as a deduction subject to the provisions of this section (in lieu of the deduction for contributions authorized by section 23 (o) (1) and section 25 (c)) in computing the net income of the estate or trust, any part of the gross income, without limitation, which pursuant to the terms of the will or deed creating the trust is during the taxable year paid or permanently set aside for the purposes and in the manner specified in those sections or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

(b) ADDITIONAL DEDUCTION FOR AMOUNTS CURRENTLY DISTRIBUTABLE AND NON-RESIDENT BENEFICIARY. (1) IN GENERAL. There shall be allowed as an additional deduction in computing the net income of the estate or trust the amount of the income of the estate or trust for its taxable year which is to be distributed currently by the fiduciary to the legatees, heirs, or beneficiaries, but the amount so allowed as a deduction shall be included in computing the net income of the legatees, heirs, or beneficiaries whether distributed to them or not.

In the case of a nonresident beneficiary his income derived through such an estate or trust is taxable only to the extent it is derived from sources within this state.

(2) DEFINITION—AMOUNTS CURRENTLY DISTRIBUTABLE. For the purposes of paragraph (1), amounts currently distributable to beneficiaries are distributable out of income of the estate or trust for the taxable year if there is income of the estate or trust for the taxable year out of which such distributions may be made and if, under the terms of the will or trust instrument, distributions may be made out of such income, regardless of the fact that the will or trust instrument provides that the distributions may be made out of the corpus of the estate or trust.

(c) DEDUCTIONS—AMOUNTS PROPERLY PAID OR CREDITED. There shall be allowed as an additional deduction in computing the net income of the estate or trust

(1) In the case of income received by estates of deceased persons during the period of administration or settlement of the estate, and

(2) In the case of income which, in the discretion of the fiduciary, may be either distributed to the beneficiary or accumulated, the amount of the income of the estate or trust for its taxable year which is properly paid or credited during such year to any legatee, heir, or beneficiary, but the amount so allowed as a deduction shall be included in computing the net income of the legatee, heir, or beneficiary.

In such cases the income of the legatee, heir or beneficiary, not a resident, shall be taxable only to the extent it is derived from sources within this state.

(d) RULES FOR APPLICATION OF SUBSECTIONS (b) AND (c). For the purposes of subsections (b) and (c);

(1) AMOUNTS DISTRIBUTABLE OUT OF INCOME OR CORPUS. In cases where the amount paid, credited, or to be distributed can be paid, credited, or distributed out of other than income, the amount paid, credited, or to be distributed (except under a gift, bequest, devise, or inheritance not to be paid, credited, or distributed at intervals) during the taxable year of the estate or trust shall be considered as income of the estate or trust which is paid, credited, or to be distributed if the aggregate of such amounts so paid, credited, or to be distributed does not exceed the distributable income of the estate or trust for its taxable year. If the aggregate of such amounts so paid, credited, or to be distributed during the taxable year of the estate or trust in such cases exceeds the distributable income of the estate or trust for its taxable year, the amount so paid, credited, or to be distributed to any legatee, heir, or beneficiary shall be considered income of the estate or trust for its taxable year which is paid, credited, or to be distributed in an amount which bears the same ratio to the amount of such distributable income as the amount so paid, credited, or to be distributed to the legatee, heir, or beneficiary bears to the aggregate of such amounts so paid, credited, or to be distributed to legatees, heirs, and beneficiaries for the taxable year of the estate or trust. For the purposes of this paragraph "distributable income" means either

(A) The net income of the estate or trust computed with the deductions allowed under subsection (b) and

(c) in cases to which this paragraph does not apply, or

(B) The income of the estate or trust minus the deductions provided in subsection (b) and (c) in cases to which this paragraph does not apply, whichever is the greater. In computing such distributable income the deductions under subsections (b) and (c) shall be determined without the application of paragraph (2).

(2) AMOUNTS DISTRIBUTABLE OUT OF INCOME OF PRIOR PERIOD. In cases, other than cases described in paragraph (1), if on a date more than 65 days after the beginning of the taxable year of the estate or trust, income of the estate or trust for any period becomes payable, the amount of such income shall be considered income of the estate or trust for its taxable year which is paid, credited, or to be distributed to the extent of the income of the estate or trust for such period, or if such period is a period of more than 12 months, the last 12 months thereof.

(3) DISTRIBUTION IN FIRST 65 DAYS OF TAXABLE YEAR. (A) GENERAL RULE. If within the first 65 days of any taxable year of the estate or trust, income of the estate or trust, for a period beginning before the beginning of the taxable year, becomes payable, such income, to the extent of the income of the estate or trust for the part of such period not falling within the taxable year or, if such part is longer than 12 months, the last 12 months thereof, shall be considered paid, credited, or to be distributed on the last day of the preceding taxable year. This subparagraph shall not apply with respect to any amount to which subparagraph (B) applies.

(B) PAYABLE OUT OF INCOME OR CORPUS. If within the first 65 days of any taxable year of the estate or trust, an amount which can be paid at intervals out of other than income becomes payable, there shall be considered as paid, credited, or to be distributed on the last day of the preceding taxable year the part of such amount which bears the same ratio to such amount as the part of the interval not falling within the taxable year bears to the period of the interval. If the part of the interval not falling within the taxable year is a period of more than 12 months, the interval shall be considered to begin on the date 12 months before the end of the taxable year.

(4) EXCESS DEDUCTIONS. If for any taxable year

of an estate or trust the deductions allowed under subsection (b) or (c) solely by reason of paragraph (2) or (3) (A) in respect of any income which becomes payable to a legatee, heir, or beneficiary exceed the net income of the estate or trust for such year, computed without such deductions, the amount of such excess shall not be included in computing the net income of such legatee, heir, or beneficiary under subsection (b) or (c). In cases where the income deductible solely by reason of paragraph (2) or (3) (A) becomes payable to two or more legatees, heirs, or beneficiaries, the benefit of such exclusion shall be divided among such legatees, heirs, and beneficiaries, in the proportions in which they share in such income. In any case where the estate or trust is entitled to a deduction by reason of paragraph (1), in the determination of the net income of the estate or trust for the purposes of this paragraph the amount of such deduction shall be determined with the application of paragraph (3) (A).

(e) DEDUCTION—NO DUPLICATION. Any amount allowed as a deduction under subsection (b) (1) shall not be allowed as a deduction under subsection (c) in the same or any succeeding taxable year.

(f) STANDARD DEDUCTION, NOT ALLOWABLE. The standard deduction provided in section 23 (aa) shall not be allowed in the case of estates and trusts.

(g) RULES FOR APPLICATION OF SUBSECTION (a) IN THE CASE OF TRUSTS. (1) TRADE OR BUSINESS INCOME. In computing the deduction allowable under subsection (a) (2) to a trust for any taxable year beginning after December 31, 1953, no amount otherwise allowable under subsection (a) (2) as a deduction shall be allowed as a deduction with respect to income of the taxable year which is allocable to its unrelated business net income as defined by section 49 (d).

(2) "PROHIBITED TRANSACTION" — LIMITATION OF DEDUCTION. (A) The amount otherwise allowable under subsection (a) (2) as a deduction shall not exceed 15 per cent of the net income of the trust (computed without the benefit of subsection (a) (2)) if the trust has engaged in a prohibited transaction, as defined in subparagraph (B) of this paragraph.

(B) For the purposes of this paragraph the term "prohibited transaction" means any transaction after December 31, 1953, in which any trust while holding income or corpus which has been permanently set aside or

is to be used exclusively for charitable or other purposes described in subsection (a) (2)—

(i) Lends any part of such income or corpus, without receipt of adequate security and a reasonable rate of interest, to;

(ii) Pays any compensation from such income or corpus, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(iii) Makes any part of its services available on a preferential basis to;

(iv) Uses such income or corpus to make any substantial purchase of securities or any other property, for more than an adequate consideration in money or money's worth, from;

(v) Sells any substantial part of the securities or other property comprising such income or corpus, for less than an adequate consideration in money or money's worth, to;

(vi) Engages in any other transaction which results in a substantial diversion of such income or corpus to; the creator of such trust; any person who has made a substantial contribution to such trust; a member of the family (as defined in section 26 (b) (2) (D)) of an individual who is the creator of the trust or who has made a substantial contribution to the trust; or a corporation controlled by any such creator or person through the ownership, directly or indirectly, of 50 per cent or more of the total combined voting power of all classes of stock entitled to vote or 50 per cent or more of the total value or shares of all classes of stock of the corporation.

(C) PERIOD AFFECTED—LIMITATION OF DEDUCTION. The amount otherwise allowable under subsection (a) (2) as a deduction shall be limited as provided in subparagraph (A) only for taxable years subsequent to the taxable year during which the trust is notified by the tax commission that it has engaged in such transaction. Provided, however, if such trust has entered into such transaction with the purpose of diverting corpus or income from the purposes described in subsection (a) (2) and such transaction involved a substantial part of such corpus or income, it shall not be allowed the deductions specified in subsection (a) (2)

for the taxable year in which the prohibited transaction occurred or prior years or future years.

(D) REMOVAL OF LIMITATION. If the deduction of any trust under subsection (a) (2) has been limited as provided in this paragraph, such trust, with respect to any taxable year following the taxable year in which notice is received of limitation of deduction under subsection (a) (2), may, under regulations prescribed by the tax commission, file claim for the allowance of the unlimited deduction under subsection (a) (2), and if the tax commission pursuant to such regulations, is satisfied that such trust will not knowingly again engage in a prohibited transaction, the limitation provided in subparagraph (A) shall not be applicable with respect to taxable years subsequent to the year in which such claim is filed.

(E) "PROHIBITED TRANSACTION"—CONTRIBUTOR'S DEDUCTION DISALLOWED. No gift or bequest for religious, charitable, scientific, literary, or educational purposes (including the encouragement of art and the prevention of cruelty to children or animals), otherwise allowable as a deduction under section 23 (o) (2), and 23 (q) (2), and 62 (a) shall be allowed as a deduction if made in trust and, in the taxable year of the trust in which the gift or bequest is made, the deduction allowed the trust under subsection (a) (2) is limited by subparagraph (A). With respect to any taxable year of a trust in which such deductions have been so limited by reason of entering into a prohibited transaction with the purpose of diverting such corpus or income from the purposes described in subsection (a) (2), and such transaction involved a substantial part of such income or corpus, and which taxable year is the same, or prior to the taxable year of the trust in which such prohibited transaction occurred, such deduction shall be disallowed the donor only if such donor or (if such donor is an individual) any member of his family (as defined in section 26 (b) (2) (D)) was a party to such prohibited transaction.

(F) DEFINITION—"GIFT OR BEQUEST". For the purposes of this paragraph the term "gift or bequest" means any gift, contribution, bequest, devise, legacy, or transfer. For disallowance of certain charitable, religious, scientific, literary, or education deductions otherwise allowed under subsection (a) (2) see subparagraph (C).

(3) UNREASONABLE OR UNRELATED USE. If the amounts permanently set aside, or to be used exclu-

sively, for the charitable and other purposes described in subsection (a) (2) during the taxable year or any prior taxable year and not actually paid out by the end of the taxable year—

(A) Are unreasonable in amount or duration in order to carry out such purposes of the trust; or

(B) Are used to a substantial degree for purposes other than those described in subsection (a) (2); or

(C) Are invested in such a manner as to jeopardize the interest of the religious, charitable, scientific, literary, or educational beneficiaries, the amount otherwise allowable under subsection (a) (2) as a deduction shall be limited to the amount actually paid out during the taxable year and shall not exceed 15 per cent of the net income of the trust (computed without the benefit of subsection (a) (2)).

(h) TAXABLE YEAR, ESTATE OR TRUST DIFFERS FROM THAT OF BENEFICIARY. If the taxable year of a legatee, heir or beneficiary is different from that of the estate or trust, the amount which he is required, under subsection (b) (1) and subsection (c), to include in computing his net income shall be based upon the income of the estate or trust for any taxable year of the estate or trust ending within or with his taxable year.

(i) INFORMATION RETURN. Every trust claiming a charitable, religious, scientic, literary, or educational deduction under subsection (a) (2) for the taxable year shall furnish information with respect to such taxable year, at such time and in such manner as the tax commission may by regulations prescribe, setting forth—

(1) The amount of the charitable, religious, scientific, literary, or educational deduction taken under subsection (a) (2) within such year (showing separately the amount of such deduction which was paid out and the amount which was permanently set aside for charitable, religious, scientific, literary, or educational purposes during such year),

(2) The amount paid out within such year which represents amounts for which charitable, religious, scientific, literary, or educational deduction under subsection (a) (2) have been taken in prior years,

(3) The amount for which charitable, religious,

scientific, literary, or educational deductions have been taken in prior years but which has not been paid out at the beginning of such year,

(4) The amount paid out of principal in the current and prior years for charitable, religious, scientific, literary, or educational purposes,

(5) The total income of the trust within such year and the expenses attributable thereto, and

(6) A balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

This subsection shall not apply in the case of a taxable year if all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries.

Section 63. TAXATION OF ESTATES AND TRUST —ARMED SERVICES DEDUCTION AND REFUNDS. (a) DEDUCTIONS—IN GENERAL.

(1) DEFINITION — DEDUCTION, DEPENDENT. There shall be allowed as an additional deduction in computing the net income of a trust which accumulated income for a beneficiary who died as a result of disease contracted or injury suffered by reason of military service in the line of duty and not due to his own willful misconduct, and while serving in the armed forces of the United States, during any war in which the United States is now engaged or may become engaged, the amount of the income of the trust for any taxable year (before diminution for income tax) which was accumulated for such beneficiary, if the amount of such accumulated income was, without regard to this section, taxable to the trust, and the income for such taxable year accumulated for the beneficiary, if not distributed to him prior to his death, was payable by the trust at or after his death only to his estate, spouse, or lineal ancestors or decendants.

(2) RESIDENCE REQUIREMENT. Paragraph (1) is applicable only with respect to income either received by a trust, the beneficiary of which was a resident of this state at the time of his death or distributable to a person, or the estate of a person, who was a resident of this state at the time of the death of the decedent.

(3) DOUBLE DEDUCTION NOT ALLOWED. Any amount allowed as a deduction under this section shall not be allowed as a deduction under any other provision of this Act.

(b) REFUNDS. (1) REFUND, TO WHOM PAYABLE. If the tax commission believes that there has been an overpayment of tax, penalties, or interest by a taxpayer for any year because of failure to claim the deduction permitted by subsection (a), the amount of the overpayment shall be refunded to the following:

(A) If the trustee of the trust involved has not been discharged, to the trust for distribution pursuant to subsection (a) (1) as if the deduction has been claimed.

(B) If the trustee of the trust involved has been discharged, to each person or estate who or which would have been benefited if the deduction permitted by subsection (a), had been claimed and in the respective amount each would have been benefited.

(2) REFUND, WHEN MADE. A refund may be made within any applicable period allowed by section 84, or within one year after the effective date of this section, whichever is later.

(3) APPLICABILITY. To the extent not inconsistent with this section all of the provisions of section 63 (b), 75 (1), 84, 85, 86, and 95 (c) except section 84 (a), are applicable to the refunds provided by this section.

Section 64. TAXATION OF ESTATES AND TRUSTS —INCOME IN CASE OF DIVORCE. (a) ALIMONY TRUSTS, INCOME NOT INCLUDIBLE IN HUSBAND'S RETURN. (1) There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or separate maintenance the amount of the income of any trust which the wife is entitled to receive and which, except for the provisions of this section would be includible in the gross income of her husband, and such amount shall not, despite any provisions of this Act, be includible in the gross income of the husband.

(2) Paragraph (1) shall not apply to that part of any income of the trust which the terms of the decree or trust instrument fix, in terms of an amount of money or a portion of the income, as a sum which is payable for the support of minor children of the husband. In case

the income is less than the amount specified in the decree or instrument, for the purpose of applying the preceding sentence, the income, to the extent of the sum payable for support, shall be considered a payment for support.

(b) ALIMONY TRUSTS, INCOME INCLUDIBLE IN WIFE'S RETURN. For the purposes of computing the net income of the estate or trust and net income of the wife described in section 12 (e) or subsection (a) of this section, the wife shall be considered as the beneficiary specified in this section. A periodic payment under section 12 (e) to any part of which the provisions of this section are applicable, shall be included in the gross income of the beneficiary in the taxable year in which under section 62 (b) (1) such part is required to be included.

Section 65. TAXATION OF ESTATES AND TRUSTS —EMPLOYEES' TRUSTS. (a) EMPLOYEES' TRUST, EXEMPT, GENERAL RULE. A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall not be taxable under section 61 if the trust meets all of the conditions prescribed by paragraphs (1), (2), (3) and (4).

(1) EMPLOYEES' TRUSTS, EXEMPT IF DISTRIBUTIONS TO BENEFICIARIES. A trust described in subsection (a) is not taxable if contributions are made to the trust by the employer, or employees, or both, for the purpose of distributing to the employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with the plan.

(2) EMPLOYEES' TRUSTS, EXEMPT IF CORPUS AND INCOME CAN ONLY BE USED FOR BENEFIT OF EMPLOYEES. A trust described in subsection (a) is not taxable if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be, within the taxable year or thereafter, used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries.

(3) EMPLOYEES' TRUSTS, IF THE PLAN BENEFITS MOST OF THE EMPLOYEES AND DOES NOT DISCRIMINATE IN FAVOR OF OFFICERS, ETC. A trust described in subsection (a) is not taxable if the trust, or two or more trusts, or the trust or trusts and

annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under this section which benefits either:

(A) 70 per cent or more of all the employees, or 80 per cent or more of all employees who are eligible to benefit under the plan if 70 per cent or more of all the employees are eligible to benefit under the plan. The percentages shall exclude in each case:

(i) Employees who have been employed not more than a minimum period prescribed by the plan, not exceeding five years; and

(ii) Employees whose customary employment is for not more than 20 hours in any one week; and

(iii) Employees whose customary employment is for not more than five months in any calendar year; or

(B) Employees who qualify under a classification set up by the employer which is found by the tax commission not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees.

(4) EMPLOYEES' TRUST, EXEMPT IF IT DOES NOT DISCRIMINATE IN FAVOR OF SUPERVISING OFFICERS, ETC. A trust described in subsection (a) is not taxable if the contributions or benefits provided under the plan do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees.

(5) EMPLOYEES' TRUST, CERTAIN EXCLUSIONS NON-DISCRIMINATORY. A classification shall not be considered discriminatory within the meaning of paragraphs (3) and (4) merely because it excludes employees the whole of whose remuneration constitutes "wages" under section 1426 (a) (1) of the internal revenue code (relating to the federal insurance contributions act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of these provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees. Nor shall a plan be consid-

ered discriminatory merely because the contributions or benefits based on that part of an employees' remuneration which is excluded from "wages" by section 1426 (a) (1) of the internal revenue code differ from the contributions or benefits based on employees' remuneration not so excluded, or differ because of any retirement benefits created under state or federal law.

(6) TIME WHEN EMPLOYEES' TRUST EXEMPT. A plan shall be considered as meeting the requirements of this section during the whole of any taxable year of the plan if on one day in each quarter it satisfied these requirements.

(b) EMPLOYEES' TRUST, WHEN DISTRIBUTIONS TAXABLE TO EMPLOYEE. The amount actually distributed or made available to any distributee by any such trust shall be taxable to him, in the year in which so distributed or made available, under section 12 as if it were an annuity the consideration for which is the amount contributed by the employee, except that if the total distributions payable with respect to any employee are paid to the distributee within one taxable year of the distributee on account of the employee's separation from the service, the amount of such distribution to the extent exceeding the amounts contributed by the employee, shall be considered a gain from the sale or exchange of a capital asset held for more than six months. Where such total distributions include securities of the employer corporation, there shall be excluded from such excess the net unrealized appreciation attributable to that part of the total distributions which consists of the securities of the employer corporation so distributed. The amount of such net unrealized appreciation and the resulting adjustments to basis of the securities of the employer corporation so distributed shall be determined in accordance with regulations which shall be prescribed by the tax commission. For purposes of this subsection, the term "securities" means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form, and the term "securities of the employer corporation" includes securities of a parent or subsidiary corporation (as defined in section 60 (d) (2) and (3)) of the employer corporation. In no event shall the amount actually distributed or made available to any distributee include net unrealized appreciation in securities of the employer corporation attributable to the amount contributed by the employee. Such net unrealized appreciation and the resulting adjustments to basis of such securities shall also be determined in accordance

with regulations which shall be prescribed by the tax commission.

(c) EMPLOYEES' TRUST, TAXABILITY OF DISTRIBUTIONS TO EMPLOYEE WHERE TRUST NOT EXEMPT. Contributions to a trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under subsection (a) shall be included in the gross income of an employee for the taxable year in which the contribution is made to the trust in the case of an employee whose beneficial interest in the contribution is nonforfeitable at the time the contribution is made.

(d) CERTAIN EMPLOYEE ANNUITIES. Notwithstanding subsection (c) or any other provision of this Act, a contribution to a trust by an employer shall not be included in the income of the employee in the year in which the contribution is made if—

(1) Such contribution is to be applied by the trustee for the purchase of annuity contracts for the benefit of such employee;

(2) Such contribution is made to the trustee pursuant to a written agreement entered into prior to January 1, 1954, between the employer and the trustee, or between the employer and employee; and

(3) Under the terms of the trust agreement the employee is not entitled during his life time, except with the consent of the trustee, to any payments under annuity contracts purchased by the trustee other than annuity payments.

The amount so contributed by the employer shall not constitute consideration paid by the employee for such annuity contract in determining the amount of annuity payments required to be included in his gross income under section 12 (b) (2) through (7); except that if the tax imposed by this Act for any taxable year beginning before January 1, 1954, has been paid by the employee with respect to such contribution for such year, and not credited or refunded, the amount so contributed for such year shall constitute consideration paid by the employee for such annuity contract. This subsection shall have no application with respect to amounts contributed to a trust after January 1, 1954, if the trust on such date was exempt under subsection (a). For the purposes of this subsection, amounts paid by an employer for the

purchase of annuity contracts which are transferred to the trustee shall be deemed to be contributions made to a trust or trustee and contributions applied by the trustee for the purchase of annuity contracts; the term "annuity contracts purchased by the trustee" shall include annuity contracts so purchased by the employer and transferred to the trustee; and the term "employee" shall include only a person who was in the employ of the employer, and was covered by the agreement referred to in paragraph (2), prior to December 31, 1953.

(e) EMPLOYEES' TRUST, WHEN REQUIREMENTS APPLICABLE. In the case of a stock bonus, pension, profit-sharing or annuity plan in effect on or before December 31, 1953, such plan shall not become subject to the requirements of subsection (a) (3) through (6) and subsections (b) and (c) until the beginning of the first taxable year beginnig after December 31, 1953.

(f) EMPLOYEES' TRUST, PLAN PUT INTO EFFECT AFTER JANUARY 1, 1954. In the case of a stock bonus, pension, profit-sharing or annuity plan put into effect after December 31, 1953, the plan will be considered as satisfying the requirements of subsection (a) (3) through (6) and subsections (b) and (c) for the period beginning with the date on which it was put into effect and ending with the fifteenth day of the third month following the close of the taxable year of the employer in which the plan was put into effect if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes with respect to the whole of such period.

Section 66. TAXATION OF ESTATES AND TRUSTS —TRUSTS TAXABLE TO GRANTOR. Where the title to any part of the corpus of the trust may at any time revest in the grantor without the consent of any person having a substantial adverse interest in such part of the corpus or the income therefrom, and the revesting is not contingent upon the death of all the beneficiaries, the income of such part of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent it is derived from sources within this state; the balance of the income shall be taxable either to the trust or to the beneficiaries as provided in sections 61 and 62.

Section 67. TAXATION OF ESTATES AND TRUSTS

—INCOME FOR BENEFIT OF GRANTOR. (a) TRUSTS IN THE INCOME OF WHICH THE GRANTOR RETAINS AN INTEREST. Where any part of the income of a trust:

(1) Is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, held or accumulated for future distribution to the grantor; or

(2) may, in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income, be distributed to the grantor; or

(3) is, or in the discretion of the grantor or of any person not having a substantial adverse interest in the disposition of such part of the income may be, applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified in section 23 (o) and section 25 (c), relating to the so-called "charitable contribution" deduction); then such part of the income of the trust shall be included in computing the net income of the grantor if the grantor is a resident. If the grantor is a nonresident, such income shall be included in computing his income only to the extent it is derived from sources within this state; the balance of such income shall be taxable either to the trust or to the beneficiaries as provided in sections 61 and 62.

(b) DEFINITION—"IN THE DISCRETION OF THE GRANTOR". The term "in the discretion of the grantor" as used in this section, means "in the discretion of the grantor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of the part of the income in question".

(c) MINOR'S TRUSTS, TAXABILITY OF INCOME. Income of a trust shall not be considered taxable to the grantor under subsection (a) or any other provision of this Act merely because such income, in the discretion of another person, the trustee, or the grantor acting as a trustee or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income for the

taxable year, such amounts shall be considered paid out of income to the extent of the income of the trust for such taxable year which is not paid, credited, or to be distributed under section 62, and which is not otherwise taxable to the grantor.

(d) TRUSTS, LIEN FOR TAX ON TRUST INCOME. Upon recordation of an abstract of judgment or a copy thereof by the tax commission with the county recorder of any county for any taxes due from the grantor of a trust on income of the trust which is taxable to the grantor under sections 64, 66 and 67 and upon its giving notice of the recording to the fiduciary of the trust, or in case there is more than one fiduciary of the trust, or in fiduciaries, the amount of the taxes constitutes a lien upon all property of the trust in the county, owned by the trust or afterwards and before the lien expires acquired by the trust. The lien has the force, effect, and priority of a judgment lien.

(e) LIEN NOTICE, SERVICE. The notice required to be given by subsection (d) may be served upon the fiduciary personally, or by mail; if by mail, service shall be made by registered mail and shall be addressed to the fiduciary at his address as it appears in the records of the tax commission.

Section 68. TAXATION OF ESTATES AND TRUSTS —LIABILITY OF FIDUCIARY. (a) ESTATE OF $20,000.00, TAX COMMISSIONS' CERTIFICATE. If the value of the assets of an estate at the death of the decedent exceeds twenty thousand dollars ($20,000.00), and if any beneficiary is a nonresident, the final account of the fiduciary shall not be allowed by the probate court unless the fiduciary obtains from the tax commission and files with the court a certificate to the effect that all taxes imposed by this Act upon the estate or decedent which have become payable have been paid, and that all taxes which may become due are secured by bond, deposit, or otherwise.

(b) ESTATE OF $20,000.00, CERTIFICATE WITHIN 30 DAYS. Within 30 days after receiving a request for a certificate, the tax commission shall either issue the certificate or notify the person requesting the certificate of the amount of tax that shall be paid or the amount of bond, deposit, or other security that shall be furnished as a condition of issuance of the certificate.

(c) EFFECT OF CERTIFICATES. The certificate

of the tax commission does not relieve the estate for which the fiduciary acts of liability for any taxes which may become due from the decedent or estate under this Act after the issuance of the certificate. It also does not relieve the fiduciary of the liability imposed by subsection (d).

(d) LIABILITY OF FUDICIARY FOR NONPAYMENT OF ESTATE OR TRUST TAXES. Every fiduciary who knowingly pays in whole or in part any claim, other than claims for taxes, expenses of administration, funeral expenses, expenses of last illness, and family allowance, against the person, estate, or trust for whom or for which he acts, or who makes any distribution of the assets of the person, estate (other than estates allowed by law to be set aside to surviving spouse or minor children) or trust, before he satisfies and pays taxes, interest, and penalties, except penalties due from a decedent, which are imposed by this Act on the person, estate, or trust for whom or for which he acts, and which are known by such fiduciary to constitute a claim against such person, estate, or trust, or which are known by such fiduciary to constitute a lien or charge on or against the assets of such person, estate, or trust, is personally liable to the state for the taxes, interest, and penalties to the extent of such payments and distributions.

(e) REQUEST FOR NOTICE. (1) EIGHTEEN MONTHS' NOTICE, BY FIDUCIARY. In the case of income received or accrued during the lifetime of a decedent, or by his estate during the period of administration, or by a trust, the tax commission shall mail notices proposing to assess the tax, and shall commence any proceeding in court without assessment for the collection of the tax, within 18 months after written request therefor (filed after the return is made) by the fiduciary of the estate or trust or by any other person liable for the tax or any portion thereof.

(2) WAIVER OF 18 MONTHS' NOTICE. After filing a request pursuant to paragraph (1), a fiduciary may consent in writing to waive the limitation prescribed by said paragraph (1).

(f) NOTICE OF ASSUMPTION OF FIDUCIARY CAPACITY. Any person acting in a fiduciary capacity shall assume the duties, and, upon giving notice to the tax commission, shall assume the rights and privileges of the taxpayers in respect of any tax imposed by this Act (except as otherwise specifically provided), until

he gives notice that his fiduciary capacity has terminated. He shall give notice under this subsection pursuant to rules and regulations prescribed by the tax commission.

Section 69. COMMON TRUST FUNDS. (a) DEFINITIONS. The term "common trust fund" means a fund established and operated in accordance with the provisions of the laws of the state by a trust company, bank, or other corporation qualified under the laws of the state to engage in the trust business in Arizona. The term "participant" means any trust, guardianship or estate whose moneys have been invested in a common trust fund. The provisions of section 61 are applicable in determining the extent of which each participant's proportionate share of the income is taxable to the participant or to the beneficiaries or grantor of the participant.

(b) TAXATION OF COMMON TRUST FUNDS. A common trust fund shall not be subject to taxation under the provisions of this Act, nor shall the income thereof be taxable under the provisions of this Act, or otherwise, but the participants therein or the beneficiaries or grantor of such participants shall be subject to taxation as provided in this section.

(c) TAXABILITY OF PARTICIPANT. Each participant in a common trust fund, if such participant is required by law to file a return, shall include, in computing its net income, whether or not distributed and whether or not distributable,

(1) As a part of its capital gains or losses, its proportionate share of the net capital gain or loss of the common trust fund;

(2) Its proportionate share of the ordinary net income or the ordinary net loss of the common trust fund; both computed as provided in subsection (d). The appropriate or proportionate share of any participant in any income of a common trust fund which would not be taxable by this state or which this state would be prohibited from taxing by the Constitution of this state or of the United States if received directly by the participants shall not be taxable to the recipients of such income.

(d) COMPUTATION OF INCOME. The net income of a common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that

(1) There shall be segregated the capital gains and losses, and the net capital gain or loss shall be computed in accordance with the provisions of section 57 (b) and other applicable provisions of this Act.

(2) After excluding all items of capital gain or loss, there shall be computed

(A) The ordinary net income which shall consist of the excess of the gross income over the deductions, or

(B) The ordinary net loss which shall consist of the excess of the deductions over the gross income.

(3) The so-called "charitable contributions" deduction provided for in section 23 (o), shall not be allowed.

(4) The standard exemption provided for in section 23(aa) shall not be allowed.

(e) ADMISSION AND WITHDRAWAL. No gain or loss shall be realized by a common trust fund by the admission or withdrawal of a participant. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant but any gain or loss realized thereby shall be adjusted by an amount equal to the net aggregate gain or loss previously included in computing such participant's net income under subsection (c) (1).

(f) INFORMATION RETURN. Every trust company operating a common trust fund shall make a return under penalties of perjury for each taxable year, stating specifically with respect to such fund the items of gross income and the deductions allowed by this section and shall include in the return information sufficient to identify the trusts and estates entitled to share in the net income of the common trust fund and the amount of the proportionate share of each such participant.

(g) TAXABLE YEAR, WHERE PARTICIPANT'S DIFFER FROM TRUST'S. If under the provisions of section 31 (a) the taxable year of a common trust fund is different from that of a participant, the inclusions with respect to the net income of such common trust fund in computing the net income of the participant for its taxable year shall be based upon the net income of such common trust fund for any taxable year of such common trust fund, ending within or with the taxable year of the participant.

Section 71. TAXATION OF PARTNERSHIPS. (a) PARTNERSHIP, INDIVIDUAL PARTNERSHIP LIABILITY. An individual carrying on business in partnership is liable for income tax only in his individual capacity.

(b) PARTNER'S DISTRIBUTIVE SHARE. In computing net income of each partner, he shall include, whether or not distribution is made to him—

(1) As part of his gains and losses from sales or exchanges of capital assets, his distributive share of the gains and losses of the partnership from sales or exchanges of capital assets, computed as provided in section 57 (b);

(2) His distributive share of the ordinary net income or the ordinary net loss of the partnership, computed as provided in subsection (c).

(c) PARTNERSHIP INCOME. The net income of the partnership shall be computed in the same manner and on the same basis as in the case of an individual, except as provided in this subsection.

(1) There shall be segregated the gains and losses from sales or exchanges of capital assets.

(2) After excluding all items of gain and loss from sales or exchanges of capital assets, there shall be computed—

(A) An ordinary net income which shall consist of the excess of the gross income over the deductions; or

(B) An ordinary net loss which shall consist of the excess of the deductions over the gross income.

(3) In computing the net income of the partnership, the so-called "charitable contribution" deduction allowed by section 23 (o), shall not be allowed; but each partner shall be considered as having made payment, within his taxable year, of his distributive portion of any contribution or gift, payment of which was made by the partnership within its taxable year, of the character which would be allowed to the partnership as a deduction under such section if this subsection had not been enacted.

(4) In computing the net income of the partnership

the deduction provided in section 23 (aa) shall not be allowed.

(d) PARTNERSHIP RETURN. Every partnership shall make a return for each taxable year, stating specifically the items of gross income and the deductions allowed by this Act. The return shall include the names and addresses of the individuals, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall contain or be verified by a written declaration that it is made under the penalties of perjury, signed by one of the partners.

(e) TAXABLE YEAR OF PARTNERSHIP, DIFFERENT FROM THAT OF PARTNER. If the taxable year of a partner is different from that of the partnership, the distributive share of the net income of the partnership to be included in computing the net income of the partner for his taxable year shall be based upon the net net income of the partnership for any taxable year of the partnership ending within or with the taxable year of the partner.

Section 75. ADMINISTRATION OF TAX—POWERS AND DUTIES OF TAX COMMISSION. (a) TAX COMMISSION, ADMINSTRATOR. The tax commission shall administer and enforce this Act. For this purpose it may divide the state into a reasonable number of districts, in each of which a branch office or offices may be maintained during all or such part of the time as may be necessary.

(b) BRANCH OFFICES, BASES OF ESTABLISHING. In the establishment of the districts and offices the tax commission shall give due consideration to the matter of economy of administration and service to the taxpayers.

(c) RULES AND REGULATIONS. The tax commission shall prescribe all rules and regulations necessary for the enforcement of this Act.

(d) TAX COMMISSION, POWER OF EXAMINATION. The tax commission, for the purpose of administering its duties under this Act, shall have the power to examine any books, papers, records, or memoranda, bearing upon the matters required to be included in the return of any taxpayer under this Act. The tax commission may also require the attendance of the taxpayer

or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out the provisions of this section. The tax commission may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the tax commission and may be served on any person for any such purpose.

(e) EFFECT OF DETERMINATION BY OTHER STATE AGENCIES, RES JUDICATA. In the determination of any issue of law or fact under this Act, neither the tax commission, nor any officer or agency having any administrative duties under this Act, nor any court shall be bound by the determination of any other executive officer or administrative agency of the state. In the determination of any case arising under this Act, the rule of res judicata is applicable only if the liability involved is for the same year as was involved in another case previously determined under this Act.

(f) PRESERVATION OF RETURNS. Reports and returns shall be preserved as set forth in section 45 (a).

(g) TAX COMMISSION, APPOINTMENT OF AGENTS AND ASSISTANTS. The tax commission may appoint and remove, in the manner provided by law, such officers, agents, branch office income tax deputies, and other employees as it deems necessary. They shall have such duties and powers as the tax commission from time to time prescribes.

(h) TAX COMMISSION, APPOINTMENT OF DEPUTIES AND ASSISTANTS TO CONDUCT HEARINGS AND PRESCRIBE REGULATIONS. The tax commission may appoint one or more deputies or assistants to conduct hearings, prescribe regulations, or perform any other duty imposed by this Act or other laws of the state upon the tax commission.

(i) TAX COMMISSION, SALARIES OF ASSISTANTS. The salaries of the personnel required by the tax commission shall be such as it may prescribe, in the manner provided by law, and the tax commission and its personnel shall be allowed reasonable and necessary traveling and other expenses incurred in the performance of their duties, in the manner provided by law.

(j) TAX COMMISSION, BONDS OF ASSISTANTS. The tax commission may require officers, agents, deputies, and other employees designated by it to give bond

for the faithful performance of their duties in such sum and with such sureties as it may determine. It shall pay all premiums on the bonds out of moneys appropriated for the administration of this act.

(k) TAX COMMISSION, ASSISTANTS TO TAKE OATHS AND ACKNOWLEDGMENTS. The tax commission and officers and employees designated by it may administer an oath to any person or take the acknowledgment of any person in respect of any return or report required by this Act or the rules and regulations of the tax commission.

(1) CLOSING AGREEMENTS. (1) The tax commission or any person authorized in writing by the tax commission is authorized to enter into an agreement in writing with any person relating to the liability of such person (or relating to the liability of the person or estate for whom he acts) in respect of any tax levied under this Act for any taxable period.

(2) If such agreement is approved by the tax commission within the time stated in the agreement, or later agreed to, it shall be final and conclusive, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact.

(A) The case shall not be reopened as to the matters agreed upon or the agreement modified, by any officer, employee, or agent of the state, and

(B) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

Section 77. PAYMENTS AND ASSESSMENTS — DEFICIENCY ASSESSMENTS. (a) DEFICIENCY ASSESSMENT, WHEN TAX COMMISSION MAY ISSUE. The tax commission may proceed under this section or section 78 whether or not it requires a return as an amended return under section 41(c).

(b) RETURN, EXAMINATION BY TAX COMMISSION. As soon as practicable after the return is filed, the tax commission shall examine it and shall determine the correct amount of the tax.

(c) NOTICE OF ADDITIONAL ASSESSMENT. If

the tax commission determines that the tax disclosed by the original return is less than the tax disclosed by its examination, it shall mail notice or notices to the taxpayer of the deficiency proposed to be assessed.

(1) NOTICE, CONTENTS. Each notice shall set forth the reasons for the proposed additional assessment and the computation thereof.

(2) NOTICE, JOINT RETURNS. In the case of a joint return filed by husband and wife, the notice of deficiency may be a single joint notice, except that if the tax commission is notified by either spouse that separate residences have been established, it shall mail to each spouse, in lieu of the single joint notice, duplicate originals of the joint notice.

(d) PROPOSED ASSESSMENTS, STATUTE OF LIMITATIONS. Except in the case of a fraudulent return and except as otherwise provided in paragraphs (1), (6) and (8), every notice of a proposed deficiency assessment shall be mailed to the taxpayer within 4 years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the four-year period or the period otherwise fixed.

(1) OMISSION FROM GROSS INCOME. If the taxpayer omits from gross income an amount properly includible therein which is in excess of 25 per cent of the amount of gross income stated in the return, the tax may be assessed at any time within 6 years after the return was filed.

(2) FAILURE TO REPORT FEDERAL CHANGES, STATUTE OF LIMITATIONS. If a taxpayer shall fail to report a change or correction by the commissioner of internal revenue or other officer of the United States or other competent authority or shall fail to file an amended return as required by section 41(c), any deficiency resulting from such adjustments may be assessed and collected within 4 years after said change, correction or amended return is reported to or filed with the federal government.

(3) ADDITIONAL TIME FOR ASSESSMENT. If a taxpayer is required to report a change or correction by the commissioner of internal revenue or other officer of the United States or other competent authority or to file an amended return as required by section 41(c) and does

report such change or files such return, any deficiency resulting from such adjustments may be assessed within 6 months from the date when such notice or amended return is filed with the tax commission by the taxpayer, or within the period provided in the first paragraph of subsection (d) and subsection (d) (1), whichever period expires the later.

(4) DEFICIENCY—SECTION 52 (n) (7). In case of a deficiency described in section 52(n)(7), such deficiency may be assessed at any time prior to the expiration of the time therein provided.

(5) STATUTE OF LIMITATIONS—DEFICIENCY—SECTION 52(f) (3)(C) AND (D). In case of a deficiency described in section 52 (f) (3)(C) and (D), such deficiency may be assessed at any time prior to the expiration of the time therein provided.

(6) PROPOSED ASSESSMENT, LIMITATION WHERE FEDERAL WAIVER. If any taxpayer agrees with the United States commissioner of internal revenue for an extension or renewals thereof of the period for proposing and assessing deficiencies in federal income taxes for any year, the period for mailing a notice of a proposed deficiency shall be 4 years after the return was filed or 6 months after the date of the expiration of the agreed period for assessing deficiencies in the federal income tax, whichever period expires the later.

(7) RETURNS, WHEN DEEMED FILED. For the purposes of this section a return filed before the last day prescribed by law for filing shall be considered as filed on that day.

(8) WAIVER OF STATUTE OF LIMITATIONS. Where before the expiration of the time prescribed for the mailing of a notice of a proposed deficiency assessment, the taxpayer consents in writing to an assessment after that time, the assessment may be made at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(e) PROTEST, WHEN TO BE FILED. Within 180 days after the mailing of each notice of additional tax proposed to be assessed the taxpayer may file with the tax commission a written protest against the proposed additional tax, specifying in the protest the grounds

upon which it is based. Such written protest shall be prepared and verified in the manner prescribed by the tax commission.

(1) PROPOSED ASSESSMENTS, WHEN FINAL. If no protest is filed, the amount of the deficiency assessed becomes final upon the expiration of the 180-day period.

(2) PROTEST, ACTION AND HEARING. If a protest is filed, the tax commission shall reconsider the assessment of the deficiency and, if the taxpayer has so requested in his protest, shall grant the taxpayer or his authorized representatives an oral hearing. Such hearing shall be held within 6 months from the date of receipt of written request for such hearing from the taxpayer.

(f) APPEAL TO SUPERIOR COURT. (1) After consideration of the protest and the evidence adduced in the event of such oral hearing, the tax commission's action upon the protest is final upon the expiration of 30 days from the date when it mails notice of its action to the taxpayer, unless within that 30-day period the taxpayer appeals from the action of the tax commission to the superior court of the county wherein the taxpayer resides or, if the taxpayer does not reside in Arizona, to the superior court of Maricopa county.

(2) The superior court shall hear and determine the appeal as a trial de novo. Within sixty days after the entry of judgment either party may appeal to the suprme court in the manner provided for appeals from the judgment of a superior court, and such appeal shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as other state cases.

(g) NOTICE OF DEFICIENCY, DUE DATE. When a deficiency is determined and the assessment becomes final, the tax commission shall mail notice and demand to the taxpayer for the payment thereof. The deficiency assessed is due and payable at the expiration of 10 days from the date of the notice and demand, unless the taxpayer has elected to pay the tax in installments, in which case the deficiency shall be prorated to the three installments.

(1) DEFICIENCY, INSTALLMENT PAYMENTS. Except where a jeopardy assessment is made, the part of the deficiency prorated to any installment the date for payments of which has not arrived shall be collected at the same time as, and as part of, the installment.

(2) DEFICIENCY PAYMENTS, DELINQUENT INSTALLMENTS. The part of the deficiency prorated to any installment the date for payment of which has arrived is due and payable at the expiration of 10 days from the date of the notice.

(h) CERTIFICATES, PRIMA FACIE EVIDENCE. A certificate by the tax commission of the mailing of the notices specified in this section is prima facie evidence of the assessment of the deficiency and of the giving of the notices.

(i) MATHEMATICAL ERROR, COLLECTION OF TAX DUE THEREON. Any amount of tax in excess of that disclosed by the return due to a mathematical error or failure of the taxpayer to compute properly the liability based on the net income reported on the return notice of which has been mailed to the taxpayer, is not a deficiency assessment within the meaning of this section. The taxpayer has no right of protest or appeal as in the case of a deficiency assessment, based on such notice, and the assessment or collection of the amount of tax erroneously omitted in the return is not prohibited by any provision of this section.

Section 78. PAYMENTS AND ASSESSMENTS INCLUDING JEOPARDY ASSESSMENTS. (a) JEOPARDY ASSESSMENTS, FILING AND NOTICE. If the tax commission believes that the assessment or the collection of a deficiency will be jeopardized in whole or in part by delay, it may mail or issue notice of its finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy, including interest and penalties and additions thereto.

(b) CLOSING OF TAXABLE YEAR. If the tax commission believes that a taxpayer designs quickly to depart from the state or to remove his property therefrom or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the tax commission shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or

so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(c) JEOPARDY ASSESSMENTS, COLLECTION. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once. The taxpayer, however, may stay collection and prevent the jeopardy assessment from becoming final by filing, within 10 days after the date of mailing the notice of jeopardy assessment, a petition for reassessment, accompanied by a bond or other security in such amounts as the tax commission may deem necessary, not exceeding double the amount (including interest and penalties and additions thereto) as to which the stay is desired.

(d) JEOPARDY ASSESSMENT, WHEN FINAL. If a petition for reassessment, accompanied by bond or other security is not filed within the 10-day period, the assessment becomes final.

(e) JEOPARDY ASSESSMENTS, HEARING. If the taxpayer has so requested in his petition, the tax commission shall grant him or his authorized representative an oral hearing.

(f) JEOPARDY ASSESSMENTS, ACTION ON PETITION FOR REASSESSMENT. The tax commission shall consider the petition for reassessment and notify the taxpayer of its decision thereon. Its decision as to the validity of the jeopardy assessment is final.

(g) JEOPARDY ASSESSMENTS, PRESUMPTIVE EVIDENCE OF JEOPARDY. In any proceeding brought to enforce payment of taxes made due and payable by this section, the belief of the tax commission under subsection (a), whether made after notice to the taxpayer or not, is for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the tax commission of the mailing or issuing of the notices specified in this section is presumptive evidence that the notices were mailed or issued.

(h) BANKRUPTCY OR RECEIVERSHIP, IMMEDIATE ASSESSMENT. Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any re-

ceivership proceeding before any court of the United States or of any state or territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the tax commission in respect of a tax imposed by this Act upon the taxpayer may be immediately assessed.

(i) BANKRUPTCY, NOTICE TO TAX COMMISSION. The trustee in bankruptcy or receiver shall give notice in writing to the tax commission of the adjudication of bankruptcy or the appointment of the receiver. The running of the statute of limitations on the making of assessments shall be suspended for the period from the date of adjudication in bankruptcy or the appointment of the receiver to a date 30 days after the date upon which the notice from the trustee or receiver is received by the tax commission; but in no case shall the suspension be for a period in excess of 2 years.

(j) BANKRUPTCY, CLAIM FOR TAX AND EFFECT ON TAX COMMISSION. Claims for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for reassessment of the deficiency pursuant to a protest or an appeal to the tax commission or an appeal to the superior court. No appeal from the action of the tax commission to a superior court may be filed after the adjudication of bankruptcy or the appointment of a receiver.

(k) BANKRUPTCY PROCEEDINGS, COLLECTIONS AFTER. Upon notice and demand from the tax commission after termination of the bankruptcy or receivership proceeding, the taxpayer shall pay any portion of the claim allowed in the proceeding which is unpaid. Such unpaid amount may be collected in the manner provided in this Act for the collection of delinquent taxes at any time within 6 years after the termination of the proceeding.

(1) JEOPARDY ASSESSMENT, RULES AND REGULATIONS. The tax commission may prescribe rules and regulations necessary properly to carry out the provisions of this section.

Section 79. VIOLATIONS. (a) PENALTY FOR VIOLATION OF THIS ACT. (1) CIVIL PENALTY.

Any person who, with or without intent to evade any requirement of this Act or any lawful regulation of the tax commission under this Act fails to file any return or to supply any information required under this Act, or who, with or without such intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable to a penalty of not more than one thousand dollars ($1,000.00). The penalty shall be recovered by the department of law in the name of the state of Arizona by action in any court of competent jurisdiction.

(b) PENALTY, COMPROMISE THEREOF. The department of law may, with the consent of the tax commission, compromise any penalty for which it may bring an action under this section. The penalties provided by this section are additional to all other penalties provided in this Act.

(c) SIGNATURE PRESUMED TO BE TAXPAYER'S. The fact that an individual's name is signed to a return, statement or other document filed shall be a presumption of fact that the return, statement or other document was actually signed by him.

(d) STATUTE OF LIMITATIONS. Any action or prosecution under this section shall be instituted within 4 years after the commission of the offense.

(e) FALSE OR FRAUDULENT RETURNS—FELONY. Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of prejury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than two thousand dollars ($2,000.00) or imprisoned in the state prison not more than 5 years, or both.

(f) FAILURE TO FILE OR SUPPLYING FALSE INFORMATION—INTENT TO EVADE. Any person who, within the time required by or under the provisions of this Act, willfully fails to file any return or to supply any information with intent to evade any tax imposed by this Act, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, is punishable by imprisonment in the county jail not to exceed 1 year, or in the state prison not to exceed 5 years,

or by fine of not more than five thousand dollars ($5,000.00), or by both such fine and imprisonment, at the discretion of the court.

(g) PLACE OF TRIAL. The place of trial for the offenses enumerated in this section shall be in the county of residence or principal place of business of the defendant or defendants; provided, that if such defendant has no residence or principal place of business in this state, such trial shall be had in the county of Maricopa.

Section 80. PAYMENTS AND ASSESSMENTS—PENALTIES. (a) FAILURE TO FILE RETURN, PENALTY. If any taxpayer fails to make and file a return required by this Act on or before the due date of the return or the due date as extended by the tax commission, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 per cent of the tax shall be added to the tax for each 30 days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed 25 per cent of the tax. The penalty so added to the tax shall be due and payable upon notice and demand from the tax commission.

(b) FAILURE TO FILE RETURN, PENALTY WHERE DEMAND MADE. If any taxpayer, upon notice and demand by the tax commission, fails or refuses to make and file a return required by this Act, the tax commission, notwithstanding the provisions of section 78(h), may estimate the net income and compute and levy the amounts of the tax due from any available information. In such case 25 per cent of the tax, in addition to the penalty added under subsection (a), shall be added to the tax and shall be due and payable upon notice and demand from the tax commission.

(c) FAILURE TO FURNISH INFORMATION REQUESTED, PENALTY. If any taxpayer fails or refuses to furnish any information requested in writing by the tax commission, the tax commission may add a penalty of 25 per cent of the amount of any deficiency tax assessed by the tax commission concerning the assessment of which the information was required.

(d) NEGLIGENCE, PENALTY. If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per cent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this sec-

tion, shall be assessed, collected and paid in the same manner as if it were a deficiency.

(e) FRAUD, PENALTY. If any part of any deficiency is due to fraud with intent to evade tax, 50 per cent of the total amount of the tax, in addition to the deficiency and other penalties provided in this section, shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 81. INTEREST AND PENALTY FOR FAILURE TO REMIT. (a) FAILURE TO REMIT. (1) If the tax imposed by this Act, whether determined by the tax commission or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent per year from the date prescribed for its payment until it is paid.

(2) If the amount, whether determined by the tax commission or the taxpayer, required to be withheld by the employer pursuant to section 88 is not paid over to the tax commission on or before the date prescribed for its remittance, the tax commission, in addition to the interest imposed by (1) of this subsection, may add a penalty of 25 per cent of the amount required to be withheld and paid over.

(b) INSTALLMENT PAYMENTS ON ASSESSMENTS, INTEREST. If the time for payment of the tax or any installment thereof is extended, there shall be collected, as part of such tax, interest thereon at the rate of 6 per cent per year from the date upon which such payment should have been made if no extension had been granted until the date the tax is paid.

(c) DEFICIENCY ASSESSMENTS, INTEREST. Interest upon the amount assessed as a deficiency shall be assessed and paid at the same time as the deficiency at the rate of 6 per cent per year from the date prescribed for the payment of the tax (or, if the tax is paid in installments, from the date prescribed for the payment of the first installment) to the date the deficiency is assessed. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(d) INTEREST, COMPUTED WHERE NOT PAID UPON DEMAND. Except in the case of a jeopary as-

sessment, collection of which has been stayed by the posting of a bond, where a deficiency, or any interest or additional amounts imposed in connection therewith under section 80 (a) (d) and (e) and subsection (c) of this section, or any addition to tax in case of delinquency provided for in section 80 (a) (b) and (c), is not paid in full within 10 days from the date of notice and demand from the tax commission, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent per year from the date of the notice and demand until it is paid. If any part of the amount prorated to any unpaid installment is not paid in full on or before the date prescribed for the payment of the installment, there shall be collected as a part of the tax, interest upon the unpaid amount at the rate of 6 per cent per year from that date until it is paid.

(e) SPOUSE'S OVERPAYMENT CREDITED AGAINST OTHER SPOUSE'S DEFICIENCY, INTEREST. Where an overpayment is made by any taxpayer for any year, and a deficiency is owing from the husband or wife of the taxpayer for the same year, and both husband and wife notify the tax commission in writing prior to the expiration of the time within which credit for the overpayment may be allowed that the overpayment may be credited against the deficiency, no interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(f) OVERPAYMENT AND UNDERPAYMENT DUE TO SAME ITEM, INTEREST. (1) Where an overpayment is made by any taxpayer for any year, and a deficiency is owing from the same taxpayer for any other year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which assessment of the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded to the taxpayer. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(2) For the purposes of this subsection the returns of a decedent and his estate shall be considered returns of the same taxpayer and the returns for the decedent and his estate filed for the year of death shall be considered returns for different taxable years.

(3) This subsection is not intended, nor shall it be

construed, as a limitation on the tax commission's right to offset or recoup barred assessments against overpayments.

(g) INTEREST, COMPUTED WHERE RELATED ITEMS OR RELATED TAXPAYERS. (1) When the correction of an erroneous inclusion or deduction of an item or items in the computation of income of a trust, estate, parent or husband for any year results in an overpayment for such year by said trust, estate, parent or husband, and also results in a deficiency for the same year for a grantor of such trust or beneficiary of such estate or trust, or child of such parent, or spouse of such child, or the wife of said husband, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(2) When the correction of an erroneous inclusion or deduction of an item or items in the computation of income of a grantor of a trust, beneficiary of an estate or trust, a child, or spouse of such child, or a wife for any year results in an overpayment for such year by said grantor, beneficiary, child or wife, and also results in a deficiency for the same year for the grantor's or beneficiary's trust, the beneficiary's estate, the child's parent, or spouse of such child, or the wife's husband, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded. No interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

(3) Paragraphs (1) and (2) are not intended, nor shall they be construed as a limitation on the tax commission's right to offset or recoup barred assessments against overpayments.

(h) OFFSET OF OVERPAYMENT AGAINST DEFICIENCY—INTEREST. When the correction of an erroneous inclusion or deduction of an item in the computation of income of any year results in an overpayment

for one year and a deficiency for another year, the overpayment, if the period within which credit for the overpayment may be allowed has not expired, shall be credited on the deficiency, if the period within which the deficiency may be proposed has not expired, and the balance, if any, shall be credited or refunded as provided in sections 84 and 86, and in any case described by this subsection no interest shall be assessed on such portion of the deficiency as is extinguished by the credit for the period of time subsequent to the date the overpayment was made.

This subsection does not limit the tax commission's right to offset or recoup barred assessments against overpayments.

(i) VOLUNTARY PAYMENT OF OVERDUE TAXES. If a taxpayer voluntarily files a tax return, prior to April 15, 1955, covering any period prior to January 1, 1954, or for any portion of such period not previously covered by a filed return, he shall be liable only for the amount of the tax owing for the period for which such return is filed together with interest at the rate of six per cent on any portion thereof then delinquent, but by making such voluntary filing he shall absolve himself of liability for any criminal penalties or any other penalties relating to the period for which such return is filed. Failure to voluntarily file as above provided prior to April 15, 1955, shall negative the above concessions and the taxpayers shall be liable for the full amount of taxes due together with interest and penalties, as provided by law.

Section 83. TRANSFEREE LIABILITY. (a) ASSESSMENT AGAINST TRANSFEREE. The taxes imposed by this Act upon any taxpayer other than a transferee, for whose payment any bank or person other than the taxpayer is liable, at law or in equity, may be assessed against such bank or person in the same manner as is provided in section 77 for the assessment of deficiencies and may be assessed within the periods specified in subsection (c). The provisions of this section and other provisions of this Act respecting the collection of taxes shall apply to the collection of such taxes from such bank or person to the same extent and with the same force and effect as though such bank or person were the taxpayer.

(b) TRANSFERRED ASSETS. The amounts of the following liabilities, except as hereinafter provided in

this subsection and subsection (c), shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in a tax imposed by this Act (including the provisions in the case of a delinquency in payment after notice and demand, the provisions authorizing proceedings in court for collection, and the provisions prohibiting claims and suits for refunds):

(1) The liability, at law or in equity, of a transferee of property of a taxpayer, in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer by this Act.

(2) The liability of a fiduciary under this Act, in respect of the payment of any such tax from the estate of the taxpayer.

Any such liability may be either as to the amount of tax shown on the return or as to any deficiency in tax.

(c) PERIODS OF LIMITATION — TRANSFEREES. The period of limitation for assessment of such liability of a transferee or fiduciary of the taxpayer shall be as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the taxpayer;

(2) In the case of the liability of a transferee of a transferee of the property of the taxpayer, within 1 year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3 years after the expiration of the period of limitation for assessment against the taxpayer; except that if before the expiration of the period of limitation for the assessment of the liability of the transferee of a transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee of a transferee shall expire 1 year after the return of execution in the court proceeding;

(3) In the case of the liability of a fiduciary, not later than 1 year after the liability arises or not later than the expiration of the period for collection of the

tax in respect of which such liability arises, whichever is the later;

(4) Where before the expiration of the time prescribed in paragraph (1), (2) or (3) for the assessment of the liability, both the tax commission and the transferee or fiduciary have consented in writing to its assessment after such time, the liability may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Section 84. OVERPAYMENTS AND REFUNDS—CLAIM FOR REFUND. (a) REFUND, WHEN. If the tax commission believes that there has been an overpayment of tax, penalty, or interest by a taxpayer for any year for any person, the amount of the overpayment shall be credited against any taxes then due from the taxpayer under this Act and the balance refunded to the taxpayer, or its successor through reorganization, merger, or consolidation, or to its shareholders upon dissolution.

(b) LIMITATION ON ALLOWANCE OF REFUND. (1) REFUND CLAIM, WHEN TO BE FILED. No credit or refund shall be allowed or made after 4 years from the last day prescribed for filing the return provided such return has been filed in the period prescribed by law or after 1 year from the date of the overpayment, whichever period expires the later, unless before the expiration of the period a claim therefor is filed by the taxpayer, or unless before the expiration of the period the tax commission certifies the overpayment to the state auditor for approval of the refunding thereof.

(2) REFUND CLAIM, EFFECT OF EXTENSION AGREEMENTS. The period within which a claim for credit or refund may be filed, or credit or refund allowed or made if no claim is filed, shall be the period within which the tax commission may make an assessment under the same circumstances, if:

(A) The taxpayer has, within the period prescribed in the preceding sentence, agreed in writing, under the provisions of section 77, to extend the time within which the tax commission may propose an additional assessment, or

(B) The taxpayer has agreed with the United States commissioner of internal revenue for an extension (or

renewals thereof) of the period for proposing and assessing deficiencies in federal income tax for any year.

(3) EXTENDED PERIOD, WHEN APPLICABLE. The provisions of paragraph (1) shall apply to any claim filed, or credit or refund allowed or made, before the execution of an agreement pursuant to paragraph (2).

(4) REFUND CLAIM, SEVEN-YEAR PERIOD IN CONNECTION WITH BAD DEBTS, ETC. Insofar as the claim for credit or refund relates to an overpayment on account of the deductibility, under section 23 (k) (1), of a debt as one which became worthless, or a loss from worthlessness of a security under section 23 (k) (2), or section 23 (g) or an erroneous inclusion of an amount attributable to the recovery of a bad debt, prior tax or delinquency amount, under section 12 (b) (17) to (21), inclusive, due to an adjustment of a bad debt deduction under section 23 (k) (1), or a loss deduction from worthlessness of a security under section 23 (k) (2), or section 23 (g), in lieu of the period of limitations prescribed in paragraph (1), the period shall be 7 years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

(5) REFUND—TRANSFER OF ITEMS FROM ONE YEAR TO ANOTHER. Notwithstanding any statute of limitations provided in this Act, any overpayment due a taxpayer for any year which results from a transfer of items of income or deductions or both to or from another year for the same taxpayer, or for the same year for a related taxpayer described in section 81 (e), shall be allowed as an offset in computing any deficiency in tax for any year resulting from the transfer of such income or deductions or both, but no refund shall be allowed unless the overpayment is certified to the state auditor, or a claim for refund is filed within the time otherwise provided for in this Act.

The offset provided herein, however, shall not be allowed after the expiration of 7 years from the due date of the return on which the overpayment is determined.

(c) REFUND CLAIM, EFFECT OF DENIAL. A refund claim upon which action has become final shall not thereafter be considered a refund claim within the meaning of subsection (b) (1), except to the extent it has been allowed.

(d) REFUND CLAIM, FORM. Every claim for re-

fund shall be in writing and shall state the specific grounds upon which it is founded.

(e) REFUND CLAIM, NOTICE OF DENIAL. If the tax commission disallows any claim for refund, it shall notify the taxpayer accordingly.

(f) REFUND CLAIM, FINALITY OF ACTION. At the expiration of 90 days from the mailing of the notice, the tax commission's action upon the claim is final unless within the 90-day period the taxpayer protests in writing to the commission setting forth reasons for protest and requesting a hearing.

(g) REFUND CLAIM MAY BE DEEMED DISALLOWED AFTER SIX MONTHS. If the tax commission fails to mail notice of action on any refund claim within 6 months after the claim is filed, the taxpayer may prior to mailing of notice of action on the refund claim consider the claim disallowed and appeal to the commission.

(h) PROTEST TO COMMISSION, FORM AND MAILING. Protest shall be addressed and mailed to the state tax commission at Phoenix, Arizona.

(i) APPEALS. Appeals must be addressed and mailed to the state tax commission at Phoenix, Arizona. The tax commission shall hear and determine the same and thereafter shall forthwith notify the taxpayer of its determination. The commission's determination is final upon the expiration of 90 days from the date of mailing notice of determination unless within said 90 days the taxpayer appeals from the action of the tax commission to the superior court of the county wherein the taxpayer resides or, if the taxpayer does not reside in Arizona, to the superior court of Maricopa county.

(j) PAYMENT OF TAX—DEEMED CLAIM FOR REFUND. If, with or after the filing of a protest or an appeal with the tax commission or an appeal to the superior court, a taxpayer pays the tax protested or appealed before the tax commission acts upon the protest or the appeal, or the superor court upon the appeal, the tax commission or superior court shall treat the protest or the appeal as a claim for refund or an appeal from the denial of a claim for refund filed under this section.

(k) INTEREST ON OVERPAYMENT. (1) REFUND CLAIMS, INTEREST. Interest shall be allowed and paid on any overpayment in respect to any tax, at the rate of 6 per cent per annum as follows:

(A) In the case of a credit, from the date of the overpayment to the date of the allowance of the credit. Any interest allowed on any credit shall first be credited on any taxes due from the taxpayer under this Act.

(B) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the tax commission.

(2) NOTICE OF DENIAL. If the tax commission disallows interest on any claim for refund, it shall notify the taxpayer accordingly, and thereafter such claim shall be treated, for procedural purposes, as a claim for refund.

(3) SUIT, FAILURE OF ACTION. If the tax commission fails to mail notice of action of disallowance of interest on any refund claim within six months after the interest was claimed, the taxpayer may, prior to mailing notice of action of disallowance of interest on the refund claim, consider the interest disallowed and bring an action against the tax commission on the grounds set forth for interest in such claim for the recovery of the interest.

(4) PAYMENT, NOT BONA FIDE. A payment not made incident to a bona fide and orderly discharge of an actual liability or one reasonably assumed to be imposed by law, is not an overpayment for the purposes of paragraph (1) and interest is not payable thereon.

(5) INTEREST LIMITATION—BAD DEBTS. If a credit or refund of any part of an overpayment would be barred under subsection (b) (1), except for the provisions of subsection (b) (4), no interest shall be allowed or paid with respect to such part of the overpayment for any period beginning after the expiration of the period of limitation provided in subsection (b) (1), for filing claim for credit or refund of such part of the overpayment and ending at the expiration of six months after the date on which the claim was filed or, in case no claim was filed and the overpayment was found by the tax commission, ending at the time the appeal was filed with the tax commission.

Section 85. OVERPAYMENTS AND REFUNDS—CANCELLATIONS. CANCELLATION OF ILLEGAL TAX. If a tax has been illegally levied against a taxpayer, the tax commission shall set forth on its records

the reasons therefor and thereafter shall authorize the cancellation of the tax.

Section 86. OVERPAYMENTS AND REFUNDS—ACTIONS AGAINST THE TAX COMMISSION. (A) LEGAL OR EQUITABLE PROCESSES TO ENJOIN ASSESSMENT OR COLLECTION OF TAX, PROHIBITED. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of this state to prevent or enjoin the assessment or collection of any tax under this Act.

(b) ACTION, TAXPAYER MAY BRING. Except as provided in subsection (d), after payment of the tax and denial by the tax commission of a claim for refund any taxpayer claiming that the tax computed and assessed against him under this Act is erroneous in whole or in part, or that the return of interest on any overpayment has been improperly denied, may bring an action upon the grounds set forth in his claim for refund against the tax commission in the superior court where he resides, or if he is not a resident of Arizona, in the superior court of Maricopa county, for the recovery of the whole or any part of the amount paid, and for the recovery of such interest as may legally be owing.

(c) ACTION, TIME TO BE FILED. The action provided by subsection (b) shall be filed within four years from the last date prescribed for filing the return provided the return was filed within the period provided by law or within one year from the date the tax was paid, or within 90 days after (1) notice of action by the tax commission upon any claim for refund, or (2) notice of action by the tax commission on an appeal from the action of the tax commission on a claim for refund, whichever period expires the later.

(d) ACTION, WHERE TAX COMMISSION FAILS TO ACT ON REFUND CLAIM AFTER SIX MONTHS. If the tax commission fails to mail notice of action on any refund claim within six months after the claim was filed, the taxpayer may, prior to mailing of notice of action on the refund claim, consider the claim disallowed and bring an action against the tax commission in the superior court in the county in which he resides on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(e) ACTION, SERVICE OF COMPLAINT. When-

ever an action is commenced against the tax commission under this Act a copy of the complaint and the summons shall be served upon the tax commission or the chairman of the commission. A second copy of the complaint and the summons shall be furnished to the tax commission, but this requirement is not jurisdictional.

(1) ACTIONS, DEPARTMENT OF LAW TO DEFEND. The department of law shall defend the action. In any such action the court may render judgment for plaintiff for any part of the tax, interest, penalties or costs found to be void.

(2) ACTION BARRED BY STATUTE OF LIMITATIONS. Failure to begin an action within the time specified in this section shall be a bar against the recovery of taxes.

(3) TRIAL DE NOVO. The superior court shall hear and determine the appeal as a trial de novo.

(4) APPEAL TO SUPREME COURT. Within sixty days after the entry of judgment either party may appeal to the supreme court in the manner provided for appeals from the judgment of a superior court, and such appeal shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as other state cases.

(f) ACTIONS. (1) INTEREST ON JUDGMENT. In any judgment of any court rendered for any overpayment, interest shall be allowed at the rate of 6 per cent per annum upon the amount of the overpayment, from the date of the payment or collection thereof to the date of allowance of credit on account of such judgment or to a date determined by the tax commission preceding the date of the refund warrant by not more than 30 days.

(2) PAYMENT OF JUDGMENT. If judgment is rendered against the tax commission, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this Act and the remainder refunded to the taxpayer by the state treasurer on warrants drawn by the state auditor.

Section 88. COLLECTION OF TAX—INFORMATION AT SOURCE; WITHHOLDING TAX. (a) INFORMATION AT SOURCE AND WITHHOLDING. This section does not apply to the payment of interest obligations not taxable under this Act.

(b) INFORMATION AT SOURCE, GENERAL. Every individual, estate, trust, partnership, corporation, joint stock company or association, insurance company, business trust, or so-called Massachusetts trust, being a resident or having a place of business in this state, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this state or any political subdivision of this state, or any city organized under a charter, or any political body not a subdivision or agency of the state, having the control, receipt, custody, disposal, or payment of interest (other than interest coupons payable to bearer), dividends, rent (except rent paid by the individual taxpayer with respect to his personal dwelling), salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income amounting to three hundred dollars ($300.00) or over, paid or payable during any year to any taxpayer, shall make a complete return to the tax commission, which shall contain or be verified by a written declaration that it is made under the penalties of perjury, under such regulations and in such form and manner and to such extent as may be prescribed by it setting forth the amount of such gain, profits, and income, and the name and address of the recipient of such payment.

(c) INFORMATION AT SOURCE RETURNS—PATRONAGE DIVIDENDS. Any corporation allocating amounts as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, certificates of indebtedness, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, refund, or rebate) shall render a correct return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury stating the name and address of each patron to whom it has made such allocations amounting to one hundred dollars ($100.00) or more during the calendar year, and the amount of such allocations to each patron. If required by the tax commission, any such corporation shall render a correct return, which shall contain or be verified by a written declaration that it is under penalties of perjury, of all patronage dividends, rebates, or refunds made during the calendar year to its patrons. This subsection shall not apply in the case of any corporation exempt from tax under section 47.

(d) INFORMATION AT SOURCE RETURNS, ON INCOME FROM SECURITIES. The return described

in subsection (b) may be required, regardless of amounts, in the case of

(1) Payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations.

(2) Dividends paid by corporations.

(3) Collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from corporations created or organized in a foreign country by persons undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

(e) WITHHOLDING, AGENT ENTITLED TO ADDRESS OF RECIPIENT. When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

The commission shall furnish the person paying the income with forms to be signed by the person from whom the tax is being withheld. The forms are to be as follows:

Front of form.

EMPLOYEE'S WITHHOLDING EXEMPTION CERTIFICATE

Print full name.....Social Security No.....

Print home address.....City.....State.....

EMPLOYEE:

File this form with your employer. Otherwise, he must withhold Arizona income tax from your wages without exemption.

1. IF SINGLE, and you claim an exemption, write the figure "1"..... ____

2. IF MARRIED, one exemption each for husband and wife if not claimed on another certificate.

   (a) If you claim both of these exemptions, write the figure "2"

   (b) If you claim one of these exemptions, write the figure "1"

   (c) If you claim neither of these exemptions, write "0" ..... ____

EMPLOYER:

Keep this certificate with your records. If the employee is believed to have claimed too many exemptions, the tax commission should be so advised.

3. Exemptions for age and blindness (applicable only to you and your wife but not to dependents):

   (a) If you or your wife will be 65 years of age or older at the end of the year, and you claim this exemption, write the figure "1"; if both will be 65 or older, and you claim both of these exemptions, write the figure "2" ____

   (b) If you or your wife are blind, and you claim this exemption, write the figure "1"; if both are blind, and you claim both of these exemptions, write the figure "2" ..... ____

4. If you claim exemptions for one or more dependents, write the number of such exemptions. (Do not claim exemption for a dependent unless you are qualified under instruction 3 on other side)..... ____

5. Add the number of exemptions which you have claimed above and write the total..... [ ]

I CERTIFY that the number of withhholding exemptions claimed on this certificate does not exceed the number to which I am entitled.

(Date)....., 19..... (Signed).....

Reverse side of form.

1. NUMBER OF EXEMPTIONS. Do not claim more than the correct number of exemptions. However, if you expect to owe more income tax for the year than will be withheld if you claim every exemption to which you are entitled, you may increase the withhholding by claiming a smaller number of exemptions.

2. CHANGES IN EXEMPTIONS. You may file a new certificate at any time if the number of your exemptions INCREASES.

You must file a new certificate within 10 days if the number of exemptions previously claimed by you DECREASES for any of the following reasons:

(a) Your wife (or husband) for whom you have been claiming exemption is divorced or legally separated, or claims her (or his) own exemption on a separate certificate.

(b) The support of a dependent for whom you claimed exemption is taken over by someone else, so that you no longer expect to furnish more than half the support for the year.

(c) You find that a dependent for whom you claimed exemption will receive $600 or more of income of his own during the year.

OTHER DECREASES in exemption such as the death of a wife or a dependent, do not affect your withholding until the next year, but require the filing of a new certificate by December 1 of the year in which they occur.

For further information about changes in exemption status resulting from marriage, divorce, legal separation, birth, death, new dependents, old age, blindness, etc., consult the tax commission or your employer.

3. DEPENDENTS. To qualify as your dependent (line 4 on other side), a person (a) must receive more than one-half of his or her support from you for the year, and (b) must have less than $600 gross income during the year, and (c) must not be claimed as an exemption by such person's husband or wife, and (d) must be a citizen of the United States, or a resident of United States, Canada, or Mexico, and (e) must be related to you as follows:

Your son or daughter (including legally adopted children), grandchild, stepson, stepdaughter, son-in-law, or daughter-in-law;

Your father, mother, grandparent, stepfather, stepmother, father-in-law, or mother-in-law;

Your brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, or sister-in-law;

Your uncle, aunt, nephew, or niece (but only if related by blood).

4. PENALTIES. Penalties are imposed for willfully supplying false information or willful failure to supply information which would reduce the withhholding exemption.

(f) WITHHOLDING TAX; TABLES. (1) On and after July 1, 1954, every employer at the time of the payment of wages, salary, bonus or other emolument to any employee whose compensation is for services performed within this state shall deduct and retain therefrom an amount equal to one-half of one per cent of the total value of such wages, bonus or other emolument computed without deductions for any amount withheld, or at the option of the employer an amount prescribed in paragraph (6) and shall, quarterly, on or before the last day of April, July, October and January of each year, pay over to the commission the amount so collected during the preceding calendar quarter. For the purposes of this section the term "employer" means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person including any officer or department of the state or any political subdivision or agency of the state, or any city organized under a charter, or any political body not a subdivision or agency of the state, except that if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages.

(2) The amounts deducted from the wages of an employee during any calendar year in accordance with the provisions of this subsection shall be considered to be paid in part payment of the tax on such employee's taxable income for his tax year which begins within such calendar year, and the return made by the employer pursuant to paragraph (5) may be accepted by the commission as prima facie evidence of the amounts so deducted from his wages.

(3) No amount shall be deducted or retained from:

(A) Wages paid for active service in the military or naval forces of the United States.

(B) Wages or salary paid to an employee of a common carrier when such employee is a nonresident of Arizona as defined in section (1) and regularly performs services both within and without the state of Arizona.

(C) Wages paid for domestic service in a private home.

(D) Wages paid for casual labor not in the course of the employer's trade or business.

(E) Wages paid to part-time or seasonal employees whose services to the employer consist solely of labor in connection with the planting, cultivating, harvesting or field packing of seasonal agricultural crops, except such employees whose principal duties are operating any mechanically driven device in such operations.

(4) When the total amount deducted under this subsection exceeds the amount of the tax on the employee's entire taxable income as computed under this Act, the commission shall, after auditing the annual return filed by the employee in accordance with section 42, and without requiring a filing of a refund claim as provided in section 84 (b) (1) refund the amount of the excess deducted, without interest thereon. Failure of the commission to make such refund shall not limit the right of the taxpayer to file a claim for a refund as provided in section 84. No refund shall be made to an employee who fails to file such return within 1 year from the due date of the return in respect of which the tax withheld might have been credited. If the excess tax deducted is less than one dollar ($1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed. In no event shall any excess be allowed as a credit against any tax accruing on a return filed for a year subsequent to the year during which such excess was withheld, the provisions of section 84 notwithstanding.

The commission may make separate refunds of withheld taxes upon request by a husband or wife who has filed a joint return, the refund payable to each spouse being proportioned to the gross earnings of each shown by the information returns filed by the employer or otherwise shown to the satisfaction of the commission. If a taxpayer entitled to a refund under this subsection dies, the commission may certify to the state auditor that the refund be made to the taxpayer's executor, administrator, or duly appointed representative.

(5) Every employer shall, with each payment made by him to the commission, deliver to the commission a return in the form prescribed by the commission, showing the total amount of wages, salaries, bonuses or other emoluments paid to his employees, the amount deducted therefrom in accordance with the provisions of this subsection, and such other information as the commission may require. The employer is charged with the duty of advising the employee of the amount of moneys withheld, in accordance with such regulations as the commis-

sion may prescribe, using printed forms furnished by the commission for such purpose, or when requested by the employer upon forms approved by the commission.

The employer shall make an annual return for the calendar year to the commission on forms provided by it, summarizing the total compensation paid and the tax withheld for each employee during the calendar year and shall file the same with the commission before February 16 of the year following the year for which the report is made. The return required in the preceding sentence shall contain or be verified by a written declaration that it is made under the penalties of perjury, and the information contained in said return shall satisfy the requirements of section 88 (b) relating to the salaries and wages included in the report required under this paragraph.

The employer shall, within thirty days after the end of each calendar year, furnish such employee with either a statement of the amount withheld during the previous tax year, showing the gross earnings and the amount of tax withheld, or, if the termination of employment is prior to the end of the year, then, within fifteen days after the termination of employment, a summary statement showing the total earnings for the tax year and the amount of taxes withheld from compensation.

(6) At the option of the employer, he may withhold from compensation for services the amounts prescribed by tables furnished him by the commission. The commission shall compute, publish and distribute annually tables calculated as to the amounts to be withheld from the gross income of individuals, married couples, and heads of households, taking into consideration the applicable deductions for dependents (up to six) the federal income tax and statutory deductions. Such tables shall give amounts to be withheld weekly, semi-monthly, and monthly and shall be in graduations of units of one hundred dollars of annual income, or at the discretion of the commission may follow the graduations used currently by the federal government in its published withholding tables, on incomes up to fifteen thousand dollars. Withholding from persons with an income over fifteen thousand dollars shall be two and one-half per cent of such excess.

(g) LIABILITY FOR FAILURE TO WITHHOLD; PENALTY FOR FAILURE TO REMIT. (1) The em-

ployer shall be liable to the tax commission for the payment of the tax required to be deducted and withheld under this section, and the employee shall not thereafter be liable for the amount of any such payment, nor shall the employer be liable to any person or any employee for the amount of any such payment. For the purpose of making penalty sections of this Act applicable, any amount deducted or required to be deducted and remitted to the commission under this section shall be considered the tax of the employer and with respect to such amounts he shall be considered as a taxpayer.

(2) Whenever any employer is required to collect or withhold the tax imposed by this Act from any employee and to pay such tax over to the tax commission, the amount of tax so collected or withheld shall be held to be a special fund in trust for the state of Arizona. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(3) Any employer intrusted with, or having in his control any tax required to be collected or withheld and constituting a "special fund in trust for the state of Arizona" pursuant to this subsection, who fraudently appropriates, or secretes with a fraudulent intent to appropriate, to any use or purpose not in the due and lawful execution of the trust, pursuant to this section, any portion thereof, shall be guilty of embezzlement under section 43-5510, Arizona Code, Annotated, 1939, and shall be punishable as provided in section 43-5514, Arizona Code, Annotated, 1939.

(h) WITHHOLDING AGENT, MUST PAY WITHOUT RESORTING TO ACTION. Any person required to withhold and transmit any amount pursuant to this section shall comply with the requirement without resort to any legal or equitable action in a court of law or equity.

(i) WITHHOLDING TAX, REFUND THEREFOR. Any taxpayer from whom a tax is collected by withholding under this Act is entitled to the remedies set forth in sections 63(b),75(1), 84,85,86 and 95(c) except where such sections are in conflict with this section.

Section 91. LIEN OF TAX — JUDGMENT FOR TAX —PRIORITY OF TAX CLAIM. (a) LIEN. (1) RECORDING CERTIFICATE. If any tax, interest or penalty imposed by this Act is not paid when due, the tax

commission may within four years after the amount of the tax, interest and penalty is due, file for record in the office of any county recorder a certificate specifying the amount of the tax, interest and penalty due, the name and last known address of the taxpayer liable for the amount, and the fact that the tax commission has complied with all provisions of this Act in the determination of the amount required to be paid. From the time of the filing for record, the amount of the tax, interest and penalty set forth constitutes a lien upon all property of the taxpayer in the county, owned by a taxpayer or afterward and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for five years from the time of the filing for record of the certificate unless sooner released or otherwise discharged. The lien may, within five years from the date of the filing for record of the certificate or within five years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for five years unless sooner released or otherwise discharged.

(2) RELEASE OF LIEN. The tax commission may, at any time, release all or any portion of the property subject to the lien from the lien or subordinate the lien to other liens if it determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes. A certificate by the tax commission to the effect that any property has been released from the lien or that such lien has been subordinated to other liens shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

(b) JUDGMENT FOR TAX. (1) ACTIONS, GENERALLY. If any tax, interest, or penalty imposed under this Act is not paid when due, the tax commission may file with the clerk of the superior court of Maricopa county or any other county, a certificate specifying the amount of the tax, penalty, and interest due, the name and last known address of the taxpayer liable for the amount due, and the fact that the tax commission has complied with all provisions of this Act in the computation and levy of the tax, and a request that judgment be entered against the taxpayer in the amount of the tax, penalty, and interest set forth in the certificate.

(2) ACTIONS, JUDGMENT AFTER CERTIFICATE. The clerk of the superior court immediately upon the filing of the certificate shall enter a judgment for the state of Arizona against the taxpayer in the amount of the tax, penalty, and interest set forth in the certificate. The clerk of the superior court may file the judgment in a loose-leaf book entitled "Income Tax Judgments".

(3) ABSTRACT BECOMES LIEN. An abstract or a copy of the judgment may be recorded with the county recorder of any county. From the time of the recording, the amount of the tax, penalty, and interest set forth constitutes a lien upon all property of the taxpayer in the county, owned by him or afterwards and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and continues for five years from the date of the recording unless sooner released or otherwise discharged.

(4) LIEN, EXTENSION. Within five years from the date of the recording or within five years from the date of the last extension of the lien in the manner provided in this section, the lien may be extended by recording in the office of the county recorder of any county an abstract or copy of the judgment. From the time of the recording the lien extends to the property in the county for five years unless sooner released or otherwise discharged.

(c) PRIORITY OF TAX CLAIM. The amounts required to be paid by any person under this Act together with interest and penalties shall be satisfied first in any of the following cases:

(1) Whenever the person is insolvent;

(2) Whenever the person makes a voluntary assignment of his assets;

(3) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all debts due from the deceased;

(4) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this Act are levied upon by process of law.

This subsection does not give the state a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.

Section 92. SEIZURE AND SALE. (a) SEIZURE AND SALE AT PUBLIC AUCTION. At any time within which an action can be brought to collect any delinquent amounts as provided in section 93, the tax commission may collect the tax, together with penalties and interest, in the following manner: The tax commission shall seize any personal property owned by the taxpayer against whom the tax is assessed, and thereafter sell at public auction such property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for such delinquency, and any and all costs that may have been incurred on account of such seizure and sale. Notice of such intended sale and the time and place thereof, shall be given to such delinquent taxpayer and to all persons appearing of record to have an interest in such property, in writing at least 10 days before the date set for such sale by enclosing such notice in an envelope addressed to said taxpayer at its last known place of business in this state, if any, and, in the case of any person appearing of record to have an interest in such property, addressed to such person at the last known place of residence, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for such sale in a newspaper of general circulation published in the county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in such county then by the posting of such notice in three public places in such county for said 10-day period. The said notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties and costs, together with a statement of the amount of the taxes, interest, penalties and costs, the name of the taxpayer, and the further statement that, unless such taxes, interest, penalties and costs are paid on or before the time fixed in said notice for such sale, said property, or so much thereof as may be necessary, will be sold in accordance with law and said notice.

(b) DISPOSITION OF PROCEEDS OF SALE. At any such sale, the property shall be sold by said tax commission or its duly authorized agent in accordance with law and said notice, and the tax commission shall deliver to the purchaser a bill of sale for the property so sold and such bill of sale shall vest title in the purchaser. The unsold portion of any property so seized may be left at the place of sale at the risk of said taxpayer. If, upon any such sale, the moneys so received shall exceed the amount of all taxes, interest, penalties and costs due the state

from such taxpayer, any such excess shall be returned to the taxpayer and a receipt therefor obtained; provided, however, that if any person having an interest in or lien upon the property has filed with the tax commission prior to any such sale notice of such interest or lien the tax commission shall withhold any such excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction.

If, for any reason, the receipt of such taxpayer shall not be available, the tax commission shall deposit such excess moneys with the state treasurer, as trustee for such owner, subject to the order of such taxpayer or its successor through reorganization, merger, or consolidation, or its stockholders upon dissolution.

Section 93. COLLECTION OF TAX — SUIT FOR TAX. (a) ACTION TO RECOVER TAX. The tax commission may, within six years after the determination of liability for any tax, penalties, and interest, or any installment thereof, bring an action in a court of competent jurisdiction in the name of the state of Arizona to recover the amount of any taxes, penalties, and interest due and unpaid under this Act.

(b) SUITS, WHO PROSECUTES AND WHERE. The department of law shall prosecute the action. The action shall be tried in the county of Maricopa unless the court with the consent of the prosecutor orders a change of place of trial.

(c) SUITS, WRIT OF ATTACHMENT. In the action a writ of attachment may be issued, and no bond or affidavit previous to the issuing of the attachment is required.

(d) SUITS, EFFECT OF CERTIFICATE BY TAX COMMISSION. In an action a certificate by the tax commission showing the delinquency shall be prima facie evidence of the levy of the tax, of the delinquency, and of the compliance by the tax commission with all the provisions of this Act in relation to the computation and levy of the tax.

(e) ACTION, OUTSIDE OF ARIZONA. The tax commission may bring an appropriate action, whether in the form of a common law action or debt or indebitatus assumpsit or a code or other action, in any court of competent jurisdiction in the United States or in a foreign

country, in the name of the state of Arizona, to recover the amount of any taxes and interest due under this Act. The department of law shall prosecute the action.

Section 95. COLLECTION OF TAX. (a) EXECUTION PROCEDURE BY WARRANT. A warrant may be issued by the tax commission for the collection of any tax, interest or penalty and for the enforcement of any lien, directed to any sheriff, constable or marshal. The warrant shall have the same force and effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution. The tax commission shall pay or advance to the sheriff, constable or marshal, the same fees, commissions and expenses in connection with services pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution; provided, that fees for publication in a newspaper shall be subject to approval by the tax commission rather than by the court. Such fees, commissions and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant or in any other manner provided in this Act for the collection of a tax.

(b) EXECUTION PROCEDURE ON JUDGMENT. Execution shall issue upon the judgment provided for in section 91(b) upon request of the tax commission in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as are prescribed for other executions in the Arizona Code Annotated, 1939, as amended.

(c) RECOVERY OF ERRONEOUS REFUNDS. (1) ACTION FOR RECOVERY. The tax commission may recover any refund or credit or any portion thereof which is erroneously made or allowed, together with interest at the rate of 6 per cent per annum from the date the refund was made or the credit allowed, in an action brought within two years after the refund or credit was made in a court of competent jurisdiction in the county of Maricopa in the name of the tax commission.

(2) VENUE. The action shall be tried in the county of Maricopa unless the court with the consent of the department of law orders a change of place of trial.

(3) DEPARTMENT OF LAW TO PROSECUTE. The department of law shall prosecute the action, and the rules for civil procedure in the superior courts of

Arizona, as amended, relating to services of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

(d) MISCELLANEOUS PROVISIONS. (1) REMEDIES, CUMULATIVE. The remedies of the state provided for in this Act are cumulative, and no action taken by the tax commission constitutes an election by the state to pursue any remedy to the exclusion of any other remedy for which provision is made in this Act.

(2) TAX COMMISSION TO ACT FOR STATE. In all proceedings under this Act the tax commission may act on behalf of the state of Arizona.

Section 96. DISPOSITION OF PROCEEDS. (a) COLLECTIONS, TRANSMITTED TO STATE TREASURER. The tax commission shall transmit promptly to the state treasurer all moneys and remittances received by it under this Act. It shall at the same time furnish copies of the schedules covering the transmittals to the state auditor.

(b) INCOME TAX FUND, COLLECTIONS DEPOSITED THEREIN. All moneys and remittances so received and so transmitted shall be deposited, after clearance of remittance, in the state treasury and 25 per cent thereof credited to the income tax fund and the remainder thereof transferred to the general fund.

(c) INCOME TAX FUND, USE FOR REFUNDS. The state auditor will draw all sums to be used for making refunds under this Act from the income tax fund. Any amount remaining in the income tax fund on June 30 of each year in excess of two hundred thousand dollars ($200,000.00) shall be deposited in the general fund.

Section 97. CESSATION OF ACTIVITIES. (a) TAX CLEARANCE. No decree of involuntary dissolution shall be made, entered, or filed by any court or the clerk thereof nor shall the corporation commission file any such decree or any document by which the term of existence of any corporation shall be voluntarily reduced or terminated, or any certificate of the surrender by a foreign corporation of its right to do business in this state unless the taxpayer obtains from the tax commission and files with said court, clerk or corporation commission, as the case may be, a certificate to the effect that the tax commission is satisfied from the available evidence that all taxes imposed by this Act have been

paid or are secured by bond, deposit or otherwise. Within 30 days after receiving a request for a certificate, the tax commission shall either issue the certificate or notify the person requesting the certificate of the amount of tax that must be paid or the amount of bond, deposit or other security that must be furnished as a condition of issuing the certificate. The issuance of the certificate shall not relieve the corporation or any individual from liability for any taxes, penalties, or interest imposed by this Act.

(b) SUSPENSION OR FORFEITURE. (1) POWERS OF CORPORATION — SUSPENSION FOR NON-PAYMENT OF TAX. Except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights and privileges of a domestic corporation shall be suspended, and the exercise of the corporate powers, rights and privileges of a foreign corporation in this state shall be forfeited if any of the following conditions occur:

(A) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the fifteenth day of the ninth month following the close of the income year, is not paid on or before 5 o'clock p.m. on the last day of the twelfth month after the close of the income year; or

(B) If any tax, penalty or interest, or any portion thereof, other than jeopardy or fraud assessments, due and payable upon notice and demand from the tax commission, is not paid on or before 5 o'clock p.m. on the last of the eleventh month following the due date of said tax; or

(C) If any jeopardy or fraud assessment, or any interest or penalty thereon, is not paid within 40 days from the date such tax, penalty and interest are due and payable upon notice and demand from the tax commission, unless the bond permitted by section 78(c) is filed to stay the collection of said tax, penalty and interest, and said tax, interest and penalty are paid within 60 days after notice by the tax commission on the taxpayer's petition for reassessment.

(2) CERTIFICATE OF SUSPENSION. The tax commission shall transmit the name of such delinquent corporation to the corporation commission, and the suspension or forfeiture herein provided for shall thereupon

become effective and the certificate of the corporation commission shall be prima facie evidence of such suspension or forfeiture.

(3) PENALTY — EXERCISE OF POWERS AFTER SUSPENSION. Any person who attempts or purports to exercise any of the rights, privileges or powers of any such corporation, except as hereinabove permitted, or who transacts or attempts to transact any intrastate business in the state in behalf of any such foreign corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars ($250.00) and not exceeding one thousand dollars ($1,000.00), or by imprisonment in the county jail not less than 50 days or more than one year, or by both such fine and imprisonment. The jurisdiction of such offense shall be held to be in any county in which any part of such attempted exercise of such powers, or any part of such transaction of business occurred, and the county attorney of the county must prosecute such offense. In addition to the penal provisions in this paragraph, any taxpayer which transacts business during the period of suspension or forfeiture shall be subject to tax under the provisions of this Act.

(4) VOIDABLE CONTRACTS. Every contract made in violation of this subsection is hereby declared to be voidable, at the instance of any party other than the taxpayer.

(5) APPLICATION FOR REVIVOR. Any taxpayer which has suffered the suspension or forfeiture provided for in paragraph (1) may be relieved therefrom upon making application therefor in writing to the tax commission and upon payment of the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, together with all other taxes, deficiencies, interest and penalties due under this Act, and upon the issuance by the tax commission of a certificate of revivor. Application for such certificate on behalf of any domestic corporation which has suffered such suspension may be made by any stockholder or creditor or by a majority of the surviving trustees or directors thereof; application for such certificate may be made by any foreign corporation which has suffered such forfeiture or by any stockholder or creditor thereof.

(6) CLEARANCE — CORPORATION COMMISSION. Before such certificate of revivor is issued by the tax commission it shall obtain from the corporation

commission an endorsement upon such application of the fact that such corporation then qualifies for revival of corporate powers, rights and privileges. Upon the isance of such certificate by the tax commission the taxpayer therein named shall become reinstated but such reinstatement shall be without prejudice to any action, defense or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor shall be prima facie evidence of such reinstatement and such certificate may be recorded in the office of the county recorder of any county of this state. A copy of such certificate shall be forwarded to the corporation commission for its files.

Section 99. GENERAL PROVISIONS. (a) OBJECT OF TAX. The object for which the taxes are imposed by this Act is to assist in defraying the cost of maintenance of the state government, and to lessen the burden in this regard resting upon tangible property. All taxes collected under the provisions of this Act shall be used, together with revenue from other sources, to pay appropriations for the maintenance of the state government.

(b) SEVERABILITY. If any provision of this Act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Act are declared to be severable.

(c) REPEAL; SAVINGS CLAUSE. (1) The "income tax act of 1933", being sections 73-1501 to 73-1551, inclusive, as amended, Arizona Code of 1939, is repealed.

(2) Such repeal shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said act shall continue, and may be enforced in the same manner, as if said repeal had not been made.

(3) All offenses committed, and all penalties, assessments, or forfeitures incurred or imposed under said Act repealed, may be prosecuted and punished in the same manner and with the same effect as if this Act had not been passed.

(d) SOURCE OF LEGISLATION. The language of parts of the United States internal revenue code and parts 10 and 11, revenue and taxation code, Deerings laws of California, has been used to aid the judges and admini-

strators who shall interpret this Act, and the taxpayers and their representatives who practice before them.

(e) CROSS REFERENCES. The cross references in this Act to other portions of the Act, where the word "see" is used, are made only for convenience and shall be given no legal effect.

Approved by the Governor—March 25, 1954.

Filed in the Office of the Secretary of State—March 25, 1954.